

**An Exploratory Study of Child Abuse and Spousal Abuse Allegations in  
Families Undergoing Custody Access Assessments**

**by**

**Ron Bewski B.S.W.**

**A Thesis submitted to the Faculty of Graduate Studies of  
The University of Manitoba  
in partial fulfilment of the requirements of the degree of**

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**Faculty of Social Work**

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## **Abstract**

There are frequent allegations of spousal and/or child abuse made in high conflict families who are experiencing separation or divorce. These allegations are often shared with evaluators completing court ordered assessments regarding custody access issues. Using custody access reports completed for the Court of Queen's Bench in Winnipeg Manitoba this thesis examined the frequency of parental allegations of child and spousal abuse. A file survey instrument was developed to identify various types of allegations that parents make in the course of an assessment. Results show that spousal and child abuse allegations are common in situations where parents are undergoing court ordered assessments regarding custody and access of their children. Results also show that spousal and child abuse co-occur and that confirmation of this fact is obtained during the custody access process. This has implications for parents and children who are victims of abuse in high conflict custody disputes and for evaluators who must carefully assess the nature of allegations and make a determination of custody or access. This study also contains important information about the co-occurrence of spousal and child abuse in relation to recommendations of custody and access. The study identifies that joint custody remains the most frequent custody and access arrangement recommended. This has implications for parents and children who are in high conflict situations where there has been a history of physical abuse and must negotiate and cooperate within a joint custody arrangement. This study provides information that can be used to enhance

best practice in the field of custody access assessments as well as provide direction for further research in this specialized area.

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I wish to dedicate this thesis to my parents Mike and Elsie (Savata) Bewsky who never finished elementary school but were full of wisdom and encouraged me to get an education.

## TABLE OF CONTENTS

	Page
Abstract .....	i
Acknowledgements .....	iii
Table of Contents.....	iv
List of Tables.....	vi
CHAPTER I: INTRODUCTION.....	1
Objectives and Research Questions.....	2
CHAPTER II: LITERATURE REVIEW.....	9
Definitions of Child Abuse.....	9
Child Abuse and Custody Access Disputes.....	15
Parent Alienation.....	26
Domestic Abuse.....	30
Relationship Between Child and Spousal Abuse.....	38
Custody Evaluations.....	44
Summary.....	52
CHAPTER III: METHODOLOGY.....	57
Procedure and data collection.....	57
CHAPTER IV: RESULTS.....	67
Description of Cases in Sample.....	67
Abuse Allegations and Characteristics.....	79
Domestic Violence Typology.....	97
Recommendations and Classification.....	102

Classification of Case.....	103
CHAPTER V: DISCUSSION AND CONCLUSIONS.....	112
Types of Child Abuse Allegations.....	112
Co-occurrence of Child and Spousal Abuse .....	117
Confirmation of Cases.....	119
Additional Family Issues.....	122
Alienation.....	125
Limitations.....	125
Importance to Social Work.....	130
Future Research.....	134
Conclusion.....	136
REFERENCES.....	138
List of Appendices.....	153

## LIST OF TABLES

Table 1	Parental Relationship Types.....	70
Table 2	Custody Arrangement by Ages of Children.....	74
Table 3	Access Contact.....	78
Table 4	Allegations by Parents.....	81
Table 5	Issues Identified by Counsellor.....	84
Table 6	Child Related Issues Identified by Counsellor.....	87
Table 7	Types of Child Abuse Allegations and Confirmation.....	90
Table 8	Child Related Issues in Cases with Child Abuse Allegations..	91
Table 9	Type of Domestic Violence.....	100
Table 10	Classification of Case .....	104
Table 11	Classification of Child Abuse .....	105
Table 12	Spousal Abuse Classification.....	106
Table 13	Case Recommendations.....	109
Table 14	Recommendations Involving Each Parent and/or Child.....	111



## CHAPTER I: INTRODUCTION

When parents have been unable to resolve their custody and access arrangements and are before the court, judges can order that a qualified evaluator conduct an assessment of the circumstances and that a written report be provided. The assessment reports are used to assist the court in reaching a settlement with the parties, or rendering a decision in the event the matter goes to trial. In Manitoba, the Family Conciliation Branch of the Department of Family Services and Housing has the mandate under the Court of Queen's Bench Act to prepare these assessments for the Court. The court also may consider assessments by private evaluators and psychologists or other professionals. In Manitoba in 2003, 265 assessments related to custody and/or access were completed, 185 of these in Winnipeg alone.

It is common practice for assessments to be ordered when there are allegations made by the parents of serious difficulties in the dynamics of the family that relate to post separation parenting. These may include such issues as poor parenting, concerns over the practicality of a particular arrangement that is being proposed, drug/alcohol abuse, or allegations of child and/or spousal abuse.

It is suggested that parents who undergo custody access assessments fall into the category of moderate to high conflict couples (Ellis, 2000; Gardner, 1982). The fact that a small percentage of parents go through the process of an assessment with a subsequent settlement and/or trial suggests that some of these cases may have a higher level of conflict and may be cases where serious issues such as domestic violence or child abuse are more highly represented (Johnston, Lee, Olesen &

Walters, 2004). Cases that are referred for the assessment are cases that have not been resolved through the usual process of parent-to-parent or lawyer-to-lawyer negotiation (Johnston & Roseby, 1997). As noted earlier, cases that progress to the assessment stage could theoretically be cases that require investigation into such areas as allegations of poor parenting or child abuse as well as high conflict. Because of this probability, custody access assessment reports are good sources of information about the incidence or extent of child abuse allegations and related issues made in the context of a custody access evaluation. Because evaluators investigate issues raised by the court and by the parents in the dispute, valuable information about issues such as conflict, abuse and post separation relationship dynamics are contained in these reports.

### **Objectives and Research Questions**

The purpose of this thesis was to generate additional information regarding the issue of child abuse and spousal abuse allegations in custody access disputes. The study was aimed at obtaining a better understanding of the frequency of allegations of the co-occurrence of child abuse and spousal abuse in the context of the custody access evaluation of separated parents. This was achieved by reviewing custody access reports completed by family evaluators for the Court of Queen's Bench Family Division in Manitoba. The contents of the reports were analyzed regarding various categories of child and spousal abuse, and the evaluators' findings and recommendations to the court were also examined. The general goal of the study was to determine how often child abuse allegations co-occur with domestic violence allegations.

Questions that were posed are:

- What kinds or types of child abuse are alleged during the custody/access assessment process?
- What is the nature or the characteristics of the spousal abuse or spousal violence that is being alleged?
- What is the frequency of confirmed child abuse or spousal abuse?
- What other family issues or problems are identified in reports where allegations of child abuse or spousal abuse are being made?
- What is the frequency of any alienating processes or of alienating behaviours described in the reports?

Types of child abuse were defined using the broad set of categories of child abuse as outlined in the Canadian Incidence Study of Reported Child Abuse and Neglect, (will be referred to as CIS in subsequent references ), Trocme, MacLaurin, Fallon, Daciuk, Billingsley, Tourigny, Mayer, Wright, Barter, Burford, Hornick, Sullivan, McKenzie, (2001). Different forms of spousal abuse were identified utilizing the Department of Justice Canada Fact Sheet (2003). Types of domestic abuse described during the separation process and custody dispute were further characterized using a typology developed by Johnston and Campbell (1993). These factors were categorized in a file review form (Appendix A) which was the main tool used in analyzing content from the reports. The reports were taken from the total number of reports covering a two year period with a random sample chosen from the total. The content of the reports was analyzed and converted to quantitative

categories that reflect the nature of the custody access dispute context. This was done according to selective or a priori categories applied to narrative qualitative report data.

This study helped expand the writer's knowledge and understanding of issues related to abuse allegations in the context of custody access disputes, as well as added to the current base of data and information in Canada related to the research questions. The information collected in this exploratory study may help inform practitioners in the field who work with separating families where child abuse and spousal abuse are alleged, as well as help inform the future direction of policy and practice in the field of custody/access disputes and family law.

#### Rationale for Study

Allegations of child and/or spousal abuse in the context of separation or divorce are a concern to professionals in the field and have serious implications for the accused as well as the children involved. Allegations that some form of neglect or abuse has occurred while in the care of the other parent can quickly inflame a custody dispute and lead to accusations and counter accusations that become difficult for an evaluator to sort out (Bow & Boxer, 2001, Chisholm & Mac Naughton, 1990; Gould, 1998). As the conflict escalates, children are sure to be harmed in the process as they quickly become caught in the middle of a very tense and difficult situation. Though separation can be a way to reduce or eliminate conflict that had been occurring in the family, conflict often does not end with the separation and may in fact become focused on the children (Emery, 1994; Johnston, Wallerstein, Kelly, & Klosinski 1993, Klosinsky, 1993). Conflict related to accusations and counter accusations over

parenting behaviours may continue for long periods of time and complicate the resolution of the separation process for all family members (Emery, 1999; Stewart, 2001). In Canada, Hotton (2001) found that in relationships where there had been previous violence, approximately one third of those cases reported ongoing violence after separation. In some cases the violence actually started after the separation. It has been suggested that in Canada, much of the research in the area of abuse allegations in the context of separation that is used to guide practice is from other countries, and that additional Canadian data is required to better understand this area of concern (Justice Canada, 2001). Understanding how often allegations are made in custody disputes and whether there are other themes that emerge will be important for ongoing research in this area, and for policy and clinical work in the area of abuse and spousal separation. It will also be helpful for social work practitioners, especially evaluators, as more information on this area provides the practitioner with more tools and background knowledge when dealing with separating families where abuse issues arise. The involvement of evaluators in the family court process regarding custody disputes is an area that continues to grow given the number of separations that occur where children are involved and where disagreements or failures to resolve post separation issues bring couples to court.

Implications for children are great as allegations that are not dealt with appropriately can have serious consequences for the child's emotional and social well being (Haynes-Seman & Baumgarten, 1995). Allegations that are false can also have serious implications in the life of the accused as well as for the children involved. False allegations threaten the health of parent- child relationships.

Understanding more about the frequency of co-occurrence of child abuse and domestic violence will also be helpful as a relationship between these behaviours has been suggested. Having a better understanding of this co-occurrence and learning more about allegations of these behaviours in custody evaluations may help to better inform practitioners. The recommendations that evaluators make to the court may then be based on a better understanding of how domestic violence may relate to parenting after separation and better fit the particular characteristics of the family situation.

The Federal Child Centered Family Justice Strategy for Changes in the Divorce Act (2002) has made recommendations for legislative changes to recognize family violence as a factor in custody access disputes. Learning about the frequency and nature of both child abuse and spousal abuse allegations made in the context of custody assessments will be beneficial in light of these anticipated changes. Taking family violence and other abuse factors into consideration before developing a plan may address this very complicated and potentially risky situation for children and other victims of family violence.

In this Child Centered Family Justice Strategy, the Federal Justice Department has strengthened the Best Interests of the Child principle with criteria that will now be used to "...help parents, family justice professionals and judges determine the child's best interests in his or her unique circumstances" (Justice Canada, 2002). The criteria proposed focuses on:

Any family violence including its impact on:

- the safety of the child and other family members

- the child's general well being
- the ability of the person who engaged in the family violence to care for and meet the needs of the child, and
- the appropriateness of making an order that would require the spouses to cooperate on issues affecting the child (Justice Canada, 2002).

This contrasts with the former Divorce Act (R.S. 1985, c.4, 16:9) where previous conduct of a parent was not to be a consideration in the determination of custody unless there was direct relevance to the ability of the person to parent the child. The Act stipulates in section 16 (9) that:

In making an order under this section, the court shall not take into consideration the past conduct of any person unless the conduct is relevant to the ability of that person to act as a parent of a child. (Divorce Act, 1985)

With family violence becoming a major factor to be considered in custody access disputes, understanding the frequency and scope of the problem in high conflict custody assessments will be important information to consider in light of the expected changes. Current ways that evaluators deal with these issues in terms of recommendations to the court may help inform development of new approaches in this very specialized field.

The thesis is organized in five chapters. Chapter two contains a summary of existing literature that relates to child abuse and spousal abuse in the context of the separation process and custody/access disputes. The literature review also defines the elements of custody /access evaluations and includes the sources of child abuse and spousal abuse categories that are used in this study. Chapter Three outlines the

method of the study and contains a general overview of content analysis of narrative documents and the criteria for reports that were included in the study. Chapter four contains the results of the study and Chapter 5 includes a discussion of the results as well as a description of the limitations to the study.



## CHAPTER II: LITERATURE REVIEW

This chapter highlights some of the current literature that deals with the phenomena of child abuse and spousal abuse in its various forms. More attention is given to child abuse and spousal abuse as they relate to the process of separation and custody/access disputes between parents. Main types of these phenomena identified in the literature are discussed. A section on parent alienation is also included and describes how these behaviours may be related to allegations of child and/or spousal abuse in custody disputes. The custody evaluation as a process is described with some reference to how evaluators conduct assessments, including a short description of the process used by Family Conciliation evaluators.

### **Definitions of Child Abuse**

It is not surprising that child abuse allegations occur during the process of separation and/or divorce given the prevalence of abuse to children generally in our culture and others. Child abuse is a far reaching and almost universal phenomena (Herzberger, 1996; Straus & Gelles 1988).

It is difficult to determine the actual prevalence of children who are abused in Canada, however the CIS of Reported Child Abuse and Neglect (2001) reports that in Canada in 1998 the incidence of child abuse investigations was 21.52 per 1,000 children, 45% of which were substantiated. The CIS is a national study that "...examined the incidence of reported child maltreatment and the characteristics of children and families investigated by Canadian child welfare services" (Trocme , et al. (2001, p. xiii). Physical abuse comprised 31% of child abuse investigations, sexual

abuse 10%, neglect 40% and emotional abuse made up the remaining 19% of investigations. Since this study examined only reported incidence, actual prevalence may be higher.

Herzberger (1996) offers this definition of child abuse: "Child maltreatment can be defined as acts of omission or commission by a parent or guardian that are judged by a mixture of community values and professional expertise to be inappropriate and damaging"(p 125).

In Manitoba the legal definition is similar and is summarized as:

An act or omission by any person that results in:

- physical injury to the child (physical abuse)
- emotional disability of a permanent nature in the child or is likely to result in such a disability (emotional abuse); or
- sexual exploitation of the child with or without a child's consent (sexual abuse). (Manitoba Family Services, 1996).

Thus, child abuse occurs in many forms. The CIS of Reported Child Abuse and Neglect (2000) identifies four major categories of abuse with subtypes occurring under each category, comprising twenty-two forms of maltreatment against children. The major categories of child abuse are: physical, emotional, sexual and neglect (see Appendix B).

Following are some examples of the major types of abuse within the context of deteriorating parental relationships or and/or the separation process.

Physical punishment of children is still an acceptable form of disciplining children for various unwanted behaviours and often results in the physical abuse of children (Durrant, 2001). In Canada, physical abuse that occurs in the context of punishment is one of the leading forms of investigated and substantiated maltreatment

in the country. It was the third most frequently investigated form of child abuse in Canada in 1998 (Trocme, Durrant, Ebsom, & Marwah, 2004). Physical punishment is still allowed under the criminal code and in January 2004, the Supreme Court rendered a decision upholding Section 43 of the Criminal Code. However legal limits on the definition of 'reasonable force' were made and the following corporal punishment activities were considered unreasonable: Physical punishment of children younger than two and older than 12; the use of objects or blows or slaps to the head; and degrading, inhuman, or harmful conduct (Trocme, Durrant, Ebsom, & Marwah, 2004).

Physical abuse of children is tolerated in many families especially those practices of discipline that are considered milder forms of corporal punishment such as spanking or slapping (Herzberger, 1996). Physical abuse or maltreatment of a child such as the use of hitting, shaking, or harmful force or restraint is often justified in the name of discipline (Health Canada, 1998). Child physical abuse, often as a result of physical punishment going too far, can be a result of the marital discord leading to a final separation. Stress and tension in a relationship that is foundering can impact other family members in negative ways. Intimate relationships are not always easily managed and problems do ensue. If conflict and other relationship problems are not resolved, the impact on family members can be negative. Nobes and Smith (2002) briefly discuss the dynamics where discord in a relationship is a significant stressor and because of this, punitive behaviour by a parent escalates. As relationships between adult parents deteriorate, and anger and frustration build, the impulse to strike out at children may be more difficult to control.

The authors also indicate in their study that more physical punishment was admitted in relationships where parents were together as compared to single parent families (Nobes & Smith, 2002). For the purpose of this study, any physical maltreatment of a child will be considered under the definition of abuse as outlined in Health Canada's Reference Guide for Practitioners (1998). Thus, any references to physical punishment such as spanking of a child will be coded as 'hitting' and fall under the category of physical abuse.

Emotional abuse is where a child "... suffers or is at substantial risk of suffering from mental, emotional or developmental problems caused by overtly hostile, punitive treatment or habitual or extreme verbal abuse (threatening, belittling, etc.)" (CIS, 2000). Related to this is the ongoing exposure to high conflict in the deteriorating parental relationship where abusive behaviours on the part of spouses is regularly witnessed and experienced. Included in emotional abuse is the witnessing of domestic or spousal violence of parents. The impact on children of witnessing or living in situations where domestic violence is occurring can be long lasting (Edleson, 1999; Garrity & Baris, 1994; Rossman & Rosenberg, 1997).

An overly authoritarian and punitive style of parenting could also result in the emotional maltreatment of a child (Bancroft & Silverman, 2002). The treatment of a child in a controlling, inflexible and punitive way can itself affect the emotional development of a child. Describing the partner who physically abuses or 'batters' his spouse, Silverman and Bancroft (2002) asserted that the parenting style of such an individual is characterized by authoritarianism, neglect and irresponsibility. Undermining of the mother is overt and often a regular pattern, the belief by the

batterer being that he is the superior parent. A characteristic of 'self-centeredness' over the needs of his partner and children is often prominent, and may lead to angry reactions when needs are not being met. A tendency to be manipulative with spouses, children, and others is also prominent, as is the ability to perform appropriately under observation by others. The negative effect on children is intensified if they have been witnesses or victims of any physical abusive behaviours on the part of the parent.

Teyber (1992) asserts that emotional abuse is the most frequent form of abuse and that many parents do not understand the negative emotional and psychological effects on children who are exposed to their parents' fights. This contrasts with other studies that identify neglect as the most prevalent form of abuse (CIS, 2000; National Clearinghouse on Child Abuse and Neglect, 2001). Nevertheless both neglect and other forms of maltreatment such as psychological or emotional maltreatment are sure to impact on the child victim in negative ways.

Child sexual abuse involves any contact or interactions between an adult and a child where the child is sexually stimulated or the child is being used as sexual stimulation for the adult or another person, including the production and use of pornographic materials (Veltkamp & Miller, 1994). Situations where the marital or intimate relationship between spouses is poor, and the parent turns toward a child for intimacy and sexual gratification is not an unusual dynamic in homes where a child is being sexually abused (Veltkamp & Miller, 1994). There may also be opportunities for sexual abuse to occur in separated families where this did not exist in the intact family. A lonely and needy parent with inclinations to abuse a minor may have the opportunity to act on this when spending one-on-one time with a child who is also

lonely and scared (Thoennes & Tjaden, 1994; McDonald, 1998). Children may also be at risk of sexual abuse by stepparents or a parent's current dating partner as the incest taboo may not be as pronounced as it is for a biological parent. The step-parent is also in a position of authority over the child and may use this to their advantage to exploit a child sexually (Garbarino & Eckenrode, 1994).

Neglect covers a wide range of actions or inactions by a caregiver of a child where the child is placed in a situation where they are at risk of physical, emotional, or sexual harm. Other forms of neglect include failure to provide for the appropriate medical care or treatment of a child, permitting maladaptive or criminal behaviour, abandonment or refusing to care for a child, or neglect related to educational activities of the child such as allowing truancy (Trocme, et al. 2001). Children can be neglected as a result of the emotional difficulties of parents if these difficulties impact negatively on their affective relationship with their children. In some cases parents experience a diminished capacity to parent due to spousal conflict and separation. One of the areas that can be affected is the emotional relationship with others, including one's children. Emotional responsiveness and attention to needs of children can be significantly reduced and lead to various degrees of neglect, even if this is short term (Wallerstein, 1980; Wallerstein, Lewis, & Blakeslee, 2000). According to Bala (2001) all Canadian jurisdictions have laws that encourage or require that suspected child abuse is reported to a child protection agency, or to the police who will then contact the agency. This procedure allows the agency to investigate the situation and to take the necessary steps to protect the child if risk exists. Other than Yukon, a person is obliged to report risk of abuse based on *reasonable grounds*.

Professionals such as doctors, social workers, or therapists, are required by law to report any suspicions reported to them by a parent.

For the purpose of this study three levels of substantiation, as outlined in the Canadian Incidence Study of Reported Child Abuse and Neglect (2001), are used.

They are defined as:

- Substantiated – balance of evidence indicates that abuse or neglect has occurred and has been verified or confirmed.
- Suspected – there is not enough evidence to substantiate maltreatment has occurred but there remains a suspicion that maltreatment has occurred.
- Unsubstantiated – there is sufficient evidence to conclude that the child has not been maltreated.

The substantiation or non-substantiation of cases depends on the investigation of abuse allegations by a social worker in the child protection field. Social workers often use their own discretion in their attempts to substantiate abuse depending on the information available. Social workers often rely on reports by the child, collaterals who may have witnessed the abuse or have information about the abuse and other witnesses or perpetrators such as a parent. In custody access disputes, allegations of abuse are often raised with the child involved or collaterals and parents.

### **Child Abuse and Custody Disputes**

Many authors suggest that it is during the process of separation, with its increased level of conflict, disturbances in family boundaries, and heightened emotional reactions that physical and emotional abuse is more likely to occur

(Bancroft & Silverman, 2002; Bala, 1996; Johnston & Campbell, 1993; Thompson & Amato, 1999; Tower, 1996). This is supported by other authors who discuss behaviours such as emotional and physical maltreatment of others, and who assert that these behaviours are common in families both in our culture and others internationally (Viano, 1992). It follows then, that if stress is placed on a family, such as that related to the deterioration of the executive relationship of the parents or dynamics that contribute to heightened conflict, the use of aggressive actions against one another can surface, or increase.

Allegations of child abuse in the context of custody access disputes are a regularly occurring phenomena (Garrity & Baris, 1994; Gould, 1998; Johnston & Campbell, 1988). There appears to be debate in the literature, however, as to how frequently allegations, especially child sexual abuse allegations, occur in custody disputes. Gardner (1994) asserts that sexual abuse allegations in the context of custody access disputes progressively increase and are based on vengeance on the part of one spouse against the other, usually with the mother as instigator of the allegation. McDonald (1998), for example, counters the assertion by Gardner (1994) that sexual abuse allegations are epidemic, as does Penfold (1996). Based McDonald's calculations of the work of a study in 1990 by Thoennes and Tjaden, approximately 3 out of every 1000 divorces involving children also involve allegations of sexual abuse.

A Canadian study (Hlady & Gunter, 1990) found that over a one year period, 41 out of 370 children or 11% of cases seen in a child protection service at BC Children's Hospital were cases involved in custody access disputes. Though the actual number of children in the sample where allegations of abuse were made was low for physical



abuse allegations and for sexual abuse allegations, the incidence of positive findings of sexual abuse between a group of children involved in custody dispute and a group of children not involved in a custody dispute were very similar (approximately 17% and 15% respectively) Physical abuse in the group involving custody disputes occurred in 71% of cases versus 43.6% in the other cases where custody or access was not an issue.

It remains important that allegations of abuse or other forms of maltreatment are not minimized or ignored due to the fact the parties may be in a custody access dispute. Frequency of abuse allegations occur often enough in custody access cases that court professionals involved in custody disputes find their workload impacted, and in some cases abuse allegations become a substantial part of a family court's workload as many families involved with the court have a history of domestic violence (Brown, Thea, & Frederico, 1998).

In situations of sexual abuse allegations, Gould (1998) suggested that professionals hold that allegations made within a custody access dispute context were less likely to be true. Gould states that allegations that were made earlier, where there were multiple rather than single episode reports, and those that occurred up to two years previous were more likely to be given weight by an assessor than single episode reports, those made up to two years after the separation and those where there already had been a prior allegation. Theonnes and Tjaden (1990) also found that where significant levels of anger were perceived to be present by the court worker, it was less likely that an evaluator reported abuse to have occurred. Brown (1998) indicated that child abuse allegations in a custody dispute have long been considered as a

weapon in separation cases where one parent attempts to gain tactical advantage over another.

The age of the child is also a significant factor in validating abuse. In cases of sexual abuse involving young children Robin (1991) states it is often difficult to determine whether abuse has occurred. With children ages 7 or older, determination increases because the children are more able to describe and discuss their experiences. As well, multiple episodes of abuse are more likely to be considered valid as they usually involve older children who are better able to communicate, more evidence is produced with this additional information and a parent is less likely to be perceived as misinterpreting the event as compared to a situation where only one episode is presented (Theonnes & Tjaden, 1990).

Sirles and Lofberg (1990) found that mothers were more likely to leave the relationship when child victims of sexual abuse were young and when there was additional problems with domestic violence. As well, in these cases, the mothers learned of the abuse from the child and believed the child. The authors also challenged the current theories of family systems dynamics where families of incest are thought to be closed, enmeshed, rigid and isolated. Instead the mothers studied were quick to report the offence, had protective bonds with their children and utilized social supports rather than struggling with isolation as suggested by some.

In conclusion, it is evident in the literature that child abuse in the context of custody access disputes is not uncommon, however the frequency of this behaviour is not clear. The dynamics in families that contribute to abusive behaviour towards children vary, and professionals appear to approach the issue of child abuse

differently, depending on various factors, such as the age of the child/children, history of the relationship and the element of time in the reporting of the abuse by one of the parents.

### False Allegations

The literature has considered the phenomena of false allegations though it is not always clear when abuse has actually occurred due to the fact many cases are not substantiated. An unsubstantiated case may not mean the allegation is false. A false allegation made intentionally differs from an allegation where one believed the abuse to be true, but possibly misinterpreted the information, or acted on good faith.

There have been concerns that false allegations of abuse are on the rise within the custody access dispute arena (Gardner, 1998; Gould, 1998). Given the negative impact this can have on the alleged accuser and victim, attention has been paid to allegations occurring within the context of custody access disputes, where accusations are seen as a means of manipulating the situation. Blush and Ross (1987) proposed that a syndrome called SAID (Sexual Allegations In Divorce) existed and they developed clinical indicators for the syndrome as well as recommendations on assessing these types of cases. As noted earlier however, there have been counter arguments that occurrences of false allegations are no more frequent in custody access disputes than they are in the population at large (Penfold, 1996; Thoennes & Tjaden, 1999).

However, the concern around false allegations is such that the Canadian Federal Justice Department document outlining its strategy for reform of custody and access issues recommended a review of the adequacy of the current criminal law in dealing

with false allegations of abuse, as well as recommending better tracking by child welfare agencies of allegations made in custody matters (Justice Canada, 1999).

As noted earlier, separating parents already experience a heightened sense of tension, hostility and emotional stress but this is accentuated when child abuse allegations are made. Allegations that are made but found to be untrue can have very serious consequences for the accused parent. Allegations that are not properly handled by social service or legal systems can have serious consequences for the child or children identified as victims of the alleged abuse (Department of Justice, 2001; Quinn, 1991).

Allegations made in the context of a custody access assessment pose some challenges for even the most experienced family evaluator. Many of the difficult behaviours that children show in custody disputes are similar to those seen in maltreatment situations (Beilin & Izen, 1991; Bow, Quinnett, Francella, Zaroff, & Assemany, 2002). This can lead evaluators and others to assume abuse may be occurring, when in fact the behaviour relates to the separation dynamics. Sometimes allegations that are found to be false are made based on a misunderstanding of the meaning of certain conditions or behaviours in children including immature communication skills, separation anxiety behaviour, an overanxious temperament in a child, or because of what Penfold (1996) highlights as 'borderline' situations such as sleeping or bathing with the child.

Faller (1991) found that approximately 19 (13%) out of a clinical sample of 136 abuse allegations were false allegations and another 12 were 'possibly false'. Theonnes and Tjaden (1990) conducted a two-year study examining all families

contesting custody and access rather than just those families referred for psychiatric evaluations. In a sample of 9000 families who were involved in custody disputes slightly less than 2% of these cases involved an allegation of child sexual abuse. Examining 129 of these cases they found that 50% involved abuse, 33% were thought to not involve abuse and 17% of cases were ones where investigators were not able to reach any conclusive determination. As a conclusion they reiterated that false allegations were no more likely to be found in custody access disputes, than they were in the general population (Theonnes & Tjaden, 1990).

Other relevant elements to consider are individual and family dynamics in custody disputes especially where there has been severe deterioration in the spousal relationship over time. Defensive operations such as splitting where a child can see one parent as all good and the other as bad may contribute to reports that children have been maltreated. Exaggerated reports of inappropriate sexual behaviour on the part of a parent or of physical or emotional abuse can occur when a child uses similar defensive operations as the 'all good' parent (Beilin & Izen, 1991).

Mikkelson and Guethil (1992) discussed 4 clinical subtypes related to the making of false sexual abuse allegations. These categories are:

Subtype 1: where allegations are made during custody disputes.

Subtype 2: where there are psychological problems in the accuser,

Subtype 3: where there is conscious manipulation of the situation, and;

Subtype 4: iatrogenic causes where there have been problems in the investigation or evaluation.

Following a review of a number of studies, Quinn (1991) outlined nine conditions under which false allegations could occur. One example is the overanxious child/over anxious parent where the child's behaviour such as avoidant behaviour or intolerance of separations leads a parent to suspect the reasons may be abuse related. A related situation is where the overanxious parent has heightened anxiety of letting a child be in the care of a spouse who now is considered in a very negative light or where previous history of the parent's own sexual abuse history, either in the marriage or earlier, creates a sense of fear and danger.

Changing family dynamics where changes in areas related to privacy nudity toileting or sleeping arrangements may lead to a false allegation of abuse because in post-separation the practices are seen as inappropriate or abusive under the new conditions. As well, it may relate to a parent not understanding the changing needs of a growing child in terms of modesty or the requirement for privacy of personal hygiene practices.

Quinn also identified 'malingering' as possible phenomena, which is a process where an older child intentionally makes a false allegation in order to reach a recognizable goal or where children are coached by an alienating parent for the purposes of gaining revenge against the other parent, or to exact a punishment. Copycat phenomena are described as allegations that occur where an imitator makes false allegations in order to gain attention, fame or excitement. Some of these 'copycat' allegations have been made through the process of groups run in schools where self disclosure of abuse is encouraged and are a result of the pressures of group behaviour rather than based on true occurrences.

An over-interpretation of bodily curiosity and knowledge is also described as a factor that may contribute to false allegations being made where there is an misinterpretation of normal curiosity related to bodily functions and physical attributes that many children of young ages have. For example in a custody dispute, the request by a young child to see the mother's breasts or genitals may be perceived as due to the other parent behaving in a sexually inappropriate fashion.

Psychopathology in the child and of parent is also a condition under which false allegations may be made. Paranoid and histrionic traits are implicated in some cases of false allegations of sexual and other forms of abuse. Other conditions such as posttraumatic stress disorder from previous sexual abuse may be falsely attributed to a different individual. In another scenario there may have been actual abuse but a wrong perpetrator. This may occur because of loyalty issues, and/or fear where the abuse is attributed to a person other than the real perpetrator. A child may accuse a different person when the actual perpetrator may be a father, step-father or other person in a care-giving role.

Medical conditions can also be mistaken for sexual abuse. As some physical conditions such as infections or unusual injuries may be considered consistent with sexual abuse, other medical conditions may lead parents to misinterpret symptoms and assume sexual abuse because of the areas of the body involved, rather than understanding the physical reality of the medical condition.

Contamination/cross contamination of interview data where there has been repeated questioning of a child, poor documentation or a lack of documentation,

multiple interviews, the involvement of fantasy and suggestibility all can contribute to false allegations being made (Quinn, 1991; Robin 1991).

Additionally, abuse allegations made in the context of a custody dispute come under some suspicion that the allegations may be intentionally or unintentionally false (Mikkelsen & Guthell 1992; Theonnes & Tjadin, 1990). As mentioned earlier, Quinn (1991) describes the behaviour of 'malingering' where production of false information is done intentionally for the pursuit of a goal indicating that older children (latency and adolescents) are most likely to take part in this deception. Quinn goes on to describe several factors that may be involved in a false allegation, either made consciously or unconsciously such as: chronic visitation restrictions, a pattern of escalating allegations toward the other parent, evidence of 'brainwashing, an absence of substantiating factors and a sexual abuse complaint arising quite late in the separation process.

Since older children are more aware, verbal and able to understand aspects of the family dynamics making untrue allegations may occur more frequently. It has been suggested that some children report a higher level of false allegations in such situations as custody disputes because of the complicated dynamics in the family. After reviewing a number of studies, Mikkelsen and Guthell, (1992) asserted that there is higher risk of an allegation being false with older children.

It has also been argued that some welfare workers pre-judge allegations to be false because they were made in the context of a custody access dispute. One study cited by Penfold (1997) found that allegations were confirmed at a much higher rate than originally found by a sexual abuse team using another assessment tool, the



Kempe Center Protocol. There were 18 cases in this study and the percentage of cases deemed to be founded increased from 5.6 to 44%. An additional factor involved in abuse allegations is that there can be a wide range of difference between how professionals assess the same situation and that professionals are prone to hold common assumptions that have little validity (Brown, 1998).

An unintentional false allegation is an allegation made due to an honest mistake (Bala, 2001). This can occur for a number of reasons such as the misinterpretation of children's statements, communication difficulties between the parents or poor interviewing techniques by a professional. An example of an honest mistake leading to the making of an allegation would be the misinterpretation of a daughter's red vagina after an access visit to the father as evidence of sexual abuse when it might have resulted from a skin reaction to the use of strong soap during a bath. The mother misunderstands the child's explanation and draws her own conclusions based on her initial reaction to the event.

An accusing parent may also make an allegation due to a mental disturbance or mental illness (Bala, 2001; Quinn, 1991). An undetermined or unsubstantiated case is one where an investigation into the allegation of child abuse did not yield conclusive evidence as to the validity of the allegation. Substantiated false allegations are cases where there was a preponderance of evidence that substantiated the allegation such as in the civil standard of proof or proof 'beyond a reasonable doubt' as in the criminal standard of proof (Bala, 2001).

## **Parent Alienation Syndrome**

One of the possible outcomes in parental conflict leading to separation is that the boundary between the parental or marital subsystem and the parent/child or sibling system fails to be maintained. This can lead to unhealthy alliances between a child and a parent, or a child can be used as a strategy by one of the parents to deal with the spousal conflict. Deal (1996) indicates that spousal dysfunction may create a cross-generational alliance where one parent and child work with each other against the other parent. This alliance can also work to separate one child from the sibling group because of the preferential treatment by one parent, as these alliances are not likely to be applied in an even form to all children in the family. A severe outcome of this form of alliance between a parent and a child has been coined the 'Parent Alienation Syndrome' (Gardner, 1991).

First defined by Gardner (1991) the Parent Alienation Syndrome occurs when a parent (usually the mother) actively alienates a child from the other parent (usually the father) or target parent. There is an active process of brainwashing that occurs, both consciously and unconsciously, where the child ends up being preoccupied with criticizing and deprecating the other parent, often to an exaggerated degree (Gardner, 1992). The alienating parent attempts to align the child against the other parent and over time influences the child to believe the target parent is dangerous, evil, bad and deserving of rejection. The child is rewarded for actively rejecting the other parent. In Parent Alienation Syndrome, or PAS as it is commonly referred to, the child eventually adopts the rejecting and malicious attitude of the alienating parent. The

alienating parent and child evolve into sharing a belief system where both view the other parent with fear and hatred (Gardner, 1992).

Gardner (1994) asserted that the mother is usually the accuser but has estimated fathers to be the alienating parent in approximately 10% of cases. An alienation process may be a significant factor in the existence of child abuse allegations in custody access disputes. However, it appears if this is the case, then the child's active denigration and negative feelings toward the other parent would be a prominent feature in the situation (Gardner, 1992).

Similar to the Parent Alienation Syndrome, but containing features that display more active malicious behaviours is the 'Divorce Related Malicious Mother Syndrome' (Turkat, 1995). Where a mother may have hinted or used subtle means to identify abuse as a possibility between her child and ex-spouse as part of the alienating process in Parental Alienation Syndrome, in the Divorce Related Malicious Mother Syndrome, the mother is more overt in her accusations and insists that the abuse 'has' occurred. Lying and excessive litigation are also features of this syndrome. This adds to the complexities when faced with child abuse allegations (Turkat, 1995).

However there are authors who reject the notion of parent alienation as a 'syndrome' (Dunne & Hedrick, 1994; Stoltz, & Ney, 2002). For example, Stoltz and Ney (2002) asserted that other explanations fall short of considering the full social context in which 'resistance' rather than rejection is occurring. They indicate that a child's 'resistance' in fact makes reasonable sense if one considers the adversarial context and the bind that this causes for children who are caught between two

conflicting parents. They even suggest that when the conflict and resistance move further into the legal arena, many custodial parents make false allegations of abuse because "...they know it is the only thing that would fully justify their continued resistance to visitation." (Stoltz & Ney, 2002, p.223). Regardless, any acts by a parent to use children as an ally in conflict, or as a messenger and go-between is considered an inappropriate manipulation and is damaging to the children (Smart, Neale, & Wade, 2001).

Difficulties in the post-separation relationships due to negative influences such as alienating behaviours can also promote disengagement on the part of a father due to role loss, grieving, less contact with children and a painful experience for the visiting or access parent. This can lead to reduced contact, a sense of helplessness and eventual retreat or cessation of contact and/or interest in contact (Kruk, 1993). For example, a father may find the difficulties with a resistant child too painful to pursue and thus retreat by 'giving in' and giving up all access to the child.

Cartwright (1993) has used the term 'virtual allegations' to describe situations where allegations are planted as 'seeds' that act to render those involved with the child uncertain about the allegations and well-being of the child. In these cases abuse is hinted at in order to cast suspicion and doubt about the other parent as part of the process of continuous denigration. Proceeding in this way also avoids the need to fabricate incidents as doing so could lead to possible detection of being purposely obstructive and malicious. Cartwright describes an example of virtual allegations being planted where one parent suggested a child was disappointed in a film that the other parent rented for the child because the videotape contained pornography. After

being interviewed by the judge, it was determined the tape was rented from a family video store chosen by the child, and that the child's disappointment was due to other reasons. Cartwright contends that the rate of virtual allegations will increase because professionals have become more skilled in detecting fabrications as part of the PAS process. Although there is controversy whether Gardner's treatise of PAS exists as a distinct syndrome due to the fact there has not been any empirical research to establish the legitimacy of PAS as a 'syndrome' (Dallam, 1999; Geffner, 1997; Gould 1998), his descriptions of alienating behaviours are useful in their own right to use as guidelines when an alienating process is suspected.

Alienating behaviours have been outlined by Gardner (1992) and these can be used to classify certain behaviours that are alienating in nature. Gardner does not give any direction about how many of these behaviours need to exist in order to classify the situation as a bonafide alienation syndrome. However, he suggests there are three levels of alienation and describes these as: Severe, Moderate and Mild. The characteristics of alienation behaviours and Gardner's classification of severity are contained in Appendix C.

In summary, attempts are being made to 'explain' behaviours such as alienation of a parent. It appears that there is no agreement that a syndrome actually exists as described and proposed by Gardner. However, there is agreement that alienating behaviours in a custody access dispute do occur. In fact, this writer would go further and suggest that alienating behaviours may occur in intact families as well, where one parent may actively attempt to develop strong coalitions with a child against the other parent due to other relationship issues. In any event, it is

recognized in the literature that factors involved in interpersonal, psychological and family relationship dynamics are complicated, difficult to predict and not easy to assess.

### **Domestic Abuse**

There is a wide range of terms related to abuse or violence toward women in the literature. Terms such as 'domestic violence', 'intimate partner violence', 'wife abuse', 'spousal violence', 'spousal abuse', 'family abuse', etc. are used interchangeably in the literature (Austin, 2000).

Domestic violence, sometimes referred to in the literature as spousal assault, or spouse abuse is defined by Kaplan, (1996) as "...violence between adults who are intimates, regardless of their marital status, living arrangements, or sexual orientations" (p.12). There are many definitions of family violence. Austin, (2000) describes four types of marital abuse: physical violence, sexual violence, property and psychological abuse. Geffner (1997) used the definition of the American Psychological Association Presidential Task Force on Family Violence to describe family violence as: "... acts of physical, sexual and psychological maltreatment and aggression and violence that occurs in a family unit where one family member with more power and authority attempts to control another" (p.2).

Viano (1992) described seven types of domestic violence: spousal abuse (both husband and wife as possible victims), child abuse; sibling abuse; incest; marital rape; homicide; and abuse of the elderly. It is interesting and noteworthy that acts considered minor forms of child abuse (spanking, slapping, grabbing or pushing) that are excluded from the category of child abuse, are behaviours that the community has

found to be unacceptable in terms of adult relationship conflicts. It may just be a matter of time before all forms of physical aggression towards another becomes an unacceptable way of dealing with conflict and extends to the other vulnerable members of the community such as children.

Health Canada (1999) defines violence against women as: “Acts that result, or are likely to result, in physical, sexual and psychological harm or suffering to a woman, including threats of such an act, coercion or arbitrary deprivation of liberty whether occurring in public or private life”(p. 1).

For the purposes of this study, the different forms of spousal abuse that will be used are those described by the Department of Justice Canada Fact Sheet (Justice Canada) (see Appendix D). This definition is comprehensive, contains all the elements as described in the former definitions, and also includes ‘spiritual abuse’.

The types of abuse covered are: physical, sexual and exploitation, emotional, economic or financial, and spiritual. Physical abuse covers a range of aggressive behaviours from slapping and pushing to beating and forcible confinement. Sexual Abuse and exploitation includes all forms of sexual assault, sexual harassment or sexual exploitation. Emotional abuse involves verbal attacks, screaming and yelling, stalking, and threatening one’s family or pets as well as damaging one’s possessions. Financial or economic abuse involves stealing or defrauding a partner, controlling one’s choice of occupation, withholding necessary financial resources etc. Spiritual abuse involves maligning or ridiculing one’s religion, preventing the practice of one’s religion, or using one’s religious beliefs for control or manipulation.

In Canada the first attempt to more systematically and comprehensively measure spousal violence was through the 1999 General Social Survey (GSS) (Prevention and Treatment of Violence Against Women Systematic Review and Recommendations, 2001). Violence toward women and emotional abuse toward women were reported separately. Findings were that the 5- year national rates of self-reported spousal violence for women were 7% for female to male and 8% for male to female violence. The report indicates, however, that the outcomes of violence are more severe for women and women were more apt to suffer from beatings (25% vs. 10%), choking (20% vs. 4%) and sexual assault (20% vs. 3%) than men. Women were seen to be three times more likely to suffer injury than men (40% vs. 5%).

Emotional abuse and controlling behaviour, including financial abuse/control were measured separately. Nineteen percent of women and 18% of men reported experiencing this type of abuse. Women were more likely to experience all forms of emotional abuse except for jealousy and a demand to account for whereabouts at all times. Men and women experienced these two categories of emotional abuse equally. The study found however that emotional forms of abuse had a high correlation with physical violence. For men or women in emotionally abusive situations, the rates of violence over the 5-year study period were 10 times greater than for those men and women that did not report emotional abuse.

A typology of domestic abuse developed by Johnston and Campbell (1993) (Appendix E) delineated different aspects of abusive behaviour. Looking at the origin or propensity for violence, Johnston and Campbell described three different



sources. The first source is the intra-psychic level where an individual initiates the violence. A second source is within the interactional relationship between people based on the set of expectations and informal and formal rules that govern the relationship; and third, the external level that contains the stressors which aggravate the situation. Inner tension stress or conflict can be intolerable for certain people under certain conditions. People who are compromised because of drug alcohol abuse, personality disorders that affect impulse control or other mental and social processes related to social interaction, may relieve this internal tension through the use of violence. Interactionally, violence can be used as a mechanism to maintain control because of a conflict of interest on an interpersonal level or because of a socialized belief that the man has a right to use coercive power over others, such as partners and or children. A perceived danger from the outside may lead to a violent reaction at the external level. Traumatic or highly stressful events, such as that engendered by separation and divorce could provoke an aggressive response, in both men and women who would not otherwise be violent.

Johnston and Campbell (1993) categorized domestic violence based on the intra-psychic, interactional and external sources as follows:

- 1) ongoing or episodic battering- with or without separation trauma,
- 2) female initiated violence – with or without separation trauma,
- 3) male-controlling interactive violence – with or without separation trauma,
- 4) separation-engendered violence/post divorce trauma – with or without trauma,
- 5) psychotic and paranoid reactions.

Johnston and Campbell's typology is an attempt to link some of the theoretical variations that exist regarding domestic violence. By creating a link between competing views of family systems, feminist, psychodynamic, biological, socio-political and social-psychological views, different patterns may be discerned that reflect the multiple sources that exist.

#### Spousal Violence and Custody Access Disputes

Dalton (1999) has observed that there continues to be a non-integrated approach to dealing with domestic abuse and that there were three separate bodies of learning related to intimate relationships. One set of literature is seen as dealing with conflict, one with violence and the last with abuse. This leads to a difference in how mental health practitioners deal with abuse and how they make decisions in custody access disputes. Whereas an abuse specialist sees abuse as a predominantly power and control issue, a mental health practitioner sees conflict, and may look only for evidence of one-sided physical violence in a relationship to determine whether abuse has occurred or is occurring. However, when abuse is considered as a control and power issue in close relationships, physical violence is not necessarily a prominent part of the equation and may be only a small part of the overall dynamic of control and power.

Rosnes (1997) argued that current understandings of spousal violence and the neutrality position of the court, where family law is seen to present an equitable field for the litigation of custody arrangements, sacrifice a woman's safety. She added that by using the best interests principle to ensure children have access to the other parent, the other parent's safety, usually the mother is put at risk. She also stated that judges

take positions that abusive husbands do not necessarily indicate the children are at harm or that their parenting is compromised by this fact. In a small study she conducted involving 16 cases where spousal abuse was a main concern, she found that in only one of these cases was supervised access awarded by the court (Rosnes, 1997). (In Family Conciliation -Winnipeg, 16 cases would represent roughly 9-10% of custody access disputes assessed by Family Evaluators.)

Wallerstein, Lewis, and Blakeslee, (2000) also commented on the court's view of domestic violence indicating that courts typically consider the child's relationship with the father as being quite separate from the violent relationship with the mother. Thus husbands who have physically abused their wives are not necessarily barred from having access to their children and in most states can obtain joint custody.

As indicated earlier by Dalton (1999) conflict is a major issue that is highlighted by practitioners involved in separation and divorce issues. Kelly (1998), for example, spoke of inter-parental conflict as having 'normative limits' and that it is conflict outside of these limits that include violence and abuse as well as high and persistent conflict that are detrimental to children's post divorce adjustment.

Bain (2001) argued that violent non-residential parents attempt to control and continue abuse of ex-partners and/or children through agreements that promote unnecessary contact between the spouses. She stated that changes in the divorce act are required so that the impact of family violence is a consideration in the best interests of the child.

Ayoub, Grace, Paradise, and Newberger (1991) described five case studies where allegations of abuse were countered by fathers to be malicious or due to psychological disturbance on the part of the accuser. In these situations, it was found that domestic violence was a major feature and that the assertion that the allegations were false was an attempt to deflect or deny the abuse. These men were also found to have very poor insight and little to no empathy for the pain experienced by the spouses or children. The authors cautioned evaluators to ensure they assessed the aspect of spousal abuse thoroughly when faced with insistence by a male partner that the accusing partner is psychologically ill or where the defensive position on the part of the male partner is extreme.

Bala (1996) posited that issues of spousal abuse might occur in some form or other in up to half of all divorces. He saw this as a major challenge to those working within the justice system and particularly those attempting to create the best outcome for children when determining custody and access arrangements. Because of the complexity and the frequent occurrence of spousal abuse in the context of the divorcing process, Bala also expressed support for an approach that considers the nature and range of conduct that may constitute spousal abuse. He proposed that custody- access determination rely more heavily on factors such as domestic abuse because of the way children are impacted, both directly and indirectly.

Others however, indicate that close relationships between people are a natural breeding ground for elements of conflict to surface. Kelly (1998) sees some level of conflict as natural and children witnessing parents in conflict are not necessarily harmed. Supporting this line of thinking, Cummings and Davies (1994) see inter-

parental conflict as a natural outcome of co-habiting and not necessarily harmful, or abusive. Jaffe, Poisson, and Cunningham (2001) indicate that high conflict and domestic violence account for a higher percentage of adjustment difficulties in divorce than interpersonal conflict and the divorce per se, and that there is inconsistency in the research on outcomes of children who are exposed to conflict based on such factors as resiliency. They stress that there are many dimensions to the array of interpersonal conflict elements in a relationship and that further research in identifying the relationship between these variables is required.

Regardless of the various positions on interpersonal dynamics and the range of abusive behaviours of spouses and/or parents to children, abuse in a family can have dire consequences. One of the reasons women leave their partners is because of abuse (Ellis, 1992; Ayoub et al., 1991). The notion that where there is spousal abuse, there is also a high probability that children in the family may also be abused is suggested by Bala (1996,1998) and others (Bancroft & Silverman, 2002; Gelles & Cornell 1990, Herzberger, 1996). Bala (1998) indicated (depending on the population of abusive spouses studied), between 25% and 75% of spouses who abuse their partner also physically abuse their children.

Herzberger highlighted that child assault was high in situations where there was partner-to-partner violence, the assumption being that the family norm was tolerant of intra-familial violence. Markward (1997) found 45% of women (N=82) in a shelter for abused women reported that child abuse also occurred in their situations with an abusive partner. Herron and Holtzworth-Munroe (2002) found that a certain sub-type of male partner, the Borderline-Dysphoric sub-type, had the highest

potential for perpetrating abuse against children in the family. They hypothesized that this group of men had higher psychopathology, history of parental abuse and rejection in their childhood, and a history of difficulties forming stable and lasting relationships.

Since this study will review reports on separated couples with children, more information about abusive behaviours after separation may be obtained. The information parents and children share with the evaluator may give some clues as to the co-occurrence of abusive behaviours between the spouses and abusive behaviours toward the children both before and after the separation. Following Flanzer's premise about abusive behaviour being socially constructed, highlighting these behaviours in custody access assessments, and making recommendations dependent on the kind of behavioural dynamics that exist between family members, a strong message is telegraphed to parents about societal intolerance for ongoing abusive behaviour.

It is important to note that some authors recommend caution in interpreting reports recalling spousal or family violence, as there is great potential for error about the frequency and types of violence because people have difficulty gauging the time frame in which the alleged violence took place. There are often mistakes made when behaviours such as abuse are thought to have occurred and there may be other influences that add to an individual's exaggeration of events (Herzberger 1996).

### **Relationship Between Child and Spousal Abuse**

It is suggested that spousal violence and child abuse go hand in hand. Children in families where spousal abuse is occurring will be exposed to violence themselves either directly or indirectly. Men who batter their wives are more apt to abuse their

children and inflict both incidental assault while abusing the mother, as well as inflicting psychological abuse (Austin, 2000; Bancroft & Silverman, 2002; Jaffe, Wolfe, & Wilson, 1990).

Family violence is more prevalent within the dynamics of individuals residing together in a close emotional context and in some cases the addition of children to the situation actually contributes to higher levels of spousal dissatisfaction and sometimes spousal and other forms of violence (Krain, 1998; O'Leary, 1988). Dealing with the violence or abuse is important to the ongoing health of the family as violence that is unchecked often accelerates over time (Flanzer, 1982; Star, 1982). The Status of Women Report on Domestic Violence (1998) also asserts that the rate of spousal abuse increases or is related to separation and divorce conflicts. The chances of a woman being assaulted increase as a result of marital or relationship conflict, and serious abuse or violence can be just as frequent an outcome of the actual separation. This is because the separation acts as a catalyst to unleash violent responses by the woman's partner, including violence to resolve conflicts over the children (Status of Women Canada, 1998; Ellis, 1992).

How parents behave with each other in their relationship can be a significant factor in the potential for child abuse to occur. The parental relationship may in some ways be a model for how other relationships are managed in the family unit. In families where child maltreatment has occurred the relationship between the spouses has been conflicted, less warm and supportive with less satisfaction in the relationship in general and more aggressive and violent in behaviours toward each other (Darlington, Osmond, & Peile, 2002). According to Brown (2002) child abuse often

leads to separation and mutual allegations of abuse of any kind made by both parents simultaneously were highly likely to be true. The risk of being harassed, stalked, beaten or murdered is higher after separation. For example, an estimated 25% of women were killed by their partners after separation, and 28% were killed while leaving the relationship (Rosnes, 1997). Where males have been batterers and involved with their partners in a dependency relationship, they have been more likely to have stalked and harassed their partners for long periods after the separation.

Ross (1996) examined both partners in relationships using a large sample of 6,002 respondents deemed a representative sample of American couples. She concluded that as violence by both husbands and wives increased, so did the physical abuse of children in the home. The relationship between violence towards a spouse and child abuse was three times higher for men. However, this study focused on couples still in the relationship and not on post-separation behaviours in terms of violent acts towards spouses or children.

In the United States, as of 1996, thirty-two states had legislation that requires the courts to take marital violence into consideration when dealing with the custody of children. When using a representative sample of 3,363 parents in the U.S., but not necessarily representative of litigating parents per se, findings showed a strong relationship between increased aggression of males towards their partners and increased violence toward their children. Females showed a similar trend though it was not considered as strong as that for men (Ross, 1996).

Currently no studies have examined rates of abuse of children by perpetrators of domestic violence after separation. However the assumption is that those factors



that contribute to using physical violence and other means of abusive behaviours to control others would remain significant in these situations (Bancroft & Silverman, 2002).

As one reviews the literature, it becomes evident that violence is a major family problem and is so prevalent that it has been framed as being epidemic internationally (Chalansky, Ericksen, & Henderson, 1999; Geffner, 1997). No culture is immune to some form of violence within the family with some cultures tolerating violence such as spousal abuse more than others (Herzberger, 1996). However, family violence is also seen as socially constructed and what constitutes abuse can be defined in such a way as to render its forms unacceptable in a culture through the use of societal awareness and shame for the perpetration of family violence (Flanzer, 1982).

Batterers are considered to have a significant psychopathology, over and beyond other contributing factors to physical violence toward their partners influenced by socialization, and social approval of violence toward women (Vaselle-Augenstein & Ehrlich, 1992). The use of the court system to maintain control over their spouse through the custody dispute process is not an uncommon occurrence by battering husbands (Pagelow, 1997). It has also been suggested that family violence victimization in the context of the custody access dispute has been an area that has been ‘...least examined and reformed.’ (Pagelow, 1997, p. 99). The court may inadvertently find itself making orders that guarantee an abuser’s access to his former family and the vulnerability they experience in relation to the abuser as the children in a custody dispute remain a link between the abuser and the abused (Dalton, 1999;

Lecklitner, Malik, Aaron & Lederman, 1999). Sometimes the court does not see the relevance of domestic violence and the issue of access between a child and his or her other parent (Walker & Edwall, 1987).

Spousal abuse is not currently a factor in any Canadian statute (except Newfoundland) when considering custody /access arrangements for children (Status of Women Canada, 1998). Child abuse allegations made in cases where there is also substantiated or alleged domestic violence may be cases where weight given to the allegation has to be higher.

#### Witnessing Abuse

Witnessing domestic violence is considered a form of child abuse and defined as a form of emotional maltreatment by the Canadian Incidence Study of Reported Child Abuse and Neglect where it is listed as a category of emotional maltreatment (CIS, 2000; Tower, 1996). Witnessing violence is not a benign event for children and can cause behavioural, emotional cognitive and developmental problems (Bancroft & Silverman 2002; Martin, 2002, Marward, 1997; Pagelow, 1997). Some see the effect of witnessing a parent being hurt as emotionally significant with long lasting effects on memory and emotional health (Goodman & Rosenberg, 1987).

Since the abuse is occurring in the family home versus some other setting, the chances that children witness these events are high. Bala (1996), citing the 1994 Statistics Canada Report, indicates that in relationships where women were abused, children observed the abuse in 39% of cases. Cascardi and Vivian (1995) found in their sample of couples reporting violence that children or others were present in 65% of the cases. It is estimated that when spousal abuse is occurring child abuse will also

occur 40-60% of the time (Rosnes, 1997). Rosnes also maintains that the abuse of a mother by the father is sometimes minimized by judges taking a position that the father is not necessarily a bad parent to the child. She sees this as an outcome of the ideology which surrounds male violence towards women.

It has been held that a man who batters a spouse can still be a competent parent (Austin, 2000). This position is questioned by Pagelow (1997) and others (Bancroft & Silverman, 2002; Geffner, 1997) who contend that a violent spouse is likely to be a violent father and that abusing a child's other parent does not respect the child's needs, models poor anger management, communication and conflict resolution and produces significant fear and stress and anxiety in the child.

Bancroft and Silverman (2002) indicate that having a batterer in the home who is a parent or step-parent has a wide range of implications for children and that the exposure to everyday life with this parent severely affects children's emotional and social development. They go further in saying that the parenting behaviours of a battering parent cannot be assessed separately from the pattern and range of abusive behaviours. In contrast some authors suggest that witnessing or growing up in a family where domestic violence or other forms of abuse is prevalent does not necessarily predispose those children to being violent as adults (Herzberger, 1996).

Edleson (1999) also indicates that in his analysis of studies on children witnessing violence, not all the children were reported as suffering negative consequences and that there should be caution used when considering witnessing violence as a form of abuse. Rossman and Rosenberg (1997) also contend that though witnessing violence certainly impacts children's psychological development there is

little known about the intervening times between violent acts in the lives of children, especially the environmental characteristics that contribute to development. They stress that there are differences in violent relationships that need to be assessed as well as differences in how parents in those situations manage their children.

### **Custody Evaluations**

In Manitoba, custody evaluations are ordered by the Court of Queen's Bench as governed by the Court of Queen's Bench Act, C.C.S.M. 1988, c. C 280. Under subsection 49(2) of the Act a judge can order that a Family Evaluator:

shall interview the parties and such other persons as may be appropriate and shall provide to the court a report containing information and opinion relevant to custody, access or a related family matter that is in issue in the proceeding.

There are also situations where private practitioners such as psychologists or other mental health professionals complete reports on behalf of clients, usually arranged through lawyers. Private assessors are also used in Manitoba on a contract basis, and other jurisdictions in Canada use private assessors, government employees or a combination of both.

A custody access assessment is a process during a custody access dispute where a social worker or qualified mental health practitioner attempts to gain an understanding of the family situation and the individual members of the family; assesses how the current situation impacts on the children in the family; determines what kind of custody and access arrangement would best meet the child or children's needs taking into consideration the capacity of the parents; and prepares a report for the court outlining recommendations and what the recommendations are based upon (Chisholm & MacNaughton, 1990; Gould, 1998; Herman, 1999).

Custody assessments are often completed using a multi-method approach to obtaining data about the parent/child relationship and other factors related to ongoing parenting of the child by both parents. Often evaluators use self-report questionnaires, interviews with parents and the child, direct observations of the parents and child together, interviews with collaterals, and review of documents such as court affidavits (Schutz, Dixon, Lindenberger, & Ruther; Herman, 1999; Austin, 2002; Stahl, 1996). The importance of ensuring the child is interviewed is emphasized by Lynan, (1998). In the case of Family Conciliation in Manitoba, the procedures manual outlines all these methods of information gathering as a way to complete an assessment, as well as providing timelines for gathering the data and emphasizing possible problem areas such as child abuse allegations.

Assessments are considered helpful when there are accusations of physical, emotional or sexual abuse made by the parents against each other. Though investigating child abuse is the mandate of child protection authorities such as Child and Family Services, the custody access evaluator must evaluate aspects of the family relationships and form a professional opinion on the credibility of the allegations being made, determine the risk factors for abuse towards the children and develop recommendations that take into account the best interests of the children so that risk of abuse is minimized or eliminated (Chisholm & MacNaughton, 1990; Gould, 1998). Evaluators also focus on parental deficits in terms of capacity to parent as well as on elements of family violence that may be a relevant factor in the dynamics of the family and parenting style (Chisholm & MacNaughton, 1990).

Confirming abuse however is a challenging task. In terms of sexual abuse, for example, mental health practitioners still face difficulties in determining true from false allegations as the technology to do so is still under-developed. It is still difficult to distinguish non-abused from abused children on the basis of behaviour or from the child's direct report. As well, there is still no reliable or generally accepted profile of the victim or abuser or a physiological or psychological test that can determine if a child has been sexually abused or if an individual has committed abuse (Gould 1998). Determining whether a parent may have committed abuse against a child, such as sexual abuse for example, is not an easy task as "there is no personality profile that represents an incest offender" (Brown & Brown, 1997). Annon (2002) stated in his treatise of the use of the term 'syndrome' in expert evidence regarding child sexual abuse that there have been non-diagnostic syndromes presented in court as an attempt to suggest a child may have been abused. He added however, "...there is no behavioural syndrome that is characteristic or indicative of child sexual abuse".

Assessors are required to formulate recommendations about custody and access based on the best interests of the children. In many jurisdictions, professionals are compelled to report any neglect or abuse of children if they have reason to believe a child is in need of protection.

Wallerstein and Kelly (1980) indicate that in many cases the best interest of the child is seldom used as the 'sole criterion' for deciding custody and that the interests and needs of the biological parents are given greater weight than those of the child. Dalton (1999) suggests that custody evaluators and other court professionals do not always have a good understanding of the intricate ways in which domestic

violence affects child-parent and parent-parent relationships, and in fact have tended to minimize the importance of domestic violence when assessing custody access issues.

Gould (1998) discussed different models used to assess child sexual abuse in the context of custody access assessments stating that there is no one correct way to assess this difficult and complex area. He suggests that utilizing a number of models helps assure that the assessor becomes familiar with the different factors to assess, and how to do this.

Critics of what is seen as over reliance by the courts on custody access evaluations raise concerns over gender bias (Warshak, 1996), over the prevailing views of domestic violence by evaluators (Bancroft & Silverman, 2000), and over the lack of follow-up and research into evaluators' recommendations and impact on families and children (Caplan & Wilson, 1990).

Recommendations related to situations where there are concerns over the safety of the child will have the safety of the child and/or spouse in mind. Safety involves both situations of being exposed to spousal conflict, and physical safety of the child when in the care of the other parent. Some considerations have to be made when devising a safe plan for children during access. Lemon (1995), for example, outlines a number of considerations when there are concerns about a parent. In terms of supervised visitation Lemon suggests there needs to be clarity around when to have supervised access ordered, who the supervisor will be, (whether a friend/relative or agency), and defining the role of the supervisor. In non-supervised situations, Lemon recommends suspending visitation if the safety of the child cannot be guaranteed. If a

child is considered to be safe without the need for a supervisor Lemon recommends neutral locations for pick up and drop off, using third parties whenever possible to avoid direct face to face contact; structured access arrangements with little flexibility; maintaining confidentiality of battered spouse's address information and recommendations should provide for no contact between the parents. He also believes there should be a primary parent for decision-making and that regular routines are outlined for the children. Similarly, Stewart (2001) indicates that recommendations should provide for no contact between the parents and highly structured access arrangements.

These approaches are ways that evaluators help the courts make decisions related to custody access disputes before them and attempt to incorporate guidelines and recommendations addressing issues when difficult domestic issues are involved. It must be noted that there is no guarantee recommendations will be followed and court orders do not necessarily guarantee cooperation, or success. However, since it is estimated that judges follow recommendations from mental health professionals' evaluations at least 92 percent of the time (Caplan & Wilson, 1990; Horvath, Logan, & Walker, 2002), efforts must continue to be made to offer recommendations that reflect the differential needs of families and that ensure that risk of abuse to children and parents is decreased.

In brief, there are fairly clear guidelines and directions for evaluators to use when child abuse is suspected and when a child is deemed at risk. In Manitoba, evaluators follow the Best Interests Criteria in the Child and Family Services Act,



1985 Sec.2 (1) as well as the guidelines on defining and reporting abuse, Part III 7 (1) of the Act. (see Appendix F)

The evaluator however must use their professional judgment when assessing a case in terms of the potential for risk to a child and in the case of spousal abuse.

Reporting of child abuse relies heavily on clinical judgment, experience, training and intuition. It is also important for evaluators not to report every case where child abuse allegations may be present especially due to a misunderstanding of mandatory reporting laws (Foreman, 2000). Standards for reporting reasonable suspicions imply a degree of discretion and evaluation. It is within a practitioner's professional role to follow up suspicions with questions and queries in the context of evaluation or treatment (Foreman, 2000).

Others suggest that when it comes to issues like suspected child sexual abuse, professionals and others should not jump to conclusions as investigators and trained clinicians are prone to making errors. This is because of their own biases, the limited or erroneous information they have received and their level of expertise in the area. As well, other aspects of the reporting of allegations have to be considered such as secondary gain (financial incentives, custody disputes, punishment and revenge), or elements like personality disordered individuals who may, based on personality characteristics give unreliable or exaggerated information (Mc Govern, 1991).

A challenge for practitioners in the field is that it is very difficult to predict when abuse of children may occur. Despite the years of research that has gone into this area, there is still no psychological profile that helps to accurately identify those parents who will abuse or neglect their children (Besharov, 1991).

Reid, Sigurdson, Christianson-Wood, and Wright (1995) found however that it is possible to adequately assess risk with considerable degree of accuracy with comprehensive collection of data, comprehensive assessment of both caregivers and highlighted the Manitoba Risk Assessment System as a valuable tool in this regard.

Three dimensions emphasized in the assessment of reoccurrence of child maltreatment were identified:

- a pattern of maltreatment
- beliefs held by the caregiver that are contrary to the requirements for appropriate care for children; and
- complicating factors which have a negative impact upon child care e.g. substance abuse, psychiatric problems, intellectual incapacity, and violent behaviour towards adults or social isolation.

Professionals working in the field rely on guidance from the child protection authorities and specialists as well their own professional judgment based on their own training when dealing with child abuse issues. Discretion must be used in order to avoid a situation of over-reporting or inappropriate reporting (Foreman & Bernet, 2000). Although Family Evaluators are not child abuse specialists per se, they may be faced with assessing these situations on a regular basis. Thus, the custody evaluation must pay serious attention to allegations of child abuse and recommendations should be tailored to meet the child's needs and interests when abuse is suspected and/or confirmed.

Evaluations are court ordered, and parents are compelled to take part. Parents are required to report on their history as a family as well as identify those issues

pertinent to their claims on the kind of custody or access arrangement they want. Parents on their own, or on advice of a lawyer will often make the best presentation about themselves to the evaluator, in order to support their position on custody access. In turn they may also attempt to suggest that the other parent is deficient, in terms of being appropriate for a certain form of custody or access arrangement. The self-interest incentive and the strong emotions inherent in custody access disputes require that collateral sources are used by the evaluator to obtain additional and objective information about issues in the dispute (Austin, 2002). However, this bias of self-interest is expected under these conditions and may in fact be a good opportunity for the researcher to obtain information on the type of allegations that are made by one parent against the other because of this bias. The custody evaluation may be thought to have a certain 'richness' in terms of the kind of negative allegations that arise within the custody/access context, akin to the court affidavit that contains similar material. In some ways, there is an opportunity to examine parents 'at their worst' in terms of the extent to which they may choose to provide negative information about the other in order to help their case. This may include intentionally malicious information, or more subtle attempts at influencing the evaluator.

Because the custody access evaluation is a document being prepared for the court, it is assumed that the evaluator will report as factually and as truthfully as he or she can in order to help inform the court. Information contained in the evaluation is treated somewhat differently than other assessments or evaluations in clinical social service settings, except possibly for the areas of child protection, or probation because of the similar relationship they have with the legal domain. The key element in this

difference is that the custody evaluator is an officer of the court, and as such is open to cross-examination on any material prepared for the court. Evaluators are asked to testify quite regularly and must ensure the material they prepare meets the standards and level of scrutiny the reports will undergo when filed as evidence. Both note taking and reporting of information follows strict guidelines and evaluators are less prone to offer speculative information or rely too heavily on clinical theoretical explanations regarding parental behaviour. Being committed to a state of impartiality, the information contained in the reports is most likely to reflect the positions and opinions of the parents regarding the issues in the dispute. Evaluators will also attempt to determine the risk factors that may exist to children when abuse allegations are made and will attempt to sift out those that may be exaggerated versus those that have some element of possibility. The use of collateral information and interviewing of the children are two ways evaluators attempt to explore this area. This additional investigation component may have some benefits over self-report surveys of domestic or child abuse experiences, as there are usually no ways of confirming whether self-reports are in fact accurate.

### **Summary**

As indicated in this review the characteristics of the child custody dispute process in high conflict situations and those that contain elements of child or spousal abuse have been well documented in the literature. The literature relating to child and spousal abuse within the context of the custody access dispute highlights the difficulties that are faced by professionals when allegations of abuse to children or partners are identified in a dispute. Allegations are very difficult to prove, and this is

especially so within the dynamics of a custody access dispute. Because anger is often present and the adversarial system creates a win/ lose situation for litigants, information presented by one parent against the other can come under suspicion, as that parent attempts to make his or her case. Emotional sensitivities to the action of the other parent sometimes result in allegations and counter allegations about abusive behaviours that are left to the courts or the professionals to sort out.

Because of the separation, the emotional connection between the parents and the boundaries that existed are changed significantly. The view each has of the other may be extremely negative, and behaviours once ignored or tolerated within the context of a spousal relationship may now be highlighted as evidence that the other parent is either unfit, abusive, or neglectful towards the children. A parent may, within the dispute of custody access and fuelled by anger against the other spouse, use examples from the past of a range of physical or other abuse that the other parent perpetrated against her/him, or the children. As well, the existence of abuse in a family may have contributed to the dissolution of the spousal relationship, the victims of abuse may feel less constrained in reporting abuse that had been occurring, or the separation in itself may have triggered abusive behaviour on the part of one or both parents (McDonald 1997). These scenarios are stories about family dynamics that can appear in the text of a custody access assessment.

The literature discusses such concepts as alienating behaviours, and false allegations. However there are cautions against assuming allegations are false, or behaviours reflect alienation. Authors emphasize the reality of high conflict families where physical and emotional abuse can be a common feature in the history of the

family, or an ongoing component of the custody dispute itself. The concept of alienation as a syndrome or disorder has been challenged in the literature. However alienating behaviours exist, and must be considered by evaluators when preparing an assessment. The effect on children can be negative, and reversing the impact of this process difficult. Alienating behaviours can have very significant effects on the parent child relationship.

Some authors propose that where there is smoke there is fire, in that if spousal abuse is occurring in a family, there is a good chance that child abuse may be occurring as well. Research is beginning to show that a parent who is abusive to a partner may also exhibit these characteristics in dealing with children. This has implications for professionals who conduct custody access assessments. Past family history, especially in terms of abusive behaviour is seen as a very important element in the determination of custody access planning.

However, the literature also discusses various types of violent behaviours and highlights that the situation or context is important to consider when trying to understand the nature of the violence. The separation process can be seen as an unusually emotionally taxing time in a couple's history together. Behaviours can occur that are out of character and specific to the separation process itself. This is seen as a more realistic perspective taking into consideration the dynamics of a situation and appreciating that violent behaviours by both spouses can sometimes erupt during extremely emotionally challenging times.

Custody access disputes are described as complicated and emotionally taxing events in the life of partners who are faced with the dissolution of their partnership.

Children caught up in these disputes face unique challenges as their caregivers work through the difficult emotional upheaval of partner separation. The literature identifies the negative effects on children of high conflict families, and high conflict separations. The impact on children of witnessing intense conflict, or physical abuse, is as serious as experiencing these behaviours firsthand. Children certainly get caught in the middle and are dependent on their parents, the court and family evaluators to help develop a living arrangement that serves their interest.

The literature helps define a pathway for research into the area of abuse allegations and the custody access process. Numerous elements in the dynamics of separation and family violence are identified and examined. The literature is rich in describing categories that apply to the various factors that are relevant in examining the custody access assessment process and the way parents report allegations of child and spousal abuse. Because these allegations and narratives of personal experience are processed and documented by professional staff, an insight into this area is readily available through the use of custody access assessment reports. The reports can be examined and analyzed according to the categories and definitions available in the literature.

The issue of domestic violence is predominantly dealt with as a separate area of study in the literature versus domestic violence as it applies to the process of divorce or marital separation. According to Jaffe, Poisson and Cunningham (2001), a synthesis is required of the areas of the impact of abuse and exposure to violence on children and the area of divorce. This exploratory study is, in a preliminary way,

addressing this gap by examining issues of domestic violence, including child abuse, as well as separation issues in high conflict couples.



## CHAPTER III: METHODOLOGY

### Procedure and Data Collection

This exploratory study was aimed at addressing the research questions related to allegations made by parents during custody access reports about the kinds of child abuse alleged during custody access assessment reports; the nature of spousal abuse or spousal violence; the frequency of confirmed child abuse or spousal violence; other family issues or problems that may emerge within the context of the custody access assessment process. This exploratory study was completed using a quantitative approach to the analysis of narrative content in files. Exploratory studies are used to familiarize oneself with a particular topic, examining a new interest, or when one wishes to test the feasibility of conducting a more intensive study in the future (Rubin & Babbie, 1989). Though exploratory studies are not usually representative, they do provide interesting and valuable information for further research and sometimes yield insights about a field of study that have not been identified in other research into the area (Neuman, 1997; Rubin & Babbie, 1989).

Flexible methods are often used in social work or human services research. Researching documents containing narrative data can yield information in the study of clinical or social issues. In social work the research of narrative content is aimed "...at summarizing and describing the meanings, the substantive content, of the text in question" (Anastas, 1999, p. 413). Using records developed by others for another purpose is a way of researching information by an indirect source and constitutes

secondary data. A common way to approach this form of data is through 'content analysis' (Marlow, 1997).

Rubin and Babbie (1989) indicated that using available records is a way of avoiding an obtrusive approach to information gathering, and numerous sources of data are available including case records, reports, practitioner process notes, legal opinions, administrative rulings, etc. They also identify two other advantages to using records for data including the expedience in terms of cost and use of time, and the ability to study phenomena that has occurred in the past. The use of documentary records is sometimes more suited to answering the research question as information can be gleaned from the record that would otherwise be difficult for a researcher to obtain by other means (Berg, 2004).

Anastas (1999) indicates that narrative data must be understood within the context in which the information was gathered and in relation to how the information was recorded. Documents produced within the social service context that describe the professional client relationship are highly significant and should be considered as data in their own right as they "...often enshrine a distinctively documentary version of social reality" (Atkinson & Coffey, 1997). Qualitative narrative data may be transformed to quantitative numerical data and be counted and classified as part of the analysis (Anastas, 1999).

A research approach similar to content analysis in qualitative research is framework analysis which is closely related to thematic analysis or an approach where codes are based on a priori concepts and data is extracted from qualitative text that corresponds with these codes. The framework approach allows for a priori

categories as well as emergent concepts, similar to the inductive approach in grounded theory (Lacy & Luff, 2001; Anastas, 1999). However framework analysis is deductive, for the most part, because of the use of a priori or selected categories and codes (Mayring, 2000). Framework analysis has five key stages and this approach was adapted to identify and classify themes within the custody access reports according to a priori categories or codes, also known as 'selective codes' (Anastas, 1999). The five stages include: familiarization; identification of a thematic framework; indexing; charting; mapping and interpretation.

Familiarization was a step in the process where the writer came to know the material or documents to be examined through historical experience in the field, and through examination of the documents for the purpose of examination and coding. This allowed for the opportunity to identify emerging concepts and add to the a priori or selected categories.

The second step in the process was the development of a thematic framework. This was an initial coding framework that was developed from selective and emerging issues in the documents to be examined. The thematic framework was refined during subsequent stages, and is an example of the flexibility in this qualitative approach. Though the themes were selected and identified at the beginning of the study, categories or items of detail for the purpose of data collection were added or changed as reports were reviewed. It is during this stage that a formative check of reliability occurs and text content is tested against the categories and new themes or categories are identified. A summative check of categories took place prior to reviewing records at the beginning of the study. This was done to test consistency

of coding through inter-rater reliability during a pilot of the review tool, and midway through the study, as consistency of coding can also take place to test intra-coder reliability during the formal data-gathering phase. This phase consisted of having three staff and the researcher apply the tool against four assessments then collate the rate of agreement or disagreement between the researchers findings and the findings of the staff. The staff were all given the same reports and comments from the staff were used to refine the tool. In this phase agreement for most categories was high except for some areas that required refinement, or new categories to capture the substance of the issues identified. Staff also recommended changes in how the tool was organized to make it easier to tabulate information from the reports.

The third step constituted the process of applying the thematic framework to the data. Numeric or textual codes can be used to identify specific pieces of the data that correspond to the different themes. This process is similar to the 'coding' process in other qualitative analysis approaches and is also known as 'indexing'. (Ritchie & Spencer, 1994). For example a textual code of 'child physical abuse' could be applied to segments of text that relate to a broader theme of family violence.

Although the fourth step in his process normally involves the development of charts where the themes from the data are displayed in a table or grid, the SPSS spreadsheet data cells were used instead. The cases were set up with the categories identified along the top of the spreadsheet and each case could then be recorded and displayed as either possessing a particular quality or not possessing the quality. This allowed the researcher to do a count of various categories to determine frequencies as well as run basic statistical analysis of some categories.

The fifth and final stage of the data gathering process is the mapping and interpretation stage. (Lacy & Luff, 2001; Ritchie & Spencer, 1994). This last stage was not used in the process. Instead themes that emerged from the data were applied to a priori categories to help guide the researcher.

In this study the data was collected utilizing a file review tool (Appendix A) with selected categories supported by coding guidelines that helped the researcher capture the appropriate data according to the a priori categories. The file review tool was made up of a number of sections. Section I captured demographics and categorization of the custody access arrangement. Section II outlined the allegations made by the parents and issues as identified by the evaluator as well as child abuse and spousal abuse allegations. Section III covered domestic violence types and alienation characteristics and assessment recommendations. Case classification and case disposition were covered in section IV. The tool was developed using information from the literature, demographic and custody access categorization from a research study on comprehensive co-mediation (McKenzie, 2002), a domestic violence typology (Johnston & Campbell, 1993), child abuse categories from the Canadian Incidence Study (CIS) of Reported Child Abuse and Neglect, (2001), spousal abuse categories (Department of Justice Canada Fact Sheet, 2004) and categories from the Family Conciliation database reflecting custody access issues and problem identification.

A set of coding guidelines can be made up of six basic components: the code, a brief definition, a full definition, guidelines for when to use the code, guidelines for when not to use the code, and examples (MacQueen, McLellan, Kay, & Milstein,

1999; see Appendix G). For example, in the 'recommendations' section of a custody access assessment, recommendations could be categorized and analyzed according to abuse confirmed through disclosure or collateral sources. Instructions were then to highlight those phrases or themes in the text that indicate the assessor has 'confirmed' the abuse (e.g., disclosure by the child, confirmed by a collateral witness, confirmed by medical professional, confirmed by other professional as part of an investigation into the abuse).

The definitions of child abuse as outlined by the CIS are a valuable tool when attempting to classify forms of abuse against children, as are the spousal abuse categories delineated by the Department of Justice Canada Fact Sheet (2004) on spousal abuse. These definitions are mutually exclusive and cover the full range of abusive behaviours that are currently available to be used by professionals in the field to identify and classify spousal abuse. Johnston and Campbell's (1993) typology of spousal violence also classifies the various forms of spousal abuse that may be found in a separating family. Using tools that help differentiate between forms of abuse based on contextual factors and appreciating that there may be differences in how individuals manage or are affected is highlighted as something to pursue in the research of these issues (Rossman & Rosenberg, 1997.)

The file review tool contained categories from the Family Conciliation service database relating to custody access dispute cases, and categories from the child abuse and spousal abuse literature as well as from the literature on family dynamics in custody access disputes. Frequency and types of child abuse allegations made in the context of the custody assessment process, whether there is a co-occurrence with

spousal violence, and the types of recommendations evaluators make when different forms of domestic abuse and child abuse are present were reviewed and recorded. These categories are extensive and can be used along with previously highlighted definitions of child and spousal abuse to help categorize the information contained in the custody access reports.

There was also an attempt to identify whether assessors identified any behaviours of an alienating nature in the reports. Alienation behaviours were identified using Gardner's (1992) descriptions of alienating behaviours and severity of this process in a case may be determined using his guidelines.

#### Reliability

According to Anastis (1999) the concept of reliability has had less attention in flexible research methods as opposed to fixed method traditions. In fixed method approaches reliability is defined as to how repeatable or replicable a given observation is and how observations by two or more people are in close agreement versus a situation where there is little agreement and a significant rate of error. Bryman (2001) considers content analysis as being situated within the quantitative tradition of '...emphasizing measurement and the specification of clear rules that exhibit reliability' (p.192).

Nachmias and Nachmias (1987) define reliability as "...the extent to which a measuring instrument contains variable errors...errors that differed from observation to observation during any one measuring instance, or that varied from time to time for a given unit of analysis measured twice or more by the same instrument"(p. 172).

Rourke, Anderson, Garrison and Archer (2001) state that a primary test of objectivity in qualitative studies using content analysis is inter-rater reliability. They define this as the “extent to which different coders, each coding the same content, come to the same coding decisions” (p. 6)

Inter-rater reliability was tested by measuring the per cent of inter rater agreement of the total coding decisions in the various categories. This helped to determine the extent to which two or more coders agreed on the categories contained in the file review tool based on definitions contained in a codebook or coding guidelines. The practitioners were also quite familiar with what custody access reports generally contain and could apply their own practice knowledge when utilizing the tool. This approach formed the preliminary steps in the study. As the file review tool was applied over time, new categories were added as they were revealed in assessment report content. This led to revisions of the file review tool until a final version was obtained that met the parameters of the research goal. This process was repeated at a later stage to determine whether coding and categorization has been consistent throughout the study. Thus, the researcher can evaluate the level of consistency during a final working through of the texts prior to interpretation and analysis. Overall consistency between raters was from 80% to as high as 90% agreement in most categories. Categories where agreement was less than 90% were in the categories of allegations by parents and issues identified by counselor. As a result additional issues were added to reflect some of the problem areas identified by raters that weren't contained in the first draft of the instrument.



### Sampling

The sample for this study was a random sample of court ordered assessments obtained from a sampling frame of Family Conciliation custody access reports over a two-year period of 2002 and 2003. Seventy files were reviewed in this sample. Excluded from the sample were Brief Consultation Reports, which do not contain collateral information and reports that are classified as 'updates', or any reports that were incomplete. The families who are subjects of these reports often have exhausted options for reaching a custody access settlement or have been unsuccessful in utilizing the legal services in reaching a conclusion. It estimated that these families make up approximately 15% of custody access cases. (Gould, 1998). Family Conciliation files contain completed court reports that identify the issues reviewed by an evaluator appointed by the Court of Queen's Bench.

The reports reviewed were all completed for the Court of Queen's Bench and filed in the court record. The random selection of the reports was made by selecting the first file according to the throw of a dice, and every third file after the first. In this case every third file from the years 2002 and 2003 was extracted for the research project which yielded 70 files for the study.

Permission to access closed records contained at Family Conciliation was gained by making a written request to the Assistant Deputy Minister of Family Services and Housing through the Program Manager. (Appendix G)

The file material used in this study represented a certain population, and though it cannot be generalized to the population at large, there may be potential for

generalizations to a particular group under inquiry, that of high conflict families in custody disputes who become involved in custody assessments.

## **CHAPTER IV: RESULTS**

The results of the study are presented in three sections using descriptive statistics. The first section provides a description of the cases that were coded using the file review instrument. The second section relates to the broad category or theme of abuse allegations and characteristics as it pertains to children and spouses. This section covers the various aspects of abuse towards partners and/or children. It also includes data on aspects of alienation and Johnston and Campbell's (1993) domestic violence typology. The third section covers the assessment recommendations, the classification of cases and disposition of cases. Sub categories are identified under each broad category with the objective of being exhaustive and relevant to the research questions.

### **Descriptions of Cases in Sample**

This section includes a number of variables related to the marital relationship prior to separation, the post-separation relationship and arrangements made for children. Four variables related to the case type based on how the court identified the nature of the case for referral. Variables in this section included access only, custody and access, custody only and care and control. Relationship type describes the kind of relationship that parents were involved in. Variables include legal marriage, divorced, common law, separation without legal agreement, never lived together, still living together and separated. Also described is the length of the relationship that parents had together as well as the length of the period of separation at the time the report was completed. The nature of the physical separation between the parents is

described in terms of a number of possible scenarios, such as which parent may have moved out of the home, and whether the children moved with the parent or remained in the home. Other categories include alternating homes, or parents remaining in the same home.

The interim arrangements at time of referral are described and categorized for each child by gender and age and type of living arrangement in terms of custody. Whether access was supervised or not is also identified. The living arrangements in both parents' homes are also described depending on whether the child's parent is residing on their own or whether there is a parent's partner in the home or a step-parent.

Case type included access only, which comprise cases referred by the court to have the type of access assessed between a parent and a child or children. Custody only cases were cases referred for assessment to deal with only the custody of a child, which is the legal term for a parent assuming full care, control, and decision making responsibility of a child. Custody and access cases were those referred by the court related to both issues, that of legal care and control, and time-sharing between a parent and a child. The Court refers some cases for evaluation of care and control issues only where custody and/or access are not of concern. The majority of cases fell into the access only and custody and access types and were the only ones used for this analysis as the other types had exceptionally low counts.

In terms of case type, out of 70 referred cases reviewed it was found that 36% of cases were identified by the Court as access only issues and 54% were custody and access issues. Custody only cases comprised only 3% of cases and this may reflect

the fact that access was not an issue in these cases, and that parents were disputing only the custody determination. It may also be due to the information provided in the reports by the evaluator or information provided by the court in the referral sheet, which identifies the kind of case that has been referred. Care and control cases represented 4% of the total. Care and control deals with the question of which major care-giving responsibilities fall to which parent, and may not necessarily have anything to do with the kind of custody arrangement that is in place. The low percentage may reflect the fact that care and control issues are not as prominent in cases that are court ordered for assessment as much as are questions around access or custody. However, this term is sometimes used in place of custody and access. Determining which definition of care and control was used would be difficult without speaking directly to the judge who made the designation so is not possible in the scope of this study.

#### Relationship Type

The type of relationship that parents had at the time the assessment was conducted covered the range from legally married; divorced; common-law; never lived together; still living together; or 'other'. Table 1 shows the frequency and percentages for each relationship type.

Over half the parents had been in a legal marriage (56%) and 40% of parents had been living in a common law relationship. Only one set of parents was already divorced and requiring a custody access assessment. Only two cases were parents who did not live together.

Table 1 Parental Relationship Types (N=70)

Relationship Type	Frequency	Percent
Legal Marriage	39	56
Common Law	28	40
Never Lived Together	2	3
Divorced	1	1
Total	70	100

Usually these are cases where the parents may have had a casual relationship that resulted in a pregnancy and custody or access to the child has become an issue that requires court intervention. This data contrasts somewhat with information contained in statistics on family law where it is suggested that a higher proportion of children experiencing parents' separation come from common-law unions (Research Unit, Department of Justice Canada, 2000). In this sample a slight majority were cases where parents were seeking to dissolve a legal marriage (56%) versus a common-law relationship (40%). However, this sample of high conflict families may not be representative of the general married or common law population.

#### Relationship Length

Relationship length was obtained by scrutinizing information in the reports that described the time that couples spent together in their relationship. This information is often contained in the Introduction section of the reports where the counsellor gives a brief background on the history of the relationship or marriage. In six cases the Introduction section did not contain this historical information. Of the remaining cases where relationship length was provided the mean number of years that couples were together prior to separation was seven years. This is less than the

Canadian average duration of marriage prior to divorce at 13.7 years, and higher than during a measured level of peak divorce in 2003 of three years. (Research Unit, Department of Justice Canada, 2000). The median number of years was six and the mode was six.

Length of separation was also determined by reviewing the background historical information where the assessor described characteristics of the separation. The average length of separation was three years, median was three years and the mode was two years. This suggests that parents are already in the separation process an average of three years prior to receiving an assessment.

#### Nature of Separation

Nature of separation describes living arrangements of parents and children after separation in terms of which parent left the home, and with whom. One of the questions to be answered was that when parents left the home, which parent left more often and did they tend to leave on their own or with their children? Of the total of 70 cases, 20 cases or 29% did not contain descriptions related to this category. Out of the remaining 50 cases fathers moved out on their own 54% of the time, and with their children 4% of the time. Mothers moved out of the home on their own 8% of the time and with children 34% of the time which is almost the reverse scenario. When comparing this variable to the variable of child abuse allegations, it is found that the father moved out in the majority of cases whether child abuse was alleged or not. There were 35 cases of child abuse allegations and the father moved out in 13 of those cases or (37%) where an allegation was made, and 16 (46%) of 35 cases where there were no allegations. The mother also moved with the children in 13 of 35

situations (37%) where abuse was alleged, but only 8 of 35 cases (23%) where there were no child abuse allegations.

There were 41 situations where there were spousal abuse allegations. In these situations the fathers moved out in 16 of 41 situations where there were allegations (39%) and 13 of 29 situations where there were no allegations (45%). The mother moved out in 14 of 41 situations where there were spousal abuse allegations (34%) and in 7 of 29 situations where there were no allegations (24%).

It appears that overall, it is the father who leaves the home and usually the children remain with the mother, whether in the home or when the mother leaves.

#### Interim Arrangements at Time of Referral

Children's gender and age were included along with the description of living arrangements at time of the referral for assessment. This information was obtained from the introduction portion of the reports where demographic data is listed, and from the background information in the body of the report. The living arrangements can be described in different places in a custody access report.

Children were designated as Child 1(youngest), Child 2 (second youngest), Child 3(third youngest) and so forth depending on the number of children listed in the report. There were no cases with a fourth child. In total for there were 59 male and 49 female children in this sample.

The average age of the children in all categories was approximately seven years of age. This corresponds closely with the average length of relationship that was also seven years. This is also consistent with recent research that has found the average age of children experiencing their parents' separation is age six. Almost 23%



of children in the youngest cohorts of the National Longitudinal Survey of Children and Youth experienced their parents' separation by age 6 (Research Unit, Department of Justice 2000).

### Custody Arrangements

The custody arrangement in effect at the time referral was coded as follows: sole father; sole mother; joint father care and control; joint mother care and control; shared; split and not resolved. Sole father or sole mother custody arrangements represent situations where the father or mother assumes full legal custodial and physical care of the child. Joint custody arrangements are categorized according to which parent assumes a greater portion of care and control time under a joint arrangement. Joint custody does not necessarily mean that parents have a 50/50 time-share arrangement however they do share jointly in terms of decision-making regarding significant childcare issues. Shared arrangements are situations where the care of the child is shared approximately fifty percent of the time by each parent and split care arrangements are situations where one child resides mostly with one parent, and another child resides with the other parent. The last category includes situations where custody access situations are not resolved and where care and control may fluctuate widely depending on circumstances or where there was not a clear determination in the reports of the care arrangement at the time of referral.

Ages of children were categorized in units of 5 between ages 1-16 and older. Only ages for Child 1 and 2 are reported in the following table, as there were only 3 children ages 16 and older and these were eliminated due to the small number, and

fact one child was 19 years of age and outside the typical age range for custody assessments.

Table 2 *Custody Arrangement by Ages of Children (N=105)*

Custody Arrangement	Age Categories of Children							
	Ages 1-5		Ages 6-10		Ages 11-15		Totals	
	n	%	n	%	n	%	n	%
Joint-Care and Control Mother	11	10	19	18	7	7	37	35
Not Resolved	7	7	10	10	2	2	19	18
Sole Mother	7	7	6	6	3	3	16	15
Joint- Care and Control Father	4	4	9	9	2	2	15	14
Split	1	1	3	3	4	4	8	8
Sole Father	4	4	1	1	2	2	7	7
Shared	2	2	1	1	0	0	3	3
<b>Totals</b>	<b>36</b>	<b>35</b>	<b>49</b>	<b>48</b>	<b>20</b>	<b>20</b>	<b>105</b>	<b>100</b>

Considering 105 children ages 1 through 15, mothers had either sole custody or joint care and control in 50% of the custody situations across all age groups listed. Fathers had care and control or sole custody in 22 situations or 21% across all age groups, slightly less than half that of mothers. Eleven percent comprised shared or split arrangements and for 18% of children the custody arrangement was unresolved.

Information contained in Statistics of Family Law, (Research Unit, Department of Justice Canada, 2000) shows that after separation, mothers were given custody of the children in the majority of custody access cases. It was reported that in cases where a court order existed, close to 80 % of children under the age of 12 were

placed in their mothers' custody. Almost 7% were placed in their fathers' custody, and for 13 % of children, a shared custody arrangement was established. Overall, in the assessments reviewed (N=70) it was found that 54 or 77% were situations where the mother had either the sole, or majority care and control of children indicating that the majority of children in this study as well remain in the mother's care and control after separation. Supervised access, where a parent can only see a child with another adult present, occurred twice as often for fathers than mothers with fathers having supervised access in 16 situations or 23% of cases (N=70) and mothers in seven situations or 10% of cases.

For the younger age groups of ages 1-5 and 6-10, mothers had custody or joint care and control over roughly twice as many children as fathers.

#### Living Arrangements

Parental partnership living arrangements in the father's and mother's homes were coded according to whether there was another person living in a co-parenting situation with them, whether that person was a step-parent or whether the parent resided alone without a partner in the same home. This category was coded as biological father or mother with a partner; biological parent with a step-parent, or parent only. This coding applied to children across all age groups. Parents living on their own were almost equally split between fathers (56 %) and mothers (55 %).

Of 105 children in the 70 cases under study, 56% of children had fathers who lived alone and 44% had situations where their father had a partner or stepmother. Fifty-five percent of children had mothers who lived alone and 45% had situations where their mother had a partner or where there was a stepfather. The numbers

overall were almost equal for all age groups except there were twice as many older children ages 11-15 who lived or had access to the father (12%) as opposed to living with or having access to the mother (6%). This suggests children in younger age groups tend to reside with the mother as suggested in the Statistics of Family Law, (Research Unit, Department of Justice Canada, 2000). As well, fewer children lived with a stepfather (6%) than a stepmother (10%) indicating that in this sample fewer mothers than fathers remarried.

#### Access Contact

Many children will have a different access arrangement from their siblings depending on the situation such as age where an older child may have more access to the other parent than an infant. There are also other characteristics in a relationship with a parent, such as a child refusing to go to a parent's home because of the other parent's interference or because of the child's anger or anxiety.

There were 10 different access categories used to capture the kind of contact that children were having with their parent. There were no children in the category that described monthly contact. The remaining types ranged from no contact to fairly regular contact such as every weekend. The most common access arrangement at the time of referral appeared to be every second weekend overnights and weekdays for all child categories. For all 108 children across all age groups, some form of access was in place for 76% of the children. There was no contact for 17 of the children or 16%. Approximately 25% of children who had contact had every second weekend with overnight and weekday contact. Overall this indicates that access between children and parents covers a wide range of arrangements and that post-separation a majority

of children maintain access with their separated parent. However, it is also significant in practical terms that almost 16% of all children in this study whose parents were referred for an assessment do not have any contact with the other parent at the time the referral was made by the court. When the no contact condition was compared with allegations of child abuse however it was found that there were nine cases of child abuse in the no contact situation, explaining practical reasons for why a no contact scenario may have existed.

According to information contained in the Selected Statistics on Family Law, (Research Unit, Department of Justice Canada, 2000) 57% percent of children whose parents had been separated for less than two years at the time of the survey visited their fathers regularly (every week or every two weeks). It was also found that no contact with a father, for example was at 24% for separations of a duration of five years or more. In this review the average number of years of separation where there was no contact between a child and a parent was three years. It is possible that the no contact condition will increase in some cases as years of separation increase.

Comparing type of access to type of custody arrangement, it appears that fathers are in no contact situations in six out of 13 (46%) cases, and also appears in four cases where custody has not yet been resolved, however it is not known which parent this condition applies to under this category. Generally, access arrangements appear to be spread out over all types with most following an every second weekend overnights and weekdays pattern. However there were 14% of children who had contact or access every weekend, and 9% that had irregular contact. There were also a relatively high number of children who had different arrangements and fell in the

other category. There were six situations that had parents rotating through the family home on an irregular time basis, four situations were arrangements where children resided in blocks of time with one parent and then the other with short breaks in between, and the remainder were not clearly described. Table 3 represents access contact by children in across all ages and within nine categories as there were no monthly arrangements in the sample.

Table 3 *Access Contact (N=70)*

Weekly		Every 2 <sup>nd</sup> wk. end overnights weekdays		Irregular no set pattern		Telephone letter only		No contact		Every 2 <sup>nd</sup> wk. end days only		Every 2 <sup>nd</sup> wk. end days and weekdays		Every weekend		Other		Total	
N	%	N	%	N	%	N	%	N	%	N	%	N	%	N	%	N	%	N	%
15	14	27	25	10	9	9	8	17	16	7	6	5	5	2	2	16	15	108	100

Note: 'Other' are combinations of arrangements not categorized and/or situations where access not described.

### Mediation

Mediation is an intervention where a neutral third party works with individuals to problem solve, communicate concerns and manage conflict between them. Of the 70 reports reviewed it was found that only 32% of parents had tried mediation at some point in time prior to the report being ordered. However this question was unknown in 24 cases (34%) and mediation was not tried in another 34% of cases (N=70). It is possible more parents tried mediation however this was not specified in many of the reports.

Mediation is typically not attempted in cases of serious spousal abuse because of the risk to the victim of the abuse in terms of threat and intimidation. When comparing cases where mediation was tried with cases of spousal abuse it was found that there were fewer cases where mediation took place when spousal abuse was a

factor, and a higher number of cases where mediation was tried when spousal abuse was not part of the equation. For example mediation was not an intervention in 17 cases where there was spousal abuse. Mediation was a factor in 13 cases where there was no abuse and nine cases where there was spousal abuse.

## **Abuse Allegations and Characteristics**

### Allegations by Parents

Allegations made by fathers and mothers are often what prompt an assessment to be ordered by the court. Typically evaluators will highlight the allegations in the Introduction or historical background portion of the reports and provide this historical or current information as a backdrop to the current investigation. Twenty-eight variables or sub-categories were used to capture the range of allegations that parents may make against one another. These allegations were compiled by utilizing a database at Family Conciliation and from the discovery of additional variables contained in reports during the familiarization and review process as well as from information provided by the other raters of the instrument during a testing phase.

Because there was an attempt to provide an exhaustive list of allegation types, some categories contain either no counts or very small numbers. Only allegations occurring at a rate of 10% or higher are reported in Table 4 for both mothers and fathers.

There was a major difference seen in the number of fathers who alleged physical abuse (4%) as compared to mothers (43%). This probably reflects the current understanding of the nature of physical abuse between couples where physical abuse

is not as often perpetrated by or alleged against female partners as it is by male partners.

A significant difference was also found between fathers and mothers related to allegations of emotional abuse where fathers were recorded to have made allegations in 7% of cases and mothers were reported to have made allegations in 49% of cases. This reflects current theories that perpetrators of emotional abuse are more often male partners, or that emotional abuse by female partners is not reported as often. It may also be that the definition of what constitutes abusive behaviour for individuals varies by gender where one gender (i.e. females) are more likely to consider the other party's behaviour as abusive.

Mothers were more likely to report verbal abuse by fathers at 31% while fathers reported this behaviour in 10% of cases. This may reflect the fact that male partners are perpetrators of abusive behaviour more often than female partners, or that female partners more often report or allege abuse by their male partners. Controlling behaviour was reported by mothers twice as often as fathers (41% as compared to 20%) and interference with access was reported by fathers almost twice as often as mothers (51% as compared to 26%). The latter difference may reflect the fact that a majority of mothers assume care and control of children, and they may have more control over time that children spend with the other parent. (Thompson & Amato, 1999).



Table 4 *Allegations by Parents*

Parent Making Allegation				
Type of Allegation	Allegations made by Father in each category (n=70)		Allegations made by Mother in each category (n=70)	
	N	%	N	%
Communication Difficulties	40	57	42	60
Severe Conflict and Arguing	25	38	34	49
Interference with Access	36	51	18	26
Controlling Behaviour	14	20	29	41
Irreconcilable Differences	18	26	12	17
Drug Alcohol Abuse	16	23	21	30
Poor Parenting	30	43	23	33
Emotional Abuse	5	7	34	49
Physical Abuse	3	4	30	43
Verbal Abuse	7	10	22	31
Neglect of Child	22	31	2	3
General Deterioration	12	17	10	14
Physical Abuse of Child	5	7	13	19
Emotional Abuse of Children	1	1	9	13
Anger Management Issues	5	7	9	13
Mental Health Issues	8	11	4	6
Alienation	7	10	2	3
Outside Relationships	7	10	3	4
Other	2	4	3	4

Note: Percent relates to number of allegations as a percent of mothers or fathers in the sample (N=70 for both genders).

Major differences were also tabulated in the neglect of child category where 31% of fathers alleged that mothers committed neglect against the child or children. Comparatively, only 3% of mothers alleged that the fathers committed neglect. This could be due to the fact that a majority of mothers retained care and control of children and that allegations were made in the direction of the main caregiver. Mothers also complained more about fathers emotionally abusing children. For example 13% of mothers said fathers were emotionally abusing children whereas only 1 % of fathers said mothers were emotionally abusing the children. This could reflect that perpetrators of emotional abuse also exert this behaviour against their children or that for some reason this was not an area that the fathers either complained of or that evaluators reported on in the reports.

Allegations of poor parenting are often a rationale one parent uses against the other as to why they should retain majority care and control. Poor parenting against mothers was alleged by 43% of fathers and against fathers by 33% of the mothers indicating that both parents questioned each others parenting abilities in a third or more of the cases.

Both parents often reported severe conflict and arguing with mothers reporting at 49% and fathers at 38%. This category may reflect one of the obvious elements in the dissolution of a relationship as well as one of the features of post-separation conflict when it is reported as ongoing. The category with the highest number of allegations made by both parents was communication difficulties almost equally reported by fathers at 57% and mothers at 60%. This is not surprising given the fact that the couples ordered for evaluations have not been successful at resolving their

differences without court intervention. Communication is a key component in any kind of problem resolution between individuals and certainly seems to be a major concern among separated parents in this study.

#### Issues Identified by Counsellor

This researcher identified 56 potential issues that are often identified by counsellors who completed court ordered assessment reports. These issues included problem categories that the counsellor may have identified in the conclusion portion of the report and where opinions may have been reflected regarding the various dynamics that existed in a particular case. Issues highlighted by the counsellor may or may not reflect the kind of allegations made by either of the parents. Evaluators often highlight or emphasize issues that reflect the nature of their opinion in a case, and these do not necessarily mirror those concerns as outlined by disputing parents. Evaluators will provide these opinions in various areas of a report, but most often these opinions are found in the impressions or conclusion sections of a report. Evaluators may also de-emphasize certain allegations or positions taken by parents in order to reinforce cooperation, emphasize the best interest of the child, or attempt to neutralize aspects of the conflict between the parents.

Tables 5 and 6 illustrate categories identified by evaluators in the 70 cases reviewed. For some categories parents were rated where the issue reflected the father, the mother, or both. For other categories the rating was given a simple yes or no designation.

Referring to table 5 evaluators attributed denial of access to mothers in 17% of cases and to fathers in 7% of cases (N=70). This contrasts with what was recorded

regarding the fathers' allegations against mothers of access interference at 51%, and mothers at 26%. It is not clear why this discrepancy exists except that it could be for the reasons referred to earlier where evaluators may de-emphasize certain problem situations between parents in order to promote settlement. It may also be however that evaluators may not be able to confirm that these problems existed or continue to exist and thus do not highlight them in the reports.

Table 5 *Issues Identified by Counsellor (N=70)*

Couple Issues Identified by Counsellor								
Issue	Father		Mother		Both		Totals	
	N	%	N	%	N	%	N	%
One parent denying access	5	7	12	17	0	0	17	24
Alcohol abuse	11	16	4	6	5	7	20	29
Controlling behaviour	11	16	3	4	0	0	14	20
Abuse physical	11	16	1	1	2	3	14	20
Drug abuse	10	14	2	3	6	9	18	26
Protection order affecting access	10	14	1	1	0	0	11	16
Poor parenting	2	3	8	11	2	3	12	17
Criminal charges	8	11	0	0	0	0	8	11
Emotional abuse	8	11	8	11	0	0	16	23
Assault charges	8	11	0	0	2	3	10	14
Mental health issues	2	3	7	10	2	3	11	16
Total	86		46		19		151	

Note: Percent relates to the rate of allegations made in a specific category relative to the total number of cases (N=70).

The issue of poor parenting was attributed to 11% of mothers by evaluators and to 3% of fathers. This contrasts with the fathers' allegations of poor parenting against mothers at 43% and mothers against fathers at 33%. Again there is a contrast between the rate of identification of these issues by the evaluator as compared to the parents.

Evaluators attributed mental health issues to mothers in 10% of cases. This figure is very close to what fathers alleged (11%). Mothers alleged mental health issues against fathers in only 6% of cases.

Mothers and fathers were both identified by the evaluators with perpetrating emotional abuse at 11%. This is a similar finding to that reported in the 1999 General Social Survey (GSS) (Prevention and Treatment of Violence Against Women Systematic Review and Recommendations, 2001) where self-reports by males and females were almost equal for this category of abuse. However in this study mothers reported experiencing emotional abuse in 49% of cases as compared to fathers at 11%.

Considering drug abuse, evaluators identified fathers with the highest percentages at 14% and both at 9%. Mothers had alleged drug abuse against fathers in 30% of cases and fathers alleged mothers' drug use in 23% of cases.

Comparing controlling behaviour, evaluators attributed this to fathers at 16% and mothers at 4%. This contrasts with mothers' allegations against fathers in 41% of cases and fathers against mothers in 21% of total cases. Evaluators also attributed fathers as having protection orders in 14% of cases and criminal charges in 11%.

Physical abuse by the father was identified as a concern by the evaluators in 16 % of the cases. This contrasts with mothers' allegations at 43%.

Overall fathers had higher percentages in categories related to aggressive behaviours such as physical abuse, criminal charges and drug use. This reflects the fact that males tend to perpetrate abusive behaviours or behaviours considered more aggressive and are higher abusers of drugs and alcohol (National Clearinghouse on Family Violence, 2002).

It is difficult to determine what weight to give the evaluators' information versus the allegations made by both parents. The evaluators may not necessarily note in the reports an agreement or disagreement with the parents' allegations. Frequently evaluators only report the parents' concerns about each other as part of the historical background. At other times evaluators emphasize particular behaviours or problem issues more than do the parents. The reasons for an evaluator's identification or non-identification of issues cannot be determined unless it is made very clear in the text of the report. Sometimes evaluators offer an opinion about the nature or seriousness of the allegations and sometimes they do not. This variation is possibly due to the nature of the case and their professional judgment.

Table 6 summarizes child related issues highlighted by counsellors in custody access reports.

The issue of communication difficulties was recorded with the highest percentage at 87%. This is higher than that reported by fathers at 57% and mothers at 60%. This reflects that in terms of assessing problematic areas between parents post-separation evaluators identify communication as one of the major problems. Ongoing

parental conflict was recorded at 74 % and is also higher than allegations of severe conflict and arguing made by fathers against mothers (38%), and mothers against fathers (49%). This is another problematic area where the evaluators identified the issue in more situations than did the parents.

Table 6 *Child Related Issues Identified by Counsellor (N=70)*

Issues Identified by Counsellor/Evaluator	Frequency	Percent
Communication difficulties parent to parent	61	87
Ongoing parental conflict	52	74
Child affected by conflict	36	51
Scheduling problems	27	39
Physical abuse allegations of child	20	28
Uncommitted ambivalent child	13	19
Behaviour problems of child	12	17
Anger issues of child	12	17
Child witness of family violence	12	17
New partner issues of ex-spouse	10	14
Total	255	

Note: Percentage records frequency count based on total number of cases (N=70).

Communication difficulties and ongoing conflict are clearly areas of difficulty for parents involved in court ordered evaluations. These two variables can be seen as going hand in hand, where significant parental conflict would indicate that communication is poor.

One assumption that could be made is that if communication was better between parents, the level of conflict may prove to be lower. It may be that parents continue to interact with each other in negative ways and that due to different views and feelings about one another their ability to communicate in an effective way is diminished. As well it could be that communication between the parents was a problematic area in their relationship and remains problematic during their separation.

Evaluators also indicated in 51% of reports that children were affected by parental conflict. This perception suggests that this is a major issue for children when parents are in conflict during a separation or divorce and affects just over half of families in this sample. This issue was not included in the section of parental allegations so parental opinions on this factor are not available.

The issue of scheduling problems was recorded in 39% of cases. This may reflect the reality of problems that occur post separation when parents struggle with time-sharing arrangements and where conflict or poor communication may interfere with their ability to develop a workable plan. Scheduling requires that parents be able to communicate well and cooperate around planning access time with the children.

Alienation was identified in only 7% of cases by the evaluator irrespective of Gardner's supposition that the 'syndrome' has a high occurrence rate in high conflict families (Gardner, 1993). Overall there did not appear to be many problems that reflected a process of alienation was taking place.

Allegations of physical abuse of a child were identified in 28 % of cases. This compares to allegations by fathers against mothers at 7% and mothers against fathers at 19%. Evaluators may have discerned certain behaviours that constituted physical



abuse of a child or used different criteria to identify what is or isn't abuse compared to what parents consider abuse. It is also possible that children revealed abuse was taking place and that this information wasn't provided by the parents. Children who had witnessed family violence were identified in 17% of cases, which corresponds closely to allegations of fathers abusing mothers which was at 16%.

### Child Abuse Allegations

Allegations of all types of child abuse as outlined in the CIS were identified in 35, or 50% of all cases (N=70). More than one type of abuse allegation could be made regarding a child. Of these 35 cases where abuse was alleged, allegations of physical abuse made up 20 or 57% of cases where abuse allegations occurred (this was 29% of all cases used in the study). Child sexual abuse allegations were made in nine cases or 26% of the 35 cases where abuse allegations were made; neglect was found in 14 cases or 40%; emotional abuse was found in 12 or 34% of cases.

Table 7 identifies the various types of child abuse allegation and the range of confirmation or non-confirmation of the abuse. Confirmation indicates that somewhere in the report the evaluator was able to learn that the abuse occurred and was confirmed. This may be through court records, or information obtained during the course of the evaluation that supported the occurrence. Other categories include whether collaterals support the allegation and collaterals may include counsellors, eyewitnesses to the event, neighbours, friends, relatives etc.

Table 7 *Child Abuse Allegation Confirmation (N=70).*

Child Abuse Allegations Types									
	Physical		Sexual		Neglect		Emotional		
Type of Confirmation	N	%	N	%	N	%	N	%	Total N
Not Substantiated	9	26	8	23	9	26	5	14	31
Collateral Supported	5	14	0	0	3	9	2	6	10
Child Supported	4	11	1	3	0	3	5	14	10
Confirmed	4	11	0	0	1	3	0	0	5
Admitted by Perpetrator	1	3	0	0	1	3	0	0	2
Total	23		9		14		12		58

Note: There can be more than 1 type of confirmation recorded in any given case. Sum of percentages will exceed 100 and are not counted.

Child supported indicates that the child or children involved in the abuse indicated to the counsellor that the abuse occurred. Incidents that were alleged but not substantiated in any way were also recorded, as were those cases where the perpetrator made an admission. In three cases where there was confirmation, a second category of child supported was also recorded. Overall, child abuse allegations were confirmed or supported 27 times and unsubstantiated 31 times across all types of abuse.

Child abuse allegations were also compared to other issues as identified by the counselor. It appears that a wide range of other problems or issues are present along with child abuse allegations. When considering communication difficulties parent to parent, 32 of 35 cases (91%) with child abuse allegations had this problem identified.

There were 28 of 35 cases (80%) that had ongoing parental conflict. Children were witnesses of abuse in 31% of the same cases and counselors assessed children were being affected by parents' conflict in 71% of cases of 35 abuse allegations. Out of the total of 20 physical abuse cases, 14 of them or 70% were substantiated or supported in some fashion. The remaining six cases were not substantiated.

Table 8 includes additional problems or issues identified by counselors that occurred in cases where there were child abuse allegations.

Table 8 *Child Related Issues in Cases with Child Abuse Allegations (N=35)*

Issues Identified by counsellor/evaluator	Frequency	Percent
Communication difficulties parent to parent	32	91
Ongoing parental conflict	28	80
Child affected by conflict	25	71
Physical abuse allegations of child	20	57
Scheduling problems	12	34
Child witness of family violence	11	31
Uncommitted ambivalent child	9	26
Behaviour problems of child	7	20
Anger issues of child	6	17
New partner issues of ex-spouse	2	6

Note: Percentage recorded for each category based on 35 cases.

### Physical Abuse

In terms of the temporal context of the 20 physical abuse cases the abuse was identified as having occurred in the past in 60% of physical abuse cases and was a current concern in 20%. It was not determined in the remaining cases.

In terms of who committed the abuse, there were 24 perpetrators in all and fathers made up 63% of the total number of abuse cases and mothers made up 17%. The fifteen fathers represented 21% of total cases reviewed (N=70), and the mothers represented 4%. There were also three step-fathers who were identified as perpetrators, one grandmother and one other. Combined, the other categories of perpetrators made up 20% of the total number of 20 physical abuse cases (N=4).

Up to three occurrences of abuse type could be recorded. Types of abuse categories were shaken baby, inappropriate discipline and other. Inappropriate discipline occurred in 15 cases or 75% of total abuse cases (N=20). There were four cases identified as other and one case of shaken baby.

### Child Sexual Abuse Type

There were eight categories of Child Sexual Abuse: sexual activity completed; sexual activity attempted; touching or fondling; adult exposure of genitals; sexual exploitation; sexual harassment; voyeurism and 'other'. Out of the total number of cases there were nine allegations of child sexual abuse representing 13% of total cases (N=70) and 26% of cases where abuse was alleged, (N=35). There were no cases of confirmed child sexual abuse, one case that was child supported, and eight cases, or 23% (N=35) that were unsubstantiated allegations.

Out of the nine cases of sexual abuse, touching or fondling was alleged in three cases or 33% of the total number of sexual abuse cases. There were five occurrences where sexual abuse type was not identified and recorded as 'other'. There was one case where adult exposure of genitals was alleged. All sexual abuse allegations referred to incidents that occurred in the past and there were no cases alleged to be occurring in the present.

Alleged perpetrators of abuse were fathers in four cases, making up 44% of the total of sexual abuse cases. Step-fathers were identified in two cases (22%), step-siblings in two cases (22%), and one classified under the 'other' category.

#### Neglect

There were eight types of neglect; failure to supervise or protect from physical harm; failure to supervise or protect from sexual abuse; physical neglect; medical neglect; failure to provide treatment for emotional needs; permitting maladaptive/criminal behaviour; abandonment or refusal of custody; and educational. Neglect was alleged in 14 cases or 40 % of total cases where abuse was alleged (N=35). Neglect was confirmed in only one case, alleged by collaterals in three cases and by a child in one case. Neglect was unsubstantiated in 9 of the 14 cases (64%) where it was alleged. Neglect was alleged as being current in 43% of neglect cases.

There were a total of 17 perpetrators of neglect. The mother was most often identified as the perpetrator in neglect cases in 13 or 76% of total perpetrators, as opposed to the father at 18%. There was also one occurrence of a step-father being a perpetrator. Mothers may be identified more on the basis that overall they assume majority of care and control time of children.

The highest area of neglect type was physical neglect at 10 cases or 71% of total neglect cases. A second and third count of neglect type revealed 1 instance of failure to provide physical care and 3 instances of 'medical neglect'.

#### Emotional Maltreatment

Four types of emotional maltreatment were categorized: emotional abuse; non-organic failure to thrive; emotional neglect; exposure to family violence. All cases of emotional maltreatment were identified as occurring in the past. There were no confirmed cases of emotional maltreatment. Emotional maltreatment was supported by a child in five instances or 42% of maltreatment cases, (N=12) and supported by collaterals in 16% of cases. Unsubstantiated cases made up 42% of cases identified.

The father was alleged to be the perpetrator of emotional maltreatment in all 12 cases and the mother as an additional perpetrator in 1 case.

The main form of emotional maltreatment reported was exposure to family violence. This was identified in nine cases or 75% of all emotional maltreatment cases and made up 13% of cases in the total data set (N=70). Emotional abuse occurred in three cases or 25% of total emotional maltreatment cases (N=12).

#### Spousal Abuse

Spousal abuse was reported in 41 cases, or 59% of total cases (N=70).

Physical abuse was reported in 31 cases or 44% of all cases.

Physical abuse was identified as an issue occurring since the beginning of the relationship or since married in a total of 15 cases, or 48 % of total physical abuse cases (N=31). Physical abuse was seen as being related to separation in nine cases or

29% of total abuse cases (N=31). Spousal physical abuse was confirmed in seven cases or 23% of total physical abuse cases and supported by a child and collaterals in five cases or 16% of physical abuse cases (N=31).

The perpetrator admitted physical abuse in nine cases, or 29% of all physical abuse cases (N=31). In total, 68% of the 31 cases had some form of confirmation and 32% were unsubstantiated.

Physical abuse appears to have been drug or alcohol related in 27% of physical abuse cases and due to mutual violence in 30% of cases. Children were witnesses to the physical abuse in 58% of cases which indicates that children are not immune to being present and ultimately affected when physical abuse of a parent occurs in the home. Children were identified as being 'hurt' in two instances which indicates that they were directly or physically affected by the physical violence between the spouses.

Elements of abuse covered a number of behaviours ranging from beating to forcible restraint. Beating was reported in five cases or 17% of physical abuse cases. Hitting was identified in 19 or 63%; and rough handling and pushing combined in 23 cases or 74% of physical abuse cases. Physical abuse was reported by the mother in 70% of the cases and by both parents in the remaining cases.

#### Sexual Exploitation.

There are five different types of exploitation used in this data collection instrument: sexual assault-all types; sexual harassment; sexual exploitation; forcing unwanted unsafe or degrading sex; ridicule to denigrate, control or limit personal choice; and a category of 'other'. There were three cases of sexual exploitation

alleged and all cases were unsubstantiated. All cases were identified as occurring since the beginning of the relationship. The type of sexual exploitation was not described in any instance. Degrading sex occurred in one instance and there were two cases of sexual assault.

### Emotional Abuse

Elements of emotional abuse include: yelling; screaming; name-calling; domination through intimidation; domination through social isolation; domination through verbal threats or criticism; domination through exploitation; criminal harassment or stalking; and other. Emotional abuse was reported in 35 cases, or 50% of total cases (N=70) and 85% of cases where spousal abuse of some form was alleged (N=41).

Emotional abuse was supported through information by collaterals in five instances or 14% of total emotional abuse cases (N=35) and not substantiated in 28 or 80% of emotional abuse cases (N=35). There was only 1 admission of emotional abuse.

Emotional abuse occurred since the beginning of the relationship in 54% of cases (N=35). Twenty percent indicated the abuse started since married and 11% after children born. There were 27 mothers who reported emotional abuse (77%) and two fathers (6%). There were six cases (17%) where emotional abuse was mutually attributed to both parents.

Characteristics of emotional abuse covers a range that includes drug or alcohol related; mutual violence; children witnesses; and children hurt; as well as a category of other. Five cases (14%) of emotional abuse were connected to the use of



drug or alcohol, as was mutual violence. Children were witnesses to abuse in 54% (N=19) of the 35 emotional abuse cases. Again this supports the notion that children are not immune to problematic behaviours between parents. Children are dependent on parents for care and will naturally be exposed to the full range of behaviours that occur in the home. Protection from exposure to parental conflict is not possible within the confines of the family home.

Of the eight elements or categories of emotional abuse the behaviour most often described was yelling which was reported in 22 cases or 63% of total emotional abuse cases. Domination through the use of verbal threats or criticism occurred in 17 cases or 49% of emotional abuse cases. Name-calling appeared in 14 cases and represented 40% of emotional abuse cases. There were 12 cases (34%) of domination through intimidation and criminal harassment or stalking was reported in two cases or 6% of total emotional abuse cases.

#### Economic or Financial Abuse

There were only three instances of economic or financial abuse and all were unsubstantiated. All three instances were reported by the mother and all related to the withholding of monetary resources.

#### Spiritual Abuse

There were no cases where spiritual abuse was identified. Religion did not appear as an issue identified by the evaluators in any of the cases that were reviewed.

#### **Domestic Violence Typology**

Johnston and Campbell's Typology (1993) was used to categorize 31 cases where domestic violence was described. Johnston and Campbell used five categories.

The five categories are: ongoing episodic; female initiated; male controlling interactive; separation engendered and post divorce trauma; psychotic and paranoid reactions. A sixth category was added to capture any situations that appeared to have a mixed or combination of factors and behaviours that were significant within the content of the reports, and 'not determined' for those cases that could not be adequately categorized.

Type 1, 'Ongoing /episodic', is where abuse began early in the relationship and is either intermittent or ongoing over duration of the relationship. Abuse includes physical attacks that may be frightening and severe and that can become more dangerous at the time of separation. The perpetrator fits a 'batterer' profile and is often dominating, rageful and controlling. The victim in this situation may often feel fearful, helpless and chronically depressed.

Type 2, 'female initiated', is where the female partner initiates the aggression and is characteristically seen as emotionally labile, histrionic dependent and self-preoccupied. This individual may have temper reactions when needs are not met and may throw things when in a rage, or attack the male partner. This behaviour may escalate as deterioration of the relationship progresses. Often the male partner attempts to defend himself and men in this situation are often seen as able to control their own aggressive reaction, though aggressive defensive reactions may occur due to the intensity of the female initiated aggression.

'Male controlling interactive' violence is Type 3 in the typology. This type covers situations where aggression erupts as disagreement between the partners escalates. The disagreement often switches from verbal to physical assault and the

defining feature is the male partner's overriding attempt to assert control and prevail by the use of physical force. The male partner often believes in the traditional role of the man in a relationship being dominant and both partners are often abusive with each other, their children and their parents as well as mutually blaming.

Type 4 is violence that is associated with 'separation engendered-post divorce trauma'. Violence in the relationship is typically uncharacteristic of either partner and is a consequence of the trauma and stress associated with a separation or divorce. There is typically a relationship history without violence and often partners are traumatized and remorseful over the violence that may have erupted during the deteriorating marital relationship. Violent behaviour is unlikely after the separation or divorce process is resolved.

Type 5 covers 'psychotic or paranoid reactions' where violence is associated with severe mental health symptoms and where paranoid psychosis leads to outbursts of verbal and physical aggression, often as a response to delusional beliefs about the ex-partner as malevolent and dangerous. A category to capture situations that were not defined was added as 'not determined' and also a category to capture those situations that may have revealed a mixed picture. This was category number seven and labeled as 'mixed'.

The types of domestic violence that were identified in the study are shown in Table 9.

The three types that were identified were ongoing episodic, separation engendered and post divorce trauma and male controlling. Female initiated and

psychotic and paranoid reaction violence were not recorded, though it is possible these types existed in those cases that were not determined or described.

Table 9 *Type of Domestic Violence (N=31)*

Type of Domestic Violence		Frequency	Percent
1	Ongoing episodic	14	45
3	Separation engendered and post divorce trauma	11	35
2	Male controlling interactive	2	7
	Not determined	4	13
	Total	31	100

The highest percentage of cases were ongoing episodic violence where 45% of domestic violence cases reflected a history of violence in the relationship. This is relevant for evaluators as it reflects that in almost half of domestic violence cases violence is an historical characteristic in the relationship. Eleven cases or 35% were thought to be cases where the violence in the home was related to the separation process in some way. This typically represents cases where the perpetrator acts in a violent fashion out of character for their normal way of interacting in the relationship. This type of violence is seen as a result of the stress and deterioration that occurs in a dissolving relationship. Four cases (13%) were not determined due to insufficient information available to categorize the case.

When examining the types of domestic violence with allegations of child physical abuse, it was found that 12 out of 31 children (39%) who were physically abused were in situations where there was violence between the parents. This reflects the overall rate of co-occurrence between child physical and spousal physical abuse.

Victims of domestic violence dealt with it in a number of ways. The file review instrument captured up to three varied responses. Informing police was the highest recorded response action at 11 cases or 35% of domestic violence cases. Protection orders were taken out against the father in nine situations (29%) and against the mother in three cases and against 'both' parents in three cases. Victims used a shelter in five cases or 16%.

### Alienation

One of the research questions was aimed at determining the extent of any alienation processes that may be occurring in high conflict families. Alienation as a problem in post separation conflict was alleged in approximately nine or 13% of total cases (N=70). Fathers alleged alienation as a feature in 7 out of 9 cases. The counsellors identified alienation as an issue in 6% of cases and determined alienation characteristics as occurring in 10% of the cases. This finding contrasts with the findings of authors such as Gardner (1993) who suggest alienation is frequent in high conflict families. However there is some practical significance to the fact that 10% of high conflict cases may be complicated with the symptoms associated with an alienating process. From the viewpoint of an evaluator, these are important elements to consider as they have important implications for determining the outcome of a case in terms of custody and access arrangements.

Alienation characteristics were composed of campaign of denigration in four cases; weak rationalizations for denigrating other parent in one case; lack of ambivalence in one case; reflexive support of loved parent in two situations; borrowed scenarios of loved parent against the other in three cases, and not identified

in one case. Alienation characteristics were described or supported by the child in question in five alienation cases. Overall however, alienation was not a major issue in cases reviewed.

## **Recommendations and Classification**

### Access Recommendations

Supervised access was only recommended for the father in six cases and the mother in two cases. It appears that overall, evaluators fashion custody access recommendations that involve direct and ongoing contact between a child and each parent. The most frequent access arrangement recommended was every second weekend with overnights and once per week. This arrangement was recommended in 63% of all cases (N=70). This is an increase of 13% over the rate of this arrangement when the couples were first referred. Overall, this appears to be the most popular access arrangement over all other combinations. The 'other' category was frequently used to reflect various combinations of access time arrangements suggested by evaluators depending on the situation. 'Other' was identified in 25 cases. Many of these were arrangements that included various days in a week, or a rotation of days one week with a different scenario of days in the second week and continuing in this pattern month to month. This possibly reflects that in certain situations a formula or standard arrangement such as the every second weekend scenario cannot be applied for all families as they require alternate patterns of arrangements to accommodate their unique needs. The number of remaining arrangement options was not significant and no direct contact options such as telephone/letter only were recommended only three times.

Even though there were references to various forms of abuse between parents and/ or a parent and a child, it seems that generally some form of direct contact access was recommended in all except eight cases or 11% of the total cases reviewed. Most of the cases where supervision was recommended were due to mental health, or drug abuse concerns.

### Custody

Sole custody was recommended for 14 mothers and four fathers. This reflects the suggestion in the *Selected Statistics on Family Law (2000)* that mothers predominantly hold sole custody of children. Joint custody also reflected that mothers assume the main responsibility for majority care and control. Primary care and control for the mother was recommended for 31 mothers or 60% of joint custody cases and for 19 fathers or 17% of joint custody cases (N=52). There were seven shared custody cases (14%) and four split custody cases (8%). Twelve mothers were recommended for sole custody in situations where there was either child abuse alleged or spousal abuse alleged.

### **Classification of Case**

Cases were classified as to how abuse generally was considered by the evaluator. Information related to the type of abuse was usually contained in the conclusions section of the report where the evaluator made some references to abuse issues or highlighted certain elements deemed significant in a case. There were 49 cases where some form of classification was possible based on the information provided by the evaluators. Evaluators appeared to address abuse and make structured recommendations in 21 cases. There were also 21 cases that were identified by the

researcher as 'n/a' where classification regarding abuse was not applicable. Abuse was not a major concern in 13 cases or 27% of cases where classification of abuse was possible. There were two cases noted where there was a reasonable suspicion of child or spousal abuse as identified by the evaluator and where the evaluator made comments in the report to this effect. Classification of abuse cases is shown in Table 10.

Table 10 *Classification of Case (N=70)*

Type of Classification	Frequency	Percent
Abuse described by assessor and recommendations structured	21	30
Abuse not considered a major concern in recommendations or in conclusions	13	19
Not determined as allegations not dealt with by assessor	7	10
Suspicions but recommendations made to protect	3	4
Abuse not described	3	4
Reasonable suspicion of child or spousal abuse occurring	2	3
Not applicable	21	30
Total	70	100

#### Classification of Child Abuse

There were four cases of child abuse where documentation reviewed by the evaluator supported that the allegation of abuse was probably accurate. The largest number of cases were unsubstantiated at 14 or 27 % of child abuse cases that could be



classified. There were also nine cases where Child and Family Services was actively involved. Table 11 shows how child abuse was classified.

Table 11 *Classification of Child Abuse (N=70)*

Type of Classification	Frequency	Percent
Child abuse unsubstantiated	14	20
CFS actively involved	9	13
Confirmed or supported as per court order/documents/protection authority	4	6
Child abuse corroborated by children or collaterals	3	4
Abuse admitted by perpetrator	3	4
Not applicable	37	53
Total	70	100

Overall it was possible to classify 10 cases of child abuse that were supported in some fashion and nine cases that were actively involved with a child protection agency. This reflects 54% of total abuse cases that were identified (N=35).

#### Classification of Spousal Abuse

Table 12 reflects the classification of spousal abuse cases. Forty-one or 59% of total cases (N=70) were classified. Abuse was unsubstantiated in 16 cases or 39% of the 41 spousal abuse cases that were reviewed. Abuse was admitted by the perpetrator in 12 cases (29%). There were only seven cases or 17% that were confirmed based on court or official documents related to the custody access assessment. Often these documents would be contained in the court file that is

reviewed by the evaluators. Evaluators described that children corroborated that abuse occurred against their parent in six cases (15%) even though it was reported that children were alleged to have been witnesses in a total of 18 cases. This could be because children would not necessarily be expected to corroborate abuse in a custody access evaluation unless they were of an age where this question could be asked directly. Often children will be described as being present when abuse occurred but may not mention this fact to an evaluator. It is also possible that more children corroborated abuse but this fact was not shared by the evaluators in some of the reports. There were 29 cases where classification was not applicable. Table 12 shows how spousal abuse cases were classified.

Table 12 *Spousal Abuse Classification (N=70)*

Classification	Frequency	Percent
Abuse unsubstantiated	16	23
Admitted by perpetrator	12	17
Confirmed as per court or other official documents	7	10
Abuse corroborated by children or collaterals	6	9
Not applicable	29	41
Total	70	100

Overall 25 situations or 61% of total spousal abuse cases (N=41) were able to be classified as being supported in some fashion. This number represents 36% of the total number of cases that were reviewed in the study (N=70).

### Case Recommendations

There are a number of different possibilities for the disposition of a case. Twenty different situations were used to try and capture the nature of case disposal, mostly obtained from the recommendations section of a report. Only those cases with a count of six or more are shown. This information is to help guide the court, lawyers and the parents in terms of what the evaluator determined could be helpful to the parties of the assessment. An evaluator could record more than one disposition for a case depending on the need. Table 13 and table 14 reflect the various recommendations made by evaluators.

Mediation was recommended the most at 22 times or in 31% of cases (N=70). This would mean that after the evaluating the family situation the evaluator was able to determine that the couple were appropriate for mediation. This may reflect that at the point of completing the assessment conditions may be such that mediation as an alternative to ongoing litigation is seen as a viable option. It could be mediation was not initially seen as a viable alternative because of factors in the relationship between the ex-spouses such as spousal violence or high conflict. It is also possible that the process of the assessment itself affected the situation meaningfully and that the parties reach a point where they are more ready to manage the mediation process.

Counselling for the parents was recommended 21 times or 30% and counselling for the child only in 18 or 26% of cases. Counselling often is aimed at helping the individuals deal with issues specific to the separation process including ongoing issues with anger or depression and loss.

A neutral pick up and drop off site was also recommended in 26% of cases. This recommendation reflected all but one case where spousal abuse was alleged. It was recommended that parenting classes be attended in 14 situations (20%), mothers and fathers being recommended an equal number of times at four each, and both being recommended in six situations. Recommendations to use a communication book and recommendations to attend a parenting education program were both recommended in 14% of cases. This appears low given the fact that communication as an issue is raised quite frequently by the evaluators however many of the other interventions recommended also deal with communication issues such as parent education and counselling.

In 13% of cases a follow-up assessment was recommended. Out of a total number of cases where parents were recommended to take counselling with a child, fathers were recommended to do so in six cases and mothers in two cases which combined, represented 11% of total cases.

A high conflict program, Giving Children Hope, was recommended in 8 or 11% of cases. Alcohol assessment was recommended in 10% of cases and anger management in 9%.

It is clear that families who are evaluated are often seen as families requiring ongoing intervention in the way of mediation or some form of counselling. Mediation or counselling of some type was recommended 101 times, as some cases could have more than one recommendation for counselling types. This may reflect the fact that cases that require an evaluation are considered high conflict with multiple issues that impact on the ability of the parents to separate amiably.

Table 13 *Case Recommendations (N=70)*

Recommendations to Court		
Recommendation	Frequency	Percent
Mediation	22	31
Counselling	21	30
Counselling child only	18	26
Neutral pick up	18	26
Parenting Classes	14	20
Communication Book	10	14
Parent Education (For the Sake of the Children)	10	14
Follow-up assessment	9	13
Counselling with child	8	11
Giving Children Hope	8	11
Alcohol Assessment	7	10
Anger management	6	9

Note: Recommendations shown where case counts are 6 or higher.

A question remains however that given mediation is recommended quite frequently, why are parents not referred for this service prior to being referred by the court for an evaluation? It may be helpful to assess parents for mediation prior to initiating an assessment if the case is appropriate for this type of intervention.

When comparing mediation to cases with spousal or child abuse allegations it appears that mediation was recommended in 14 out of 29 situations where there were no spousal abuse allegations (48%) and 8 out of 41 situations where there were

allegations (20%). Mediation was recommended in 17 out of 35 cases where there were no child abuse allegations (49%) and 5 of 35 situations where there were allegations 14%. One explanation may be that evaluators recorded parent-to-parent communication difficulty as exceptionally high in 87% of all cases (N=70) so in cases where this problem could not be alleviated, mediation would not be recommended.

Referring to Table 6, overall both parents were referred for parenting classes or counseling combined in 16 situations or 23% of total cases (N=70). Counselling with a child was recommended in eight cases or 12% of total cases. Alcohol and drug assessment was recommended in only nine situations which is lower than the evaluators' identification rate of this problem in 38 situations or 54% of total cases. It could be assumed that even if this area was identified as an area, only nine were situations where intervention was required.

Although violence in the form of spousal or child abuse was identified in a number of cases only one case was referred to a family violence program. However other counseling services were recommended and this would also be an appropriate intervention for families where there might be a history of violence. Fathers were also referred for anger management in four cases as compared to two cases for both parents.

Table 14 Recommendations Involving Each Parent and/or Child (N=70)

Category	N	Percent
<i>Alcohol Assessment</i>		
Father	2	3
Mother	3	4
Both	2	3
Total	7	10
<i>Drug Assessment</i>		
Father	1	1
Both	1	1
Total	2	2
<i>Parenting Classes</i>		
Father	4	6
Mother	4	6
Both	6	9
Total	14	21
<i>Counselling</i>		
Father	5	9
Mother	6	7
Both	10	14
Total	21	30
<i>Counselling with child</i>		
Father	2	3
Mother	6	9
Total	8	12
<i>Family Violence Program</i>		
Mother	1	1
Total	1	1
<i>Anger Management</i>		
Father	4	6
Both	2	3
Total	6	9

Note: Percentage records frequency count based on total number of cases (N=70).

## CHAPTER V: DISCUSSION AND CONCLUSIONS

### Types of Child Abuse Allegations

One of the research questions was to determine the kinds or types of child abuse that are alleged during the custody/access assessment process. It is clear from the present exploratory study that all forms of child abuse were alleged. Fifty percent of the 70 cases reviewed involved allegations of some form of abuse against children. This appears to reflect that in some high conflict families there are a high number of allegations of abuse including physical abuse. In this study, 14 cases out of 20 physical abuse cases or 70% were confirmed or supported in some fashion even though there are some challenges for evaluators to obtain confirmation within the confines of a custody access assessment. Only six cases remained unsubstantiated. This study also appears to reflect that physical abuse is most often alleged over neglect or emotional and sexual abuse. In all, there were 20 cases of physical abuse alleged as compared to 9 cases of sexual abuse, 12 cases of emotional abuse and 14 cases of neglect. Of the 20 cases of physical abuse allegations recorded the evaluators had some confirmation or corroboration in 14 cases or 70%. Overall this appears to indicate that physical maltreatment should be considered seriously by evaluators and that interviews with children and collaterals remain important elements in the custody access assessment process for gathering information on this issue.

The main type of physical abuse recorded was 'inappropriate' discipline. This is consistent with the views of some authors who indicate that physical punishment is still commonly used as a form of disciplining children and that this often results in the



physical abuse of children (Durrant, 2001). Trocme, Durrant, Ebsom and Marwah (2004) also found that physical abuse occurring in the context of punishment is one of the most frequently substantiated forms of child abuse in Canada. How a parent disciplines a child is certainly a question that needs to be answered during the custody access process, especially if there are any allegations about physical punishment or physical abuse. Physical punishment may also be a risk factor in those cases where there are also allegations of spousal violence as again, this may reveal a certain pattern of dealing with anger and frustration toward others in the family. Men who physically abuse their wives are more apt to abuse their children (Austin, 2000; Bancroft & Silverman, 2002; Jaffe, Wolfe, & Wilson, 1990, Teyber, 1992).

As well, stress on families is high during the separation process and often afterwards. Parents may be more prone to lashing out in frustration or because of stress and evaluators need to be sensitive to this possibility.

One of the obstacles in determining the nature of the physical abuse is that evaluations occur much after the fact. Sixty percent of cases recorded were cases where the physical abuse allegation related to the past and depending on the child's age at the time of the alleged abuse, accurate information may be difficult for evaluators to get. It is also relevant that children remain secretly loyal to a parent and admitting to mistreatment by a parent may be difficult for them to do. The intricacies of family dynamics must be taken into consideration when probing for information related to sensitive subject areas. (Boszormenyi-Nagy & Spark, 1973). However, even in those cases where allegations were made about ongoing abuse the determination of whether the abuse was occurring or not appears to be a difficult

challenge for evaluators. Evaluators did not speak to the difficulties that confirming allegations poses within the confines of the assessment process.

Alleged perpetrators of physical abuse were more often fathers or other males. This appears to be consistent with research findings that males are most often involved in physical abuse situations against spouses or children (Silverman & Bancroft, 2002). However this should not lead evaluators to totally ignore allegations made against mothers as all allegations of abuse against children should be taken seriously and risk of harm to children assessed whenever possible.

It is also evident that in many of the reports, though the allegations were recorded there wasn't always a clear written response regarding the evaluators' opinions in relation to the allegations. This is an area that requires more attention or emphasis by evaluators as risk may remain to children who are living with a parent that is alleged to be using inappropriate discipline. It is possible however that more information related to these issues are contained in the evaluators notes that are scrutinized only when cases go to trial but notes related to custody access assessments were not reviewed as part of this study.

In five of the nine cases where sexual abuse was alleged the type of sexual abuse was not described. It is not clear whether this means that the information was not available, that the evaluator did not explore the allegation in order to determine more about the allegations or if this information was purposely overlooked. Eight cases were unsubstantiated, again reflecting that it may be difficult to determine the nature of abuse allegation situations during the custody access process. It also may reflect that the allegations were not accurately reflecting the reality, however again

this is difficult to discern as evaluators did not always address this specific issue in the reports other than to indicate that there was no evidence.

Touching or fondling and adult exposure of genitals were reported in a small number of cases and alleged perpetrators were adult males in 6 cases, step-siblings in two cases and one case was recorded as 'other'. There were no confirmed cases of child sexual abuse.

Neglect allegations were reported second in frequency to physical abuse allegations, but a majority of cases, nine out of 14 (64%), were unsubstantiated. Physical neglect was the type of neglect most often alleged and allegations were mostly against mothers by the fathers. This may be that in most of the cases reviewed in the study, mothers had care and control of children so allegations of neglect were focused on the parent who has more care responsibilities of the child. It may also be a function of the criticism that is sometimes aimed at the ex spouse in order to provide reasons why custody or care and control should change. As with the other forms of child abuse allegations the evaluators were not in a position to offer more information about the nature of the neglect than that which was alleged. Since most cases remained unconfirmed it may reflect that confirmation of certain allegations like neglect are difficult or that the allegations do not reflect reality. It might also be that when evaluators do not address the allegation within the report, it can be assumed that the issue is not serious and in fact de-emphasized. However this is difficult to determine without speaking directly to the author of the report and was not discernible utilizing the current file review instrument. The time factor is also relevant as is the fact that when the assessment process commences, parents will do

their best to promote their own situation in a favourable light. It could be that factors of neglect are less visible when parents are under scrutiny such as in home visits or through contact of collaterals.

Emotional maltreatment within the context of child abuse allegations was alleged in 12 cases and nine of these consisted of exposure to family violence. Fathers were the main perpetrator in all cases. Seven out of nine cases had children or collaterals corroborating the abuse. Children were also identified as witnesses to the physical abuse of a parent in 18 of 31 cases of spousal physical abuse. This clearly indicates that in some high conflict homes, children often are witnesses to behaviours between their parents that can have negative emotional effects (Thompson & Amato, 1999; Tower, 1996).

Considered a significant form of emotional abuse, witnessing violence between parents is something that evaluators need to remain conscious of when recommending access because of the risk that further violence may erupt during exchange times. It is also possible that children remain quite anxious with the prospect that the parents have face-to-face contact, even if violence is not an outcome at those particular times. The anticipation that problems will ensue may add unnecessary emotional burden on the children who have to be present with both their parents at exchange times. This study also suggests that when allegations of spousal abuse occur, it is important to consider the fact that children may have been witnesses and that this needs to be taken into account when an evaluator is assessing the emotional impact of the pre and post-separation experiences of the family.

Review of these reports did indicate that evaluators do record the witnessing of spousal violence in some situations. What is not clear is whether the question is asked as a rule as there are no clear indicators in the text of most reports that this was assessed and that evaluators subsequently had no concerns. Most reports remained silent on this issue however it may be a function of the assessment process itself. This study did not assess standards or methods of practice but it is known that evaluators usually follow a strict set of guidelines in terms of the areas they question but do not necessarily specify what these questions were within the text of the reports.

### **Co-occurrence of Child and Spousal Abuse**

A second research question was aimed at determining the frequency of the co-occurrence of child and spousal abuse. Some authors have suggested that where there is abuse to a spouse, there is a high probability that there will be abuse towards children (Silverman & Bancroft, 2002). This overlap is also supported by Jaffe, Crooks and Bala (2005) who did a comprehensive literature review on family violence. Their review indicated many studies found co-occurrence of spousal and child abuse in violent families.

In this study co-occurrence of child abuse and spousal abuse was found in 12 (39%) of the 31 cases where there was physical violence between spouses. This has practical implications for assessors in custody access cases. In some situations it may be an assumption that just because there had been spousal violence, children were or are not also necessarily victims of abuse. However the findings in this exploratory study indicate that in a substantial number of cases where spousal abuse is alleged, there are also allegations of child abuse. This would support the premise that violent

spouses may also use the same or similar tactics to deal with their children (Bala, 1998; Silverman & Bancroft, 2002).

It would be extremely important that assessors ensure they explore with parents and children the possibility of abuse against children when spousal abuse is alleged, and also take into consideration the parenting approaches used by the parent who is alleged to be abusive to a partner. Children may not fare well in situations where one of the parents remains physically punitive and access arrangements would need to be developed with this in mind (Silverman & Bancroft, 2002).

In this exploratory study however, it was found that neutral exchange sites were recommended in 18 cases. This may reflect that in the assessments only certain cases were seen as problematic for parents to see each other face to face and not all cases where allegations of violence or high conflict were made. The discretion remains with the evaluators and they may not have seen the necessity for this recommendation to be made in all abuse cases. However the file review instrument was not able to determine why particular recommendations are made in an assessment report. A more in depth analysis of the content may have revealed more information in this regard. It was sometimes difficult to determine as well how much emphasis the evaluators were placing on various kinds of allegations. In some cases allegations were reported but the level of seriousness to the allegations or to the validity of the allegations were not always described. Detailed data or information related to the allegations is not always provided within the text of the report but may be contained in evaluators' notes. As well, evaluators must use their professional discretion in terms of what issues to emphasize or respond to. One could assume that unless the

evaluators specifically highlight issues and offer an opinion or recommendation, then it is implied the issue is not an ongoing problem serious enough to address. Although this may reveal one limitation in the custody access report assessment process, it does not diminish the fact that professional skills and knowledge are used to gather information and make recommendations that in the end can be challenged in a court of law. There is some consolation in knowing that evaluators are preparing these reports on the basis that they may be challenged, and will in all likelihood be able to address questions related to why certain recommendations were or were not made when allegations of abuse had been acknowledged within the course of an assessment.

### **Confirmation of Cases**

A second question related to child abuse and spousal abuse allegations involves the frequency of confirmed cases. Of all child abuse allegations made, it was only possible to report confirmation where abuse was witnessed or supported by collaterals or the victims of the abuse, or where a perpetrator admitted to the abuse. There could be a number of different forms of substantiation in any one case. There were 27 instances where some form of confirmation was recorded by evaluators, and 31 instances where abuse was unsubstantiated in 35 cases of child abuse. Out of 20 physical abuse cases, 14 of them or 70% were confirmed or supported in some fashion. The remaining six cases were not substantiated.

It was not possible to determine whether a child protection or other authority substantiated abuse, as the evaluators would not normally request access to these

records except in extreme cases. No cases reviewed were cases where child protection authorities were summoned or approached for further information.

In terms of the confirmation of physical violence against a spouse 12 or 39% of 31 cases had some form of confirmation and 14% were unsubstantiated. Again it is sometimes difficult in the context of a custody access assessment to substantiate allegations as there may not always be clear evidence. Frequently the events occurred in the past and in private confines, so obtaining information is based on the memories of those involved or those who may have witnessed the event. In cases where the police may have been involved or where charges may have been laid also remains a limitation because until the court hands down a conviction, the question regarding occurrence of abuse remains unanswered.

Regardless of the rates of confirmation however abusive behaviour in high conflict families remains an area that requires ongoing attention and efforts to mitigate this behaviour should be attempted by evaluators through the recommendations they make.

An additional question related to spousal abuse involves the kind or type of spousal abuse that is alleged within the context of the custody access assessment. The study found that in the sample forms of spousal abuse identified included physical, sexual and exploitation, and emotional. There were no instances of financial or spiritual abuse and there was only one case of sexual abuse.

Johnston and Campbell's (1993) typology of spousal abuse was used in an attempt to categorize and define the kind of spousal violence that had occurred. The typology includes one category that is directly related to the separation process



between couples and describes violent behaviour on the part of a spouse that is normally out of character for that person or persons. There were 11 cases out of 31 (35%) that fell into this category. It is not unusual for the stress of the dissolution of a relationship to affect how spouses inter relate with each other. Emotions can be intense and normal defenses against acting aggressively can be compromised. It is suggested that violence that erupts in this kind of situation is out of character and does not necessarily mean that ongoing violence will ensue.(Johnston & Campbell, 1993).

A higher number of cases however were Type 1 of Johnston and Campbell's typology that relates to abuse that is ongoing or episodic in nature. There were 14 cases making up 45% of the total of 31 abuse cases classified in this typology. This kind of abuse is common to the relationship in question and may reflect a situation where the perpetrator is a batterer with a domineering and controlling personality. The victim in this situation may often feel fearful, helpless and chronically depressed. Of these cases, there were also seven allegations of abuse against children. This supports the premise that there has to be a diligent approach to dealing with parenting arrangements after separation when spousal violence is a factor (Jaffe, Crooks, & Bala, 2005). Situations where abusive spouses have access to their ex-spouses by way of a custody access order may also heighten risk to the victim and children involved Bain (2001). These are also cases where sometimes evaluators have to make very structured and defined recommendations around contact and or even suggest neutral exchange sites.

Confirmation of abuse has got to be one of the more difficult tasks that social workers face when working with families. Corroborative information is often difficult to obtain. Eyewitnesses can also be biased or unreliable even though the information is compelling. The ability of an assessor to unequivocally declare that abuse has occurred can be hampered during the assessment process by conflicting information, counter-allegations, lack of admission by children, or clinical realities that render exploration of this area inappropriate during the course of the assessment. However, the fact that many cases in this study had some form of confirmation is a testament to the hard work of evaluators and the flexibility and resiliency of the custody access assessment process. The process involves multiple methods and this enables evaluators to look at families more holistically and systematically, including information obtained from collaterals and children involved.

### **Additional Family Issues**

The third research question also focused on what other family issues or problems co-exist with abuse allegations. The study uncovered a full range of issues that were alleged or identified by the evaluator within the context of the assessment. It became clear that in terms of the issues identified by the evaluators communication difficulties appeared to be a major issue for parents and this no doubt contributes to ongoing conflict which was the second most identified area of difficulty for parents. It is apparent that it would be difficult for parents to manage post-separation challenges if communication problems and conflict problems remain high. It also makes sense that many other problem issues between parents flow out of the communication difficulties they may have such as scheduling problems, children

affected by conflict and other related relationship interchanges. Communication certainly is a challenge in situations where parents may have animosities toward each other due to the issues that led to separation in the first place, or due to the issues between them in the post separation period. Managing these feelings and views of each other in a way that does not hinder healthy or positive communication patterns would certainly be helpful. Practitioners and policy makers in the field may have to be creative and look for new ways to help individuals in these difficult circumstances learn how to interact and communicate differently. Success in this area may make a difference in the general conflict that remains between parents and the quicker this issue can be addressed, the better it may be for both parents and children.

Counsellors also identified that children were affected by ongoing conflict in over half of all cases (36 of 70 cases (51%)) which supports the premise that many cases referred by the court are cases that fall into a high conflict category. Ongoing conflict is seen as a serious issue for children to manage emotionally. Children affected by conflict can display many symptoms and it can affect future emotional development as well as lead to unnecessary stress and anxiety (Bancroft & Silverman, 2002; Gould, 1999; Teyber, 1992; Wallerstein, Lewis, & Blakeslee, 2000).

Symptoms children were seen to exhibit range from anger problems to feelings of ambivalence about contact with a parent and general behaviour problems. There were 37 instances over four different categories in the total of 70 cases where evaluators highlighted children's behaviours as problematic. Problems with children's behaviour would be common either in situations where they were experiencing abuse at the hands of a parent, witnessing abuse, or witnessing conflict

between the parents. Separations are stressful events in the lives of family members and children tend to display their anxieties and inner struggles behaviourally (Sorensen, 1993). It is evident in this study that children do exhibit difficulties and helping families manage this difficult transition should be a priority for policy makers and practitioners in the field.

That scheduling problems were also identified as a major problem in this study is not surprising given the issues of poor communication and ongoing conflict. Parents will certainly have difficulties managing transactions between them that require some semblance of cooperation and good faith. Given the heightened sensitivity to each other's motives and behaviours it stands to reason that working out schedules that are agreeable to each, and beneficial for the children, is a difficult task.

Overall this study revealed that abuse allegations were not made in isolation to other problematic issues. Typically a number of other allegations co-exist with abuse allegations. This would not be unexpected in situations of high conflict which is a condition that contains stress, anxiety, intense emotional expression, and which is sometimes an outcome of a long history of family dysfunction, a volatile separation and/or negative post-separation interaction (Garrity & Barris, 1994). Often these issues relate to communication difficulties which contribute to the ongoing conflict between the parents. Communication seems to be a fundamental core area that needs to be addressed in post-separation situations of high conflict couples.

## **Alienation**

Although one of the research questions focused on alienation, the problem of alienation based on Gardner's criteria (Gardner, 1993) did not appear frequently in this study. Though there were some alienation processes or behaviours identified in 7 cases, there were no cases where the evaluator indicated that a full process of alienation was occurring. This may be because the sample was too small or that true alienation processes may not be easily identified if all characteristics of alienation are not present. As well, it did not appear overall that abuse allegations were being made as part of an alienation process. In a majority of cases where there were abuse allegation cases, corresponding alienation characteristics were not recorded in the reports.

Nevertheless, the fact that parents do make numerous allegations against one another and that conflict remains an issue post-separation, children are not immune to influence. This may partly explain the ambivalence and other behavioural issues that some children exhibit. It is also possible that in some situations feelings about one parent may have been negatively affected much prior to the point where the parents decided to separate. In families with dysfunctional interactions, relationships between parents and children can already be problematic long before the family separates.

## **Limitations**

There are a number of limitations to this exploratory study. One limitation relates to the literature. A majority of the literature cited is from the United States. It is difficult to determine how much of the research from the United States can be applied to the Canadian experience as there are jurisdictional and cultural differences.

Studies related to abuse allegations in the context of custody access is also sparse in Canada compared to research in other general subject areas such as child abuse and family violence. Literature related to custody access assessments is also predominantly from other countries, especially the United States except for a small number of articles that focus on this area in Canada.

The population studied is also small and regional. Results are not easily generalized outside of the locale and cases are limited to those families that were referred by the Court. Thus, the sample may not reflect the general population or the families that experience separation and divorce and do not end up referred for assessments. Court referred cases however are representative of a higher conflict group of parents who are referred by the court for court ordered custody evaluations. Thus the information obtained remains relevant to this sub-population.

Court reports contain information obtained and interpreted by an evaluator who must rely on first person reporting in circumstances where parents are either attempting to convince them that they are the more deserving parent, or that the other parent is unworthy. There may be some deficiencies in the accuracy of the information. Although the information can be colored by this bias, evaluators do rely on multiple sources of information to support their investigation.

Limitations also exist due to the range of styles in gathering and reporting information from evaluator to evaluator. Although some standards exist in terms of the areas a report should cover, evaluators can vary in the amount of information they include in their finished reports. Additional information may be contained in their notes on file, but these notes are often difficult to interpret or to read and they are not

organized as clearly as the finished report. Thus notes were not consulted in the completion of this study. There are also time limits related to the completing of a report so there are limitations sometimes in material gathered and clinical assessments of family dynamics, which can change substantially over time.

Comprehensiveness of reports also varies as some evaluators rely more on investigation techniques to gather information, while others rely on therapeutic approaches and focus on history of family process and dynamics to come to a conclusion. Evaluators also do not always explain why they may not be pursuing particular allegations made in the context of an assessment. Thus it is difficult to ascertain the depth of the problems associated with a particular allegation whether it relates to abuse or other interpersonal dynamics by simply using a file review instrument. Evaluators also may have different opinions about the extent of abuse that has occurred in a relationship and the weight that they give to the information gathered when they are attempting to make a determination of custody or access. These nuances in the art of custody access assessments are not easily detectable utilizing a file review instrument as the instrument design was not sensitive to these factors. These problems seem to be an inherent part of the assessment process (Horvath, Logan & Walker, 2002).

There are also limitations in that the file review instrument may not capture all possible combinations of issues that exist in high conflict families through reviewing reports. Although the approach is flexible in that the tool can be revised as qualitative data is reviewed and new themes or categories identified, the sample may not represent all categories and issues that are possible in the contexts being

reviewed. Thus the tool may be lacking in some categories. The review tool has also not been standardized and has been developed from multiple sources of information. There has been a reliance on issues as described in the literature and in the Family Conciliation database. The typology of domestic violence by Johnston and Campbell (1993) has also not been tested widely and there may be instances where certain scenarios do not conveniently fit their descriptions.

The instrument may also not an effective means of determining whether such phenomenon as parent alienation syndrome is present or not. Because the tool relies on a written report for information, it is limited in gathering information about the nuances that may exist in parental and child relationships and behaviours. However the tool could be used as a first level assessment tool to first identify whether elements of alienation exist and then another means of assessment, such as an interview could be used to ascertain more details of the processes that were occurring.

The instrument used is also not responsive to specific qualities of certain behaviours. For example the literature indicates that the existence of multiple episodes of abuse is more validating than single episodes especially if reported by children age seven or older (Theonnes & Tjaden, 1990). The instrument design did not allow for this question to be considered, and unfortunately the reports were not reviewed with a focus on whether multiple episodes of abuse were identified by a parent or collateral.

Another area that was not assessed using the tool was that of false allegations. Although the instrument captured cases that were unsubstantiated, it was not sensitive enough to be able to determine whether evaluators were assessing allegations as



intentionally false. The reports per se did not always contain specific information related to this question where a reviewer could know for certain allegations were false however it is possible there are other ways that this issue can be identified within written reports. Though there were reports of one parent denying certain behaviours there were no cases where the issue of false allegations was a theme throughout. It is possible however that attempting to confirm that an allegation was false versus unsubstantiated would require more intensive investigation that is not within the mandate of the custody assessment process and that would take a much longer time period to do.

There are also limitations in that codes and latent content in the text can still be open to interpretation by the coder (s). Though assessors attempt to be forthright in their interpretations and recommendations, there are still instances where a coder may have to interpret text or 'read between the lines' in order to codify or categorize a unit of analysis such as a statement or phrase. There may also be some inconsistency that remains between coders regarding certain categories or subtle differences in information that lead to a different interpretation of a particular theme or category especially if the number of coders is increased, or if the range of experience of coders is too disparate. The individual researcher using the instrument must also remain aware of his or her own biases when reviewing the text material so that certain qualities of a situation are not being 'read into' what the text may really be saying.

Another shortcoming of the review instrument is that some data gathered did not in the end provide a lot of valuable information because of how the question was asked. The area related to living arrangements for example could have been more

specific to which parent the children actually resided with in terms of time sharing given those different arrangements. Future iterations of the tool should be aimed at ensuring that the questions asked and data gathered have more utility for the final outcome of a study.

The exploratory study also has limitations in that descriptive statistics were used and statistical significance of some categories or variables was not assessed.

Despite the limitations however, utilizing a file review instrument and conducting a content analysis on custody access reports was a successful and practical way of gathering information related to parent allegations in the context of the custody assessment process. For the most part, the instrument was successfully used to quantify narrative information so that frequencies of allegations and various custodial arrangements could be studied. The process also generated additional information that can be used to design other research instruments or processes to get a better insight into the complex nature of abuse allegations within the context of the custody assessment process.

### **Importance to Social Work**

This exploratory study has some important practical implications for practitioners in social work who complete court ordered assessments. The study confirmed suggestions in the literature that child and spousal abuse allegations occur at a high rate in high conflict custody access dispute families and that child and spousal abuse allegations may co-occur in some families. Though there was not firm confirmation of actual abuse in all cases it still remains helpful to practitioners to understand that when allegations are being made about spousal abuse, it will also be

important to learn whether there are also concerns over the treatment of children. Practitioners must avoid separating abuse to children from abuse to adults and be aware of the link between the two in terms of family patterns and personal functioning.

The study has provided important information about the fact that either the victims or collaterals corroborated many of the allegations. There were 14 instances of confirmation as categorized in the instrument related to child physical abuse and 21 instances related to spousal physical abuse. Thus the practice of using multi-informants in assessments remains very important when attempting to determine the validity of these claims. Practitioners must ensure they interview collaterals in order to obtain additional information about a case and the relationship dynamics of the family, especially when allegations of abuse have been made. It remains especially important to interview the children and ensure their voice is included in the assessments process. It is also important to remain sensitive to the fact that children can have hidden loyalties to their parents and practitioners must take this into consideration when attempting to obtain information. The intricacies of family dynamics must always be a factor when assessing relationships.

This study should also help shed light on the way evaluators determine risk to family members as well as help prepare evaluators for upcoming changes to the Divorce Act that may place more emphasis on aspects of abuse of spouses and children in separating families. If child abuse and spousal abuse allegations appear to co-occur at a fairly high rate and the methods by which parents deal with their children are known, then evaluators may be able to determine risk and design

recommendations for the families and court to follow in order to mitigate this risk. Evaluators may be able to recommend supervision or neutral exchange sites and suggest some form of follow-up to ensure that children or other victims of abuse are protected.

This exploratory study also revealed the difficult task that practitioners face when attempting to substantiate or confirm abuse in families. Evaluators have to work under tight timelines in order to complete assessments for the court and often substantiation depends on more interviews of collaterals, relationship building with the parents in question and other therapeutically oriented activities that increase the chance accurate information is obtained. Many allegations still remain unsubstantiated however, and recommendations are not always made with references to the allegations. This study highlights for evaluators that their work is important and that their opinions about issues like spousal and child abuse allegations in the assessment context will help inform this whole area of practice. It is important to know how practitioners make their determinations in a case and how they may or may not link allegations to a final decision around access or custody. More information to provide insight into this very complex area of practice would certainly be welcome. It would also help the court to understand making a determination on custody or access is a complicated process and requires time and a systematic approach in order to deal with allegations when they exist and to ensure decisions are made in the best interest of the children.

For practitioners in the field of educational and counseling programs for separated parents, the whole area of post-separation communication appears to be an

area requiring specialized attention. It could be helpful to develop a communication program as part of the educational program 'For the Sake of the Children', which provides educational content that describes the impact on children of ongoing conflict and the general effects of parental separation. An intervention related to communication as part of the educational program may make a difference in how couples relate to each other and possibly have a positive effect on other problem areas they are experiencing as communication seems to be a key area of dysfunction among separated high conflict couples (McIsaac & Finn, 1999).

The challenge in communication is to develop an intervention program that helps individuals with fairly significant conflict use different communication approaches when dealing with each other about their children's needs. Although it is also prudent to ensure high conflict couples do not have a lot of opportunity to interact, there are many couples who do, regardless of the amount of conflict. Conflict also may vary in intensity so there have to be programs or interventions developed that take this into account. Couples may have periods where they can communicate more effectively if given the tools or helped with approach and process. The approach may have to be a multi-method approach utilizing communication and conflict theory, mediation and conflict resolution interventions as well as therapeutic approaches. Better communication is key as it is the fundamental way in which individuals interact. If this area remains dysfunctional then other aspects of interaction will certainly be negatively affected. (Guerin, Fay, Burdin, & Kautto, 1987).

## **Future Research**

Future research could be aimed at completing a more in depth analysis of a larger sample of cases with a refined file review instrument to capture the gaps in data that existed in this first study. Family Conciliation produces approximately 300 reports per year in all its offices. Utilizing a larger sample may provide additional information in this area for practitioners and policy makers. Refining the tool to provide comparison of more factors and possibly including interviews with practitioners may provide richer material related to allegations and post-separation conflict.

The study's results also lead me to suggest that further research could be aimed at better understanding how recommendations made by evaluators impact on families. Joint or shared custody was recommended in a total of 47 (67%) out of 70 cases. This includes 24 cases where there were spousal abuse allegations and 20 cases where there were child abuse allegations. Discovering whether there are ongoing negative consequences for families where joint custody is in place when there has been a history of child or spousal abuse would be important information to gather. This research could include following up with families who were referred by the court to track their progress after recommendations are made. The literature indicates that joint custody sometimes contributes to ongoing conflict as it places parents in situations where they have to interact with each other more frequently (Bain, 2001).

This study also offers some insight into the whole area of the assessment process and how evaluators make determinations based on the information gathered. Because styles of writing vary and copious notes are often used to fashion a report,

the report is not the final answer to many of the questions that evaluators must assess. Reports are prepared to help the court make a decision and to help parents understand what outcomes or plans would most benefit the children based on the evaluator's expertise. Research into the actual detailed process of what is involved in making a determination could help the professionals involved in comparing their work with others and provide more information to support best practice in this area. The child custody assessment process is a dynamic and still a relatively young area of practice specialization with not a lot of research that has looked at the strengths and limitations of the process (Gould, 1998; Horvath, Logan & Walker, 2002).

The other area that requires more attention is that of communication in high conflict separated couples. Research could look at whether there is a multi-pronged intervention approach to post-separation conflict that includes emphasis on communication. Though mediation has positive impact for individuals related to communication, not all parents can avail themselves of this service. Parent education programs may be able to offer more specific interventions that involve parents intensively with a focus on post-separation interaction. There could be merit in researching group interventions through established educational programs such as 'For the Sake of the Children' where couples could work with counselors to improve the way they interact with each other. The approach could be solution-focused and educational in nature so that dysfunctional interaction patterns are modified and conflict or tension lessened.

This study revealed that often parents become involved with new partners. Research could also be focused on how entering a new relationship might affect post-

separation conflict with an ex-spouse. The file review instrument used did not measure this dynamic and future studies could compare level of post-separation conflict with relationship status. Changing relationship dynamics and the impact on the children could also be studied when a parent takes on a new partner.

### **Conclusion**

In conclusion, utilizing a file review instrument to review narrative data has been shown to be an effective way of gathering information related to the allegations mothers and fathers make against each other during the custody assessment process. It has been shown to be a practical tool in identifying information related to allegations and confirmed incidents of child and spousal abuse as recorded in custody access assessment reports. Although this approach has limitations it is non-intrusive and is an excellent way of exploring data to gain some preliminary understanding of a phenomena and to act as a guide for future research. The instrument also was helpful in measuring the frequency of other allegations that parents make against each other as well as categorizing various types of spousal and child abuse.

Narrative documents that are produced within the social service context are significant documents that reflect a particular version of reality and this can be useful to researchers. The qualitative narrative data can be quantified and yield important data and information regarding social service practice (Anastas, 1999; Atkinson & Coffey, 1997). In this case the instrument helped to quantify a wide range of issues that are pertinent to the custody access process and to the study of allegations made by parents during the assessment process. By discovering the frequencies of some reported allegations within the context of an assessment report, the researcher was



able to gain some understanding of how common these behaviours occur in a specific sample of cases. As well, the instrument helped in providing some preliminary information regarding custody access recommendations as well as the kinds of supportive services evaluators provide for high conflict families.

Overall, the study was also helpful in revealing the many intricacies that exist within the post-separation world for parents and their children. Problems associated with separation and divorce are many, and can be compounded by the existence of abusive behaviour on the part of the parents. Allegations commonly occur when parents are being assessed and although confirmation is a challenge to achieve, the multi-method approach in the assessment process appears to be an effective way of approaching this problem even with its limitations. The study has also offers new insights into the range and complexity of issues that occur during the assessment process by quantifying the many variations of problems or issues identified by parents and evaluators. It has helped the researcher pose new questions and has provided the groundwork for further research in this very interesting and complex area.

## REFERENCES

- Anastis, J.W. (1999). *Research design for social work and the human service (2<sup>nd</sup> ed)*.  
New York: Columbia University Press.
- Annon, J. (2001). Syndrome testimony, base rates, and what the expert can ethically tell the trier of fact in alleged child abuse cases. *Institute for Psychological Therapies, 11*. Available online at: [http://www.ipt-forensics.com/journal/volume11/j11\\_1\\_toc.htm](http://www.ipt-forensics.com/journal/volume11/j11_1_toc.htm)
- Austin, W.G. (2000). Assessing credibility in allegations of marital violence in the high conflict child custody case. *Family and Conciliation Courts Review, 38*, 462- 477.
- Austin, W. G. (2002). Guidelines for utilizing collateral sources of information in child custody evaluations, *Family Court Review, 40*, 177-184.
- Atkinson, P. and Coffey A. (1997). Analyzing documentary realities. In D. Silverman, (Ed.), *Qualitative Research: Theory, Method and Practice* (pp. 56-76). London: Sage Publications.
- Ayoub, C., Grace, P., Paradise, J. & Newberger, E., (1991). Alleging psychological impairment of the accuser to defend oneself against a child abuse allegation: a manifestation of wife battering and false accusation. In Michael Robin (Ed.) *Assessing child maltreatment reports: The problem of false allegations* (pp.191-209). New York: Haworth Press.
- Bain, P. (2001). Law Reform Update: Child custody and access and family violence, *Family Violence Prevention Newsletter, 8* (3) available online at: <http://www.bcifv.org/resources/newsletter/2002/winter/durrant.html>

- Bala, N., (1996). Spousal abuse and children of divorce: a differentiated approach. *Canadian Journal of Family Law*, 13, 215-286.
- Bala, N., Bertrand, L., Paetsch, J.,Knoppers, B., Hornick, J., Noel, J.,Boudreau, & Miklas, S. (1998). *Spousal violence in custody and access disputes:Recommendations for reform*. Ottawa: Status of Women Canada.
- Bala, N., Paetsch, J., Trocme, N., Schuman, J.,Tanchak, S., & Hornick, J.(2001). Allegations of child abuse in the context of parental separation: a discussion paper. Ottawa: Department of Justice Canada.
- Bancroft, L. & Silverman, J. (2002). *The batterer as parent: addressing the impact of domestic violence on family dynamics*. Thousand Oaks, CA: Sage Publications.
- Beilin, R. L., & Izen, M. G. (1991). Custody disputes in context. *Journal of Divorce and Remarriage*, 16, 305-324.
- Blush, G., & Ross, K. (1987). Sexual allegations in divorce: The SAID syndrome. *Conciliation Courts Review*, 25, 1-10.
- Bow, J. & Boxer, P. (2003). Assessing allegations of domestic violence in child custody evaluations. *Journal of Interpersonal Violence*, 18, 1394-1410.
- Boszormenyi-Nagy, I., and Spark, G., (1973). *Invisible loyalties: Reciprocity in intergenerational family therapy*. New York: Harper & Row.
- Brown, Thea & Frederico, Margarita. (1998). Problems and solutions in the management of child abuse allegations in custody and access disputes in the family court. *Family and Conciliation Courts Review*, 36, 431-444.
- Brown, C. (1995). Custody evaluations: Presenting the data to court. *Family and Conciliation Courts Review*, 33, 446-461.

- Brown, J. & Brown, G.S. (1997). Characteristics and treatment of incest offenders: a review. *Journal of Aggression Maltreatment and Trauma, 1*, 335-354.
- Bryman, A. (2001). *Social Research Methods*. Oxford, U.K.: Oxford University Press.
- Caplan, P. & Wilson, J. (1990). Assessing the child custody assessors. *Review of Family Law, 2*, 121- 131.
- Cartwright, G.F. (1993). Expanding the parameters of parental alienation syndrome. *American Journal of Family Therapy, 21*, 205-215.
- Cascardi, M. & Vivian, D. (1995). Context for specific episodes of marital violence: Gender and severity of violence differences. *Journal of Family Violence, 10*, 265-293.
- Child and Family Support Branch, Family Services and Housing, (1998). *Protocols between child and family service agencies and family conciliation*. Internal Government of Manitoba document. Winnipeg: Child and Family Support Branch, Family Services and Housing.
- Child Protection and Support Services, family Services and Housing, (2001). *Revised Manitoba guidelines on identifying and reporting a child in need of protection (including child abuse)* Province of Manitoba (internal document), Winnipeg: Child Protection and Support Services.
- Chisholm, B. & MacNaughton, H.C. (1990). *Custody access assessments: A practical guide for lawyers and assessors*. Toronto: Carswell.
- Court of Queen's Bench Act, C.C.S.M. 1988, c. C 280, available online at:

<http://web2.gov.mb.ca/laws/statutes/ccsm/c280e.php>

- Dalton, C. (1999). When paradigms collide: protecting battered parents and their children in the family court system. *Family and Conciliation Courts Review*, 37, 273-296.
- Darlington, Y., Osmond J. & Peile, C. (2002). Child welfare workers' use of theory in working with physical child abuse: implications for professional supervision. *Families in Society*, 83, 54-63.
- Deal, James, E. (1996). Marital conflict and differential treatment of siblings. *Family Process*, 35, 333-346.
- Dunne, J. & Hedrick, M. (1994). The parental alienation syndrome: An analysis of sixteen selected cases. *Journal of Divorce and Remarriage*, 21, 21-38.
- Durrant, J. (2001). Physical punishment and physical abuse. *Family Violence Prevention Newsletter*, 8, Autumn/Winter available online at:  
<http://www.bcif.org/resources/newsletter/2002/winter/durrant.html>.
- Edleson, J. L. (1999). *Problems associated with children witnessing domestic violence: Violence against women*. Available on line at:  
<http://www.vaw.umn.edu/documents/vawnet/witness/witness.html#id2637251>.
- English, D. (1998). Protecting children from abuse and neglect. *The Future of Children*, 8, 39-53. Available at:  
[http://futureofchildren.org/information2826/show.htm?doc\\_id=75348](http://futureofchildren.org/information2826/show.htm?doc_id=75348).
- Ellis, D. (1992). Woman abuse among separated and divorced women: The relevance of social support. In E.C.Viano, (Ed.) *Intimate violence: Interdisciplinary perspectives* (pp.177-191). Washington, DC: Hemisphere Publishing.

Faller, K. (1991). Possible explanations for child sexual abuse allegations in divorce.

*American Journal of Orthopsychiatry*, 61, 86-91.

Child Centered Family Justice Strategy (2007) Available online at:

<http://canada.justice.gc.ca/en/ps/pad/about/index.html#obj>

Federal-Provincial Territorial Ministers Responsible for the Status of Women. (2002).

*Assessing violence against women: A statistical profile*. Ottawa: Status of Women Canada.

Finkelhor, D., (1983). Common features of family abuse. In Finkelhor, D., Gelles, R.,

Hotaling, G. & Straus, M. (Eds.). *The dark side of families: current family violence research* (pp.11- 17). Beverly Hills: Sage Publications.

Flanzer, J. P. (1982). Introduction. In J. P. Flanzer, (Ed.). *The many faces of family*

*violence* (pp.3-9). Springfield, Il: Thomas Books.

Foreman, T. & Bernet, W. (2000). A misunderstanding regarding the duty to report

suspected abuse. *Child Maltreatment*, 5, 190-197.

French, S. (1993). *Practical research: A guide for therapists*. Oxford: Butterworth-

Heinemann Ltd.

Garbarino, J. & Eckenrode, J. (1997). *Understanding abusive families: An ecological*

*approach to theory and practice*. San Francisco: Jossey-Bass Publishers.

Gardner, R. (1982). *Family evaluation in child custody litigation*. Cresskill, New

Jersey: Creative Therapeutics.

Gardner, R. (1992). *The parental alienation syndrome: A guide for mental health and*

*legal professionals*. Cresskill, New Jersey: Creative Therapeutics.

- Gardner, R. (1994). Differentiating between true and false sex abuse accusations in child custody disputes. *Journal of Divorce and Remarriage*, 21, 1-20.
- Garrity, C. and Baris, M., (1994). *Caught in the middle*. New York: Lexington Books.
- Gelles, R. & Cornell, C.P. (1990). *Intimate violence in families* (2<sup>nd</sup> ed.). Newbury Park CA: Sage Publications.
- Gould, J. (1998). *Conducting scientifically crafted child custody evaluations*. Thousand Oaks CA: Sage Publications.
- Goodman, G. & Rosenberg, M. (1987). The child witness to family violence: Clinical and legal considerations. In Jay Sonkin, (Ed.) *Domestic violence on trial: psychological and legal dimensions of family violence* (pp.97-127). New York: Springer Publishing.
- Green, A. (1986). True and false allegations of sexual abuse in custody access disputes. *Journal of American Academy Child Psychiatry*, 25, 453-456.
- Guerin, P., Fay, L., Burden, S., and Kautto, J. (1989). *The evaluation and treatment of marital conflict*. United States: Basic Books.
- Hamberger, L.K. (1997). Female offenders in domestic violence: A look at actions in their context. *Journal of Aggression Maltreatment and Trauma*, 1, 117-129.
- Haynes-Deman, C. & Baumgarten, D. (1995). Improvement of clinical and legal determinations in cases of alleged child sexual abuse. *Family and Conciliation Courts Review*, 33, 472-483.
- Health Canada (1999) *Fact Sheet, Violence against women*. Available online at: [http://www.hc-sc.gc.ca/english/pdf/womens/facts\\_violence.pdf](http://www.hc-sc.gc.ca/english/pdf/womens/facts_violence.pdf)

- Health Canada (1998) The consequences of child maltreatment: A reference guide for health practitioners. Public Health Agency of Canada. Available at:  
[http://www.phacaspc.gc.ca/ncfvcnivf/familyviolence/html/nfntsconsequencevio\\_e.html](http://www.phacaspc.gc.ca/ncfvcnivf/familyviolence/html/nfntsconsequencevio_e.html)
- Herron & Holtzworth- Munroe, (2002). Child abuse potential: A comparison of subtypes of martially violent men and non-violent men. *Journal of Family Violence, 17*, 1-21.
- Herzberger, S. (1996). *Violence within the family: Social psychological perspectives*. Boulder, Co: Westview Press.
- Horvath, L., Logan, T., & Walker, L. (2002). Child custody cases: A content analysis of evaluations in practice. *Professional Psychology: Research and Practice, 33*, 557-565.
- Hotton, T. (2001). Spousal violence after marital separation. *Juristat: Statistics Canada 21*, 1-19.
- Hynan, D. J. (1998). Interviewing children in custody evaluations. *Family and Conciliation Courts Review, 36*, 466-478.
- Jackson, W. (1999). *Methods: Doing social research*. Scarborough, ON: Prentice Hall Allyn & Bacon Canada.
- Jaffe, P., Wolfe, D. & Wilson, S.K. (1990). *Children of battered women*. Newbury Park, California: Sage.
- Jaffe, P., Poisson, S. & Cunningham, A. (2001), Domestic violence and high-conflict divorce: developing a new generation of research for children. In S. Graham-Bermann and J. Edleson, (Eds.). *Domestic violence in the lives of children: The*



- future of research, intervention and social policy* (pp.189-203). Washington, DC: American Psychological Association.
- Jaffe, P., Crooks, C., & Bala, N. (2005). *Making appropriate parenting arrangements in family violence cases: applying the literature to identify promising practices*. Ottawa: Department of Justice Canada.
- Johnston, J.& Campbell, L. E., (1993). Parent-child relationships in domestic violence families disputing custody. *Family Conciliation Courts Review*, 31, 282-298.
- Horvath, L., Logan, T., and Walker, R. (2002). Child custody cases: A content analysis of evaluations in practice. *Professional Psychology: Research and Practice*, 33, 557-565.
- Kaid, L. & Wadsworth, A. (1989). Content analysis. In P. Emmert, & L. Baker, (Eds.). *Measurement of communication behaviour* (pp.197-217). New York: Longman.
- Kaplan, S. (1996). *Family violence: A clinical and legal guide*. Washington, D.C.: American Psychiatric Press.
- Kelly, J. (1997). The best interests of the child: A concept in search of meaning. *Family and Conciliation Courts Review*, 35, 377-388.
- Klosinsky, G. (1993). Psychological maltreatment in the context of separation and divorce. *Child Abuse and Neglect*, 127, 557-563.
- Kruk, E. (1993). *Divorce and disengagement: Patterns of fatherhood within and beyond marriage*. Halifax: Fernwood Publishing.

Kurz, D. (1996). Separation, divorce and woman abuse. *Violence Against Women*, 2, 163-181.

Lacey, A. & Luff, D. (2001). *Trent focus for research and development in primary health care: Qualitative data analysis*. Sheffield, England: Trent Focus.

Lecklitner, G., Malik, NI, Aaron, S., & Lederman, C. (1999). Promoting safety for abused children and battered mothers: Miami-Dade county's model dependency court intervention program. *Child Maltreatment*, 4, 175-183.

Lee, Mo-Yee, (1997). Post-divorce inter-parental conflict, children's contact with both parents, children's emotional processes, and children's behavioural adjustment. *Journal of Divorce & Remarriage*, 27, 61-82.

Lemon, K. D. (1995). Statues creating rebuttal presumptions against custody to batterers: how effective are they? *William Mitchell Law Review*, 28, 601-676.

Lystad, M., Rice, M., & Kaplan, S. (1996) *Family violence: A clinical and legal guide*. Washington, DC: American Psychiatric Press.

Manitoba Family Services (1996). *A consultation workbook on the Child and Family Services Act*. Internal division working document. Government of Manitoba. Winnipeg: Manitoba Family Services.

Mapes B. E. (1995). *Child eyewitness testimony in sexual abuse investigations*. Brandon, VT: Clinical Psychology Publishing.

Markward, M. (1997). The impact of domestic violence on children. *Families in Society*, 78, 66-70.

Mason J. (1996). *Qualitative researching*. Thousand Oaks, CA: Sage Publications.

Marlow, C. (1997). *Research methods for generalist social work*. Florence, KT:

Brooks/Cole.

McIsaac, H. and Finn, C., (1999). Parents beyond conflict: A cognitive restructuring model for high-conflict families in divorce. *Family and Conciliation Courts Review*, 37, 74-82.

McLeer, S. (1988). Psychoanalytic perspectives on family violence. In V. Hasselt, R. Morrison, A. Bellack, & M. Hersen (Eds.). *Handbook of family violence*. (pp.12-24). New York: Plenum Press.

McGovern, K. B. (1991). Was there really child sexual abuse or is there another explanation? In M. Robin (Ed.) *Assessing child maltreatment reports*. (pp.145-159) New York: Haworth Press.

Mikkelsen, E. J. & Guthell, T. G. (1992). False sexual abuse allegations by children and adolescents: Contextual factors and clinical subtypes. *American Journal of Psychotherapy*, 46, 556-572.

Available online at: [http://www.hcsc.gc.ca/hppb/familyviolence/famvio\\_e.html](http://www.hcsc.gc.ca/hppb/familyviolence/famvio_e.html).

National Clearinghouse on Family Violence (1997). Child abuse and neglect overview paper. National Clearinghouse on Violence.

[http://www.hcsc.gc.ca/hppb/familyviolence/html/nfntsnegl\\_e.html](http://www.hcsc.gc.ca/hppb/familyviolence/html/nfntsnegl_e.html).

National Clearinghouse on Family Violence. (2001). *Prevention and treatment of violence against women: Systematic review and recommendations*. Available online at: <http://www.nccanch.acf.hhs.gov/pubs/factsheets/canstats.cfm>.

- Newmark, L., Harrell, A. & Salem, P. (1995). Domestic violence and empowerment in custody and visitation cases. *Family and Conciliation Courts Review*, 33, 30-62.
- Nobes, G. & Smith, M. (2002). Family structure and the physical punishment of children. *Journal of Family Issues*, 23, 349-373.
- O'Leary, D. (1988). Physical aggression between spouses: A social learning theory perspective. In V. Hasselt, R. Morrison, A. Bellack, & M. Hersen, (Eds.). *Handbook of family violence* (pp.31-55). New York: Plenum Press.
- Pagelow, M.D. (1997). Battered women: a historical research review and some common myths. *Journal of Aggression Maltreatment and Trauma*, 1, 97-116.
- Patton, P.S. (1997). *Qualitative evaluation and research methods*. Newbury Park: Sage Publications.
- Penfold, P.S. (1997). Questionable beliefs about child sexual abuse allegations during custody disputes. *Canadian Journal of Family Law*, 14, 11-30.
- Quinn, K. (1991). False and unsubstantiated sexual abuse allegations: clinical issues. In M. Robin, (Ed.) *Assessing child maltreatment reports* (pp.145-159). New York: Haworth Press.
- Reid, G., Sigurdson, E., Christianson-Wood, J., & Wright, A. (1996). *Basic issues concerning the assessment of risk in child welfare work*. Family Violence Prevention Division, Ottawa: Health Canada.
- Ritchie, J. & Spencer, L., (1994). Qualitative data analysis for applied policy research. In A. Bryman and R. Burgess, (Eds.). *Analyzing qualitative data* (pp.173-195). New York: Routledge.

- Rosenbaum, A., Geffner, R. & Benjamin, S. (1991). A biopsychosocial model for understanding relationship aggression. *Journal of Aggression Maltreatment and Trauma, 1*, 57-79.
- Rosnes, M. (1997). The invisibility of male violence in Canadian child custody and access decision-making. *Canadian Journal of Family Law, 14*, 31-60.
- Ross, S. (1996). Risk of physical abuse to children of spouse abusing parents. *Child Abuse and Neglect, 20*, 589-598.
- Rossmann, B. & Rosenberg, M. (1997). Psychological maltreatment: A needs analysis and application for children in violent families. In R. Geffner, S. Sorensen, P. Lundberg-Love, (Eds.). *Violence and sexual abuse at home: Current issues in spousal battering and child maltreatment* (pp.245-262). New York: Haworth Press.
- Rourke, L., Anderson, T., Garrison, D.R., & Archer, W. (2001). *Methodological issues in the content analysis of computer conference transcripts. International Journal of Artificial Intelligence in Education*. Available online at: <http://cbl.leeds.ac.uk/ijaiied/>.
- Rubin, A., & Babbie, E. (1989). *Research methods for social work*. Belmont, CA: Wadsworth Publishing.
- Schutz, B., Dixon, E., Lindenberger, J. & Ruther, N. (1989). *Solomon's sword: A practical guide to conducting child custody evaluations*. San Francisco, CA: Jossey-Bass Publishers.
- Skafke, D. (1985). *Child custody evaluations: a practical guide*. Beverly Hills, CA: Sage Publications.

- Smart, C., Neale, B., & Wade, A. (2001). *The changing experience of childhood. families and divorce*. Cambridge, UK: Polity.
- Sorensen, E., (1993). *Children's stress and coping*. New York: The Guilford Press.
- Stahl, P. (1996). Second opinions: an ethical and professional process for reviewing child custody evaluations. *Family and Conciliation Courts Review*, 34, 386-395.
- Star, R. (1982). Characteristics of family violence. In J.P. Flanzer, (Ed.). *The many faces of family violence* (pp.14-23). Springfield, Illinois: Thomas Books.
- Stemler, S. (2001). An overview of content analysis. *Practical assessment, research and evaluation*, 7 (17). Available online at: <http://ericae.net/pare/getvn.asp?v=7&n=17>.
- Stewart, R. (2001). *The early identification and streaming of cases of high conflict separation and divorce: A review*. Ottawa: Department of Justice Canada.
- Straus, M.A. & Gelles, R. J. (1988). Violence in American families: how much is there and why does it occur? In E. Nunnally, C. Chilman, & F. Cox, (Eds.). *Troubled relationships: Families in trouble series, vol. 3.* (pp.141-145). New York: McGraw-Hill.
- Stoltz, J. & Ney, T. (2002). Resistance to visitation: rethinking parental and child alienation. *Family Court Review*, 40, 220-231.
- Teyber, E. (1992). *Helping children cope with divorce*. New York: Lexington.
- Theonnes, N. & Tjaden, P.G. (1990). The extent, nature, and validity of sexual abuse allegations in custody/visitation disputes. *Child Abuse & Neglect*, 14, 151-163.

- Thyfaut, R., Browne, A., & Walker, L. (1987). When battered women kill: Evaluation and expert witness techniques. In Jay Sonkin, *Domestic violence on trial: psychological and legal dimensions of family violence* (pp.71-85). New York: Springer Publishing.
- Tower, C. (1996). *Child abuse and neglect, (3<sup>rd</sup> ed.)*. Needham Heights, MA: Simon & Schuster Company.
- Trocme N., Mac Laurin, B., Fallon, B., Daciuk, J., Billingsley, D., Tourigny, M., Mayer, M., Wright, J., Barter, K., Burford, G., Hornick, J., Sullivan R., McKenzie, B. (2001). *Canadian incidence study of reported child abuse and neglect: Final report*. Ottawa, Ontario: Minister of Public Works and Government Services Canada.
- Turkat, I.D. (1995). Divorce related malicious mother syndrome. *Journal of Family Violence, 10*, 253-264.
- Vaselle-Augenstein, R. & Ehrlich, A. (1992). Male batterers: Evidence for psychopathology. In E.C. Viano, (Ed.) *Intimate violence: Interdisciplinary perspectives* (pp.139-151). Washington, DC: Hemisphere Publishing.
- Viano, E.C. (1992). Violence among intimates: major issues and approaches. In E.C.Viano, *Intimate violence: Interdisciplinary perspectives* (pp.3-12). Washington DC: Hemisphere Publishing.
- Wakefield, H. & Underwager, R. (1988). *Accusations of child sexual abuse*. Springfield, Illinois: Charles C. Thomas.
- Walker, L. & Edwall, G. (1987). Domestic violence and determination of visitation and custody in divorce. In Jay Sonkin, *Domestic Violence on trial:*

*Psychological and legal dimensions of family violence* (pp.142-153). New York: Springer Publishing.

Wallerstein, J. & Kelly, J. (1980). *Surviving the breakup: How children and parents cope with divorce*. New York: Basic Books.

Wallerstein J., Lewis, J., & Blakeslee, S. (2000). *The unexpected legacy of divorce: A 25 year landmark study*. New York: Hyperion.



## LIST OF APPENDICES

Appendix B	Definitions of Child Abuse	151
Appendix C	Characteristics of Parent Alienation Process	157
Appendix D	Spousal Abuse Definitions	160
Appendix E	Johnston and Campbell's Typology	162
Appendix F	Reporting of Child Abuse – Child and Family Services Act	165
Appendix G	Coding Guidelines	169
Appendix H	Letter of permission to access files	178

**Appendix A**

**FILE REVIEW (sept 15 rev.)**

Audit File # \_\_\_\_\_ Completed by: \_\_\_\_\_ Date of Court Referral: \_\_\_\_\_ Date of Report: \_\_\_\_\_

CASE TYPE	RELATIONSHIP TYPE
1. Access Only	1. Legal Marriage
2. Custody and Access	2. Divorced
3. Custody Only	3. Common law
4. Care and Control	4. Never lived together
5. Other	5. Still living together
	6. Separated without court order or legal agreement
	7. Separated with legal agreement or court order
	8. other

Relationship Length                  Separation Length  
 Years \_\_\_ or Months \_\_\_      Years \_\_\_ or Months \_\_\_

**Nature of Physical Relationship**

- |   |  |
|---|--|
| <input type="checkbox"/> 1. Husband moved out           | <input type="checkbox"/> 5. Wife moved with children   |
| <input type="checkbox"/> 2. Wife moved to shelter       | <input type="checkbox"/> 6. Still in same home         |
| <input type="checkbox"/> 3. Husband moved with children | <input type="checkbox"/> 7. Alternating at family home |
| <input type="checkbox"/> 4. Wife moved out w/o children | <input type="checkbox"/> 8. Other                      |
|   | <input type="checkbox"/> 9. not described              |

**Petitioner/ Respondent**

- |                                    |   |
|------------------------------------|---|
| <input type="checkbox"/> 1. Father | <input type="checkbox"/> Other                  |
| <input type="checkbox"/> 2. Mother | <input type="checkbox"/> Not identified in file |

**Interim Arrangement at time of referral**

Child	Gender	Age	Sole F 1	Sole M 2	Joint F cc 3	Joint M cc 4	Shared 5	Split 6	Not Resolved 7
1									
2									
3									
4									
5									

**Supervised Access for**

1. Father  
 2. Mother

Living arrangements – Father’s home			Living arrangements – Mother’s home			
Child	Biol F w. Female Partner 1	Biol F w. Step Mother 2	Bio F only 3	Biol M. w. Male. Partner 1	Biol M. w Step-Fa. 2	Biol.M. only 3
1						
2						
3						
4						
5						

**Contact with access only parent/or access arrangement**

C h.	1/wk 1	every2 <sup>nd</sup> w/e on's- +1 per wk 2	1/mo n 3	H's only 4	Irreg no pattern 5	Teleph / Ltr only 6	No Cntct 7	2nd wknd days only 8	2nd wknd days + wkday s 9	Ever y wkn d 10	Other 11
1											
2											
3											
4											
5											

Mediation tried before assessment ordered?  1. Yes     0. No     3. Not Known

**Allegations by father:**

- |   |  |
|---|--|
| <input type="checkbox"/> 1. Physical abuse              | <input type="checkbox"/> 15. Controlling behaviour       |
| <input type="checkbox"/> 2. Emotional abuse             | <input type="checkbox"/> 16. Poor Parenting              |
| <input type="checkbox"/> 3. Sexual abuse                | <input type="checkbox"/> 17. Alienating behaviour        |
| <input type="checkbox"/> 4. Verbal abuse                | <input type="checkbox"/> 18. Criminal behaviour          |
| <input type="checkbox"/> 5. Physical abuse of children  | <input type="checkbox"/> 19. Drug/Alcohol abuse          |
| <input type="checkbox"/> 6. Neglect of children         | <input type="checkbox"/> 20. Sexual behaviour            |
| <input type="checkbox"/> 7. Emotional abuse of children | <input type="checkbox"/> 21. Outside relationships       |
| <input type="checkbox"/> 8. Sexual abuse of children    | <input type="checkbox"/> 22. Anger/ management problems  |
| <input type="checkbox"/> 9. Irreconcilable differences  | <input type="checkbox"/> 23. Mutual verbal               |
| <input type="checkbox"/> 10. General deterioration      | <input type="checkbox"/> 24. Infidelity                  |
| <input type="checkbox"/> 11. Severe conflict arguing    | <input type="checkbox"/> 25. Interfering w. access/ plan |
| <input type="checkbox"/> 12. Abandonment by spouse      | <input type="checkbox"/> 26. Communication problems      |
| <input type="checkbox"/> 13. Financial irresponsibility | <input type="checkbox"/> 27. Mental Health issues        |
| <input type="checkbox"/> 14. Denigrating behaviour      | <input type="checkbox"/> 28. Other                       |

Comments:

**Allegations by mother:**

- |   |   |
|---|---|
| <input type="checkbox"/> 1. Physical abuse              | <input type="checkbox"/> 15. Controlling behaviour        |
| <input type="checkbox"/> 2. Emotional abuse             | <input type="checkbox"/> 16. Poor Parenting               |
| <input type="checkbox"/> 3. Sexual abuse                | <input type="checkbox"/> 17. Alienating behaviour         |
| <input type="checkbox"/> 4. Verbal abuse                | <input type="checkbox"/> 18. Criminal behaviour           |
| <input type="checkbox"/> 5. Physical abuse of children  | <input type="checkbox"/> 19. Drug/Alcohol abuse           |
| <input type="checkbox"/> 6. Neglect of children         | <input type="checkbox"/> 20. Sexual behaviour             |
| <input type="checkbox"/> 7. Emotional abuse of children | <input type="checkbox"/> 21. Outside relationships        |
| <input type="checkbox"/> 8. Sexual abuse of children    | <input type="checkbox"/> 22. Anger/ management problems   |
| <input type="checkbox"/> 9. Irreconcilable differences  | <input type="checkbox"/> 23. Mutual verbal                |
| <input type="checkbox"/> 10. General deterioration      | <input type="checkbox"/> 24. Infidelity                   |
| <input type="checkbox"/> 11. Severe conflict arguing    | <input type="checkbox"/> 25. Interfering with access plan |
| <input type="checkbox"/> 12. Abandonment by spouse      | <input type="checkbox"/> 26. Communication problems       |
| <input type="checkbox"/> 13. Financial irresponsibility | <input type="checkbox"/> 27. Mental Health issues         |
| <input type="checkbox"/> 14. Denigrating behaviour      | <input type="checkbox"/> 28. Other                        |

**Comments:**

**Issues Identified by Counsellor**

- 1. Denial of access by:  1. Father  2. Mother
- 2. Scheduling problems
- 3. Supervised access problems
- 4. Termination of access by:  1. Father  2. Mother
- 5. Mobility Issue
- 6. Reintroduction of access to:  1. Father  2. Mother
- 7. Alienating parent :  1. Father  2. Mother
- 8. Parent missing access visits:  1. Father  2. Mother
- 9. Disengagement of parent:  1. Father  2. Mother
- 10. Poor parenting by:  1. Father  2. Mother  3. Both
- 11. Uncommitted ambivalent child
- 12. Conduct disorder of child
- 13. Behavioural problems of child
- 14. Loyalty conflict expressed
- 15. Loyalty conflict inferred
- 16. Anger issues of child
- 17. Manipulation/control issues on part of child
- 18. Alienation of child (use criteria)
- 19. Child negatively affected by conflict
- 20. Mental health issues of:  1. Father  2. Mother  3. Both
- 21. Lifestyle change of:  1. Father  2. Mother
- 22. Same sex relationship for:  1. Father  2. Mother
- 23. New partner issues for child
- 24. Peer relations a priority for child
- 25. Over involvement in dispute/too much power.
- 26. Ongoing parental conflict
- 27. Communication difficulties parent to parent
- 28. Communication difficulties Father to child
- 29. Communication difficulties Mother to child

- 30. Conflict father and child
- 31. Conflict mother and child
- 32. New partner issues of ex spouse
- 33. New partner issues of Father
- 34. New partner issues of Mother
- 35. Grandparent involvement interference
- 36. Abuse allegations to child – physical
- 37. Abuse allegations to child – sexual
- 38. Abuse allegations to child – emotional
- 39. Child witness of family violence
- 40. Drug abuse by:  1. Father  2. Mother  3. Both
- 41. Alcohol abuse by:  1. father  2. Mother  3. Both
- 42. Protection order affecting access against:  1. Father  2. Mother
- 43. No contact order with children against:  1. Father  2. Mother
- 44. Criminal charges against:  1. Father  2. Mother
- 45. Imprisonment of:  1. Father  2. Mother
- 46. Death of:  1. Father  2. Mother
- 47. Child support issues
- 48. Custody or primary care reversal
- 49. Property issues
- 50. Drug trafficking
- 51. Denigrating other parent by:  1. Father  2. Mother  3. Both
- 52. Controlling behaviour by:  1. Father  2. Mother
- 53. Assault physical by:  1. Father  2. Mother  3. Both
- 54. Emotional abuse by:  1. Father  2. Mother  3. Both
- 55. Sexual abuse by:  1. Father  2. Mother
- 56. Assault charges against:  1. Father  2. Mother
- 57. Other

Comments:

### Child Abuse Allegations

A. Physical Abuse Allegations:  1. Yes  0. No      Physical  1. Yes  0. No

Allegation Category	1. Yes	0. No
1. Confirmed		
2. Collateral supported		
3. Child Supported		
4. Not substantiated b. alleged		
5. Admitted by perpetrator		

1. Physical abuse  1. Current  2. Past

Person	Perpetrator 1.	Perpetrator 2.	Perpetrator 3.
1. Father			
2. Mother			

3. Step Father			
4. Step Mother			
5. Sibling			
6. Step Sibling			
7. Grandfather			
8. Grandmother			
9. Other relative			
10. Other			

	Type of Abuse 1.	Type of Abuse 2.	Type of Abuse 3.
1. Shaken Baby			
2. Inappropriate Discipline			
3. Other			

B. Sexual Abuse :  1. Yes  0. No

Allegation Category	1. Yes	0. No
1. Confirmed		
2. Collateral supported		
3. Child Supported		
4. Not substantiated b. alleged		
5. Admitted by perpetrator		

Sexual abuse by:

Person	Perpetrator 1.	Perpetrator 2.	Perpetrator 3.
1. Father			
2. Mother			
3. Step Father			
4. Step Mother			
5. Sibling			
6. Step Sibling			
7. Grandfather			
8. Grandmother			
9. Other relative			
10. Other			

2. Sexual abuse  1. current  2. past

Sexual Abuse Type	Sexual Abuse Type: 1	Sexual Abuse Type: 2	Sexual Abuse Type: 3
1. Sexual activity completed			
2. Sexual activity attempted			
3. Touching/ Fondling			
4. Adult exposure of genitals			

5. Sexual exploitation			
6. Sexual Harassment			
7. Voyeurism			
8. Not determined			

C. Neglect:  1. Yes  0. No

Allegation Category	1. Yes	0. No
1. Confirmed		
2. Collateral supported		
3. Child Supported		
4. Not substantiated b. alleged		
5. Admitted by perpetrator		

Neglect:  1. current  2. past

Neglect by:

Person	Perpetrator 1.	Perpetrator 2.	Perpetrator 3.
1. Father			
2. Mother			
3. Step Father			
4. Step Mother			
5. Sibling			
6. Step Sibling			
7. Grandfather			
8. Grandmother			
9. Other relative			
10. Other			

Neglect Type	Neglect Type: 1	Neglect Type: 2	Neglect Type: 3
1. Failure to supervise or protect/physical harm			
2. Failure to supervise or protect/sexual abuse			
3. Physical neglect			
4. Medical neglect			
5. Failure to provide treatment for mental/emotional/developmental problem			
6. Permitting maladaptive/criminal behaviour			
7. Abandonment/ refusal of custody			
8. Educational neglect			



psychotic and paranoid reaction violence were not recorded, though it is possible these types existed in those cases that were not determined or described.

Table 9 *Type of Domestic Violence (N=31)*

Type of Domestic Violence		Frequency	Percent
1	Ongoing episodic	14	45
3	Separation engendered and post divorce trauma	11	35
2	Male controlling interactive	2	7
	Not determined	4	13
	Total	31	100

The highest percentage of cases were ongoing episodic violence where 45% of domestic violence cases reflected a history of violence in the relationship. This is relevant for evaluators as it reflects that in almost half of domestic violence cases violence is an historical characteristic in the relationship. Eleven cases or 35% were thought to be cases where the violence in the home was related to the separation process in some way. This typically represents cases where the perpetrator acts in a violent fashion out of character for their normal way of interacting in the relationship. This type of violence is seen as a result of the stress and deterioration that occurs in a dissolving relationship. Four cases (13%) were not determined due to insufficient information available to categorize the case.

When examining the types of domestic violence with allegations of child physical abuse, it was found that 12 out of 31 children (39%) who were physically abused were in situations where there was violence between the parents. This reflects the overall rate of co-occurrence between child physical and spousal physical abuse.

Victims of domestic violence dealt with it in a number of ways. The file review instrument captured up to three varied responses. Informing police was the highest recorded response action at 11 cases or 35% of domestic violence cases. Protection orders were taken out against the father in nine situations (29%) and against the mother in three cases and against 'both' parents in three cases. Victims used a shelter in five cases or 16%.

### Alienation

One of the research questions was aimed at determining the extent of any alienation processes that may be occurring in high conflict families. Alienation as a problem in post separation conflict was alleged in approximately nine or 13% of total cases (N=70). Fathers alleged alienation as a feature in 7 out of 9 cases. The counsellors identified alienation as an issue in 6% of cases and determined alienation characteristics as occurring in 10% of the cases. This finding contrasts with the findings of authors such as Gardner (1993) who suggest alienation is frequent in high conflict families. However there is some practical significance to the fact that 10% of high conflict cases may be complicated with the symptoms associated with an alienating process. From the viewpoint of an evaluator, these are important elements to consider as they have important implications for determining the outcome of a case in terms of custody and access arrangements.

Alienation characteristics were composed of campaign of denigration in four cases; weak rationalizations for denigrating other parent in one case; lack of ambivalence in one case; reflexive support of loved parent in two situations; borrowed scenarios of loved parent against the other in three cases, and not identified

**D. Emotional Maltreatment:**  1. Yes  0. No

Allegation Category	1. Yes	0. No
1. Confirmed		
2. Collateral supported		
3. Child Supported		
4. Not substantiated b. alleged		
5. Admitted by perpetrator		

Emotional Maltreatment:  1. current  2. past  
 Emotional Maltreatment by:

Person	Perpetrator 1.	Perpetrator 2.	Perpetrator 3.
1. Father			
2. Mother			
3. Step Father			
4. Step Mother			
5. Sibling			
6. Step Sibling			
7. Grandfather			
8. Grandmother			
9. Other relative			
10. Other			

Emotional Maltreatment	Type: 1	Type: 2	Type: 3
1. Emotional abuse			
2. Non-organic failure to thrive			
3. Emotional neglect			
4. Exposure to family violence			

### Spousal Abuse

**A. Spousal Abuse- Physical :**  1. Yes  0. No

Allegation Category	1. Yes	0. No
1. Confirmed		
2. Collateral supported		
3. Child Supported		
4. Not substantiated b. alleged		
5. Admitted by perpetrator		

Time	1. Yes	0. No
1. Since beginning of relationship/throughout		
2. Since married		
3. Since children born		
4. Before separation/separation related		
5. Not described		

Characteristics	Characteristics 1	Characteristics 2	Characteristics 3
1. Drug alcohol related			
2. Mutual violence			
3. Children Witnesses			
4. Children hurt			

Elements	Elements 1	Elements 2	Elements 3
1. Beating			
2. Hitting			
3. Kicking			
4. Burning			
5. Pushing			
6. Shaking			
7. Choking			
8. Biting			
9. Assault with weapon			
10. Rough handling			
11. Confinement			
12. Harmful use of force or restraint			
13. not specified			

Reported by  1. F  2. M  3. Both

B. Sexual Abuse and Exploitation  1. Yes  0. No

Allegation Category	1. Yes	0. No
1. Confirmed		
2. Collateral supported		
3. Child Supported		
4. Not substantiated b. alleged		
5. Admitted by perpetrator		

Time	1. Yes	0. No
1. Since beginning of relationship/throughout		
2. Since married		
3. Since children born		
4. Before separation/separation related		
5. Not described		

Characteristics	Characteristics 1	Characteristics 2	Characteristics 3
1. Drug alcohol related			
2. Mutual violence			
3. Children Witnesses			
4. Children hurt			

Reported by  1. F  2. M  3. Both

Elements – Sexual Abuse	Elements 1	Elements 2	Elements 3
1. Sexual assault all forms			
2. sexual harassment			
3. Sexual exploitation			
4. Forcing unwanted, unsafe or degrading sexual activity			
5. Ridicule to denigrate, control or limit person's sexual activity or reproductive choice.			

C. Emotional Abuse:  1. Yes  0. No

Allegation Category	1. Yes	0. No
1. Confirmed		
2. Collateral supported		
3. Child Supported		
4. Not substantiated b. alleged		
5. Admitted by perpetrator		

Time	1. Yes	0. No
1. Since beginning of relationship/throughout		
2. Since married		
3. Since children born		
4. Before separation/separation related		
5. Not described		

Characteristics	Characteristics 1	Characteristics 2	Characteristics 3
1. Drug alcohol related			
2. Mutual violence			
3. Children Witnesses			
4. Children hurt			

Reported by  1. F  2. M  3. Both

Elements- Emotional Abuse	Elements 1	Elements 2	Elements 3
1. yelling			
2. Screaming			
3. name-calling			
4. domination through intimidation			
5. domination through social isolation			
6. domination through verbal threats or criticism\			
7. domination through exploitation			
8. criminal harassment – ‘stalking’			

D. Economic or financial abuse:  1. Yes  0. No

Allegation Category	1. Yes	0. No
1. Confirmed		
2. Collateral supported		
3. Child Supported		
4. Not substantiated b. alleged		
5. Admitted by perpetrator		

Time	1. Yes	0. No
1. Since beginning of relationship/throughout		
2. Since married		
3. Since children born		
4. Before separation/separation related		
5. Not described		

Characteristics	Characteristics 1	Characteristics 2	Characteristics 3
1. Drug alcohol related			
2. Mutual violence			
3. Children Witnesses			
4. Children hurt			

Reported by  1. F  2. M  3. Both

Elements- Financial Abuse	Elements 1	Elements 2	Elements 3
1. Stealing or defrauding partner			
2. withholding money necessary to buy food or medical treatment			
3. manipulating or exploiting partner for financial gain			
4. denying access to financial resources			
5. domination through social isolation			
5. preventing from working / controlling occupational choice			

E. Spiritual Abuse:  1. Yes  0. No

Allegation Category	1. Yes	0. No
1. Confirmed		
2. Collateral supported		
3. Child Supported		
4. Not substantiated b. alleged		
5. Admitted by perpetrator		

Time	1. Yes	0. No
1. Since beginning of relationship/throughout		
2. Since married		
3. Since children born		
4. Before separation/separation related		
5. Not described		

Characteristics	Characteristics 1	Characteristics 2	Characteristics 3
1. Drug alcohol related			
2. Mutual violence			
3. Children Witnesses			
4. Children hurt			

Elements- Spiritual Abuse	Elements 1	Elements 2	Elements 3
1. Using person's religious beliefs to manipulate, dominate, or control			
2. preventing from pursuing religious practice			
3. ridiculing beliefs			

Reported by  1. F  2. M  3. Both

## Domestic Spousal Violence Types

- 1. Ongoing Episodic
- 2. Female initiated Violence
- 3. Male controlling interactive violence
- 4. Separation engendered and post divorce trauma
- 5. Psychotic and paranoid reactions
- 6. not determined
- 7. Mixed variety

Violence Dealt With By:	Response 1	Response 2	Response 3
1. informing police			
2. using shelter			
3. stayed with family/others			
4. charges laid			
5. never reported			
6. protection order against <input type="checkbox"/> F			
7. protection order against <input type="checkbox"/> M			
8. protection order against <input type="checkbox"/> Both			
9. Other			

Comments:

Alienation:  1 yes  0 no

Alienation Characteristics	1	2	3
1. Campaign of denigration			
2. weak rationalization for deprecation of other parent			
3. lack of ambivalence			
4. insistence that thoughts and feelings not influenced by the loved parent			
5. reflexive support of the loved parent			
6. lack of guilt and rationalization of punishment of the other parent			
7. borrowed scenarios of loved parent used to denigrate other parent-mirror loved parent's examples/scenarios			
8. hatred extends to extended family of alienated parent			
9. Not identified			

Supported by:	Supported by 1	Supported by 2	Supported by 3
1. collaterals			
2. child/children			
3. other			

Assessment Recommendations



1. supervised contact for  1. F  2. M

Time	Father	Mother
1. Once per week for		
2. Every second weekend with overnights and once per week.		
3. once per month		
4. Holidays only		
5. Telephone/letter only		
6. No contact recommended for		
7. every second weekend days only		
8. every second weekend days only and weekday (s)		
9. every weekend		
11. other		

**Custody:**

- 1. Sole Father
- 2. Sole Mother

**Joint**

- 1. Primary Care and Control Father
- 2. Primary Care and Control Mother
- 3. Shared
- 4. Split
- 5. other

**Comments:**

**Classification of case**

- n/a
- 1. Reasonable suspicion of child or spousal abuse occurring
- 2. Abuse was not considered a major concern as determined by the recommendations made or where in the conclusions section the assessor indicated this explicitly.
- 3. Suspicions were such that a referral was not made but recommendations developed to provide the child or children with a reasonable amount of protection (eg. Supervised visits)
- 4. Not determined – where the assessor may have recorded allegations but these allegations were not mentioned further in the conclusions or recommendations /or where the assessor indicated a non determination of allegations
- 5. Abuse described – parenting plan developed taking this into consideration eg. Highly structured arrangement for access, /no contact between parents / use of communication book / protection orders intact etc.
- 6. Abuse not described

**Child Abuse**

- n/a
- 1. Confirmed child abuse as per court or information related to child abuse/ protection authority/ or admission.
- 2. CFS actively involved
- 3. Child abuse unsubstantiated
- 4. Child abuse corroborated by child(ren) collateral (s)
- 5. Child abuse admitted by perpetrator

### Spousal Abuse

- n/a
- 1. Spousal abuse confirmed as per court document information/ admission by abuser and/or documented in report.
- 2. Spousal abuse unsubstantiated
- 3. Spousal abuse corroborated by child(ren)/ collateral (s).
- 4. Spousal abuse admitted by perpetrator.

Notes:

DISPOSITION	Father 1	Mother 2	Both 3
1. Alcohol assessment/treatment			
2. Drug assessment/treatment			
3. Parenting classes			
4. Counselling of			
5. Counselling child and			
6. Family Violence program			
7. Anger management for			
DISPOSITION	1. Yes	0. No	
7. Counselling child only			
8. Blended family counseling			
9. Family Therapy			
10. Mediation			
11. Child and family services/ protection investigation			
12. Communication book			
13. Follow up assessment recommended			
14. Giving children hope			
15. For the sake of the children			
16. Neutral pickup/drop off			
17. Caught in the middle			
18. Other			

**Appendix B**

## DEFINITIONS OF CHILD ABUSE

### 1. Physical Abuse

- 1.0 Shaken Baby Syndrome: Brain or neck injuries have resulted from the infant being shaken.
- 1.1 Inappropriate Punishment : Child abuse has occurred as a result of inappropriate punishment such as hitting with a hand or object that has led to physical harm of the child, or put the child at substantial risk of harm.
- 1.2 Other Physical Abuse: Any other form of physical assault inflicted on a child such as burning a child, hitting or harming the child physically that does not appear to be intended as punishment.

### 2. Sexual Abuse

- 2.0 Sexual Activity Completed: Includes oral, vaginal or anal sexual activities.
- 2.1 Sexual Activity Attempted: Attempts to have oral vaginal or anal sex with a child.
- 2.2 Touching/Fondling of Genitals: Sexual activity consisting of the touching/fondling of genitals.
- 2.3 Adult Exposing Genitals to Child: Sexual activity consisting of exposure of genitals
- 2.4 Sexual Exploitation – Involved in Prostitution or Pornography: Situations where an adult sexually exploits a child for purposes of

financial gain or other profit. (Includes voyeurism if used for pornographic purposes.

2.5 Sexual Harassment: Encouragement, proposition or suggestion of a sexual nature.

2.6 Voyeurism: Activities where a child is encouraged to exhibit himself/herself for the sexual gratification of the alleged perpetrator

### 3. Neglect

3.0 Failure to Supervise or Protect Leading to Physical Harm:

Situations where a child is at substantial risk of harm because of the caregiver's failure to provide protection and safety or supervision.

Includes such situations as harm done to a child because of an individual's actions such as drunk driving or engaging in dangerous criminal activities with a child.

3.1 Failure to Supervise or Protect Leading to Sexual Abuse: The child is or was at substantial risk of being sexually molested or sexually exploited and the caregivers who knew or should have known failed to protect the child adequately.

3.2 Physical Neglect: The child has suffered or was at substantial risk of suffering physical harm caused by the caregiver's failure to care and provide for the child adequately. Includes inadequate nutrition, clothing and unhygienic or dangerous living conditions. Evidence or suspicion must show that the caregiver was at least partially responsible for the situation.

- 3.3 Medical Neglect: A child's caregiver did not provide the appropriate support, consent, or provisions so that the child received required medical treatment to cure, prevent, or alleviate physical harm or suffering.
- 3.4 Failure to Provide Treatment for Mental, Emotional or Developmental Problem: Situations where a child was at substantial risk of suffering from emotional harm as demonstrated by severe anxiety, depression, withdrawal, self-destructive or aggressive behaviour, or suffering from a mental, emotional or developmental condition that could seriously impair the child's development. The caregiver did not provide, or refused or was unavailable or unable to consent to treatment to remedy or alleviate the harm. Includes failing to provide treatment for school-related problems such as learning and behavioural problems, as well as treatment for infant development problems such as non-organic failure to thrive.
- 3.5 Permitting Maladaptive/Criminal Behaviour: Situations where a child has committed a criminal offence with the encouragement of the child's caregiver, or because of the caregiver's failure or inability to supervise the child adequately. Situations where the caregiver failed to intervene appropriately in order to prevent treatment aimed at curtailing reoccurrence of behaviour. This category overlaps with failure to supervise and failure to provide treatment.

- 3.6 Abandonment/Refusal of Custody: Caregiver to child has died or was unable to exercise custodial rights and did not make adequate provisions for care and custody or the child was in a placement and the caregiver refused or was unable to take custody.
- 3.7 Educational Neglect: Caregivers knowingly allowed chronic truancy (5 days or more a month), failed to enroll the child, or repeatedly kept the child at home. Situations where the caregivers failed to cooperate with treatment for developmental, emotional, or mental problems associated with school are classified under failure to provide treatment.

#### 4. Emotional Maltreatment

- 4.0 Emotional Abuse: Child suffers or is at substantial risk of suffering from mental, emotional, or developmental problems caused by overtly hostile, punitive treatment or habitual or extreme verbal abuse (threatening, belittling, etc.)
- 4.1 Non-organic Failure to Thrive: A marked or cessation of growth in a child under age 3 for which no organic reason can be identified. Where inadequate nutrition is a cause cases fall under physical neglect. Non-organic failure to thrive is classified under emotional abuse because of its particular characteristics.
- 4.2 Emotional Neglect: Situations where a child suffered or is at substantial risk of suffering from mental, emotional, or developmental problems caused by inadequate nurturance/affection.

4.3 Exposed to Family Violence: A child has been witness to or involved with family violence within his/her home environment. This includes situations in which the child indirectly witnessed the violence (e.g. saw the physical injuries on his/her caregiver the next day).



## Appendix C

## CHARACTERISTICS OF PARENT ALIENATION PROCESS

- a) A 'campaign' of denigration where a child is obsessed with hatred of the other parent, denigrates the parent consistently and fervently, even in the face of contradictory evidence of a time when the parent had a positive relationship with the child
- b) Rationalizations for the deprecation are characteristically 'weak, frivolous, or absurd'. The child may highlight minor altercations that took place between the parent and child many years earlier, and is unable to provide compelling reasons for the ongoing animosity. The child may offer allegations that are extreme or consider normal parenting directives as unacceptable and proof of the other parent's abuse or unacceptable behaviour and attributes.
- c) Lack of ambivalence is prominent. Ambivalence is seen as a normal element in all human relationships however an alienated child does not reveal mixed feelings and exhibits a set of feelings that consider the parent as all bad, with no redeeming qualities even in the face of contradictory evidence. It is as if the memory of any positive characteristics of the other parent or the relationship with the other parent has been totally erased.
- d) Children will often contend that their rejection of the other parent is totally their own decision and based on their own experiences and feelings. They deny any involvement of their custodial parent and will resist that parent's suggestions of involvement with the other parent. Often the custodial parent reinforces this 'independent thinking' by suggesting contact, but bowing to

the child's insistence in not carrying through, considering this 'proof' that the other parent must be dangerous or that involvement poses some risk to the child.

- e) Children exhibit 'reflexive support' of the loved parent often taking on the loved parent's argument and presenting this with force and conviction. They will totally accept the loved parent's views of the other parent and the allegations that the loved parent makes against the other. Some children will accept and propose false allegations as if they were true and discount any attempt to expose the deception.
- f) There is often an absence of guilt in children who are being alienated from the other parent. Their lack of guilt is rationalized by accusing the other parent of negative and hurtful behaviour and will see their rejection of the parent or the taking of money or gifts as a 'punishment' against the other parent because the parent 'deserves it'. This lack of guilt may be shown in situations where the child colludes in making false sexual abuse allegations and maintain this position years later without considering the effects their actions may have had on that person's life.
- g) Often 'borrowed scenarios' are present where the child uses similar stories to that of the loved parent in rationalizing their disgust or rejection of the other parent. This often includes similar language or phrases as well as identical stories about the other parent's bad or unacceptable behaviour or reasons for avoidance of visits. Children will often use the same terms as the loved parent

to describe problem areas, and often are not able to elaborate when asked about the problem or what the term may mean.

- h) Often the hatred of the other parent will begin to include members of the hated parent's extended family, even if at one time there were close and meaningful relationships with these relatives. The child will avoid these family members and begin to treat them in negative and rejecting ways.

## Appendix D

## SPOUSAL ABUSE DEFINITIONS

The types of spousal abuse described are:

1. Physical Abuse - Physical Force that injures someone or places them at risk of injury

- Beating, hitting, shaking, pushing, choking, biting, burning, kicking
- Assaulting with a weapon
- Rough handling
- Confinement
- Dangerous or harmful use of force or restraint

2. Sexual Abuse and Exploitation – all forms of sexual assault, sexual harassment or sexual exploitation.

- Forcing unwanted or unsafe or degrading sexual activity
- Using ridicule or other tactics to try to denigrate, control or limit their sexuality or reproductive choices.

3. Emotional Abuse – includes verbal attacks, such as yelling, screaming, and name calling.

- Criticism, verbal threats, social isolation, intimidation or exploitation to dominate another person.
- Criminal harassment or 'stalking'
- Threatening a person or their loved ones
- Damaging their possessions or harming their pets

- Economic or financial abuse – includes stealing from or defrauding a partner
- Withholding money that is necessary to buy food or medical treatment
- Manipulating or exploiting a person for financial gain
- Denying access to financial resources
- Preventing them from working, or controlling their choice of occupation

5. Spiritual Abuse – using a person’s religious or spiritual beliefs to manipulate, dominate or control them.

- Preventing someone from engaging in spiritual or religious practices
- Ridiculing their beliefs.

## **Appendix E**



## JOHNSTON AND CAMPBELL'S TYPOLOGY

### Type 1: Ongoing /Episodic

- Abuse began early in relationship and either intermittent or ongoing over duration of the relationship
- Physical attacks frightening and severe
- Physical attacks could be life threatening
- More dangerous at time of separation – stalking, terrorizing partner, threats or attempts at murder or suicide/ pressure to return to relationship
- 'Batterer' profile: dominating, rageful, controlling
- Victim –
  - a) fearful, chronically depressed, helpless
  - b) assertive, defending,

### Type 2: Female Initiated

- Female initiates aggression
- Females seen as emotionally labile, 'histrionic', dependent and self-preoccupied
- Explosive temper outbursts when needs were not met
- Alcohol compounds reactions
- Throw objects, lunge at partner, scratching, biting, kicking, use of weapons
- Can escalate during decline of relationship
- Often admit violent behaviour
- Partner prevents or defends against attack (passively fends off)
- Partner could retaliate – defensive reaction (passive, depressed male partner)

- Physical retaliation by male partner less aggressive or damaging as compared to 'batterer'
- Male usually able to retain control

#### Type 3: Male Controlling – Interactive Violence

- Violence arises out of escalating disagreement between spouses
- Switches from verbal assaults to violence
- Man or woman initiates physical struggle
- Defining feature is man's overriding response to assert control and prevail by use of physical force
- Does not involve sadistic acts, brutal beatings
- Varying amounts of restraint shown by male partner
- Beliefs by male partner of traditional male roles
- Physical aggression egosyntonic-accepted way of dealing with conflicts
- Partners often abusive with each other/ their children/ their parents
- Rationalization of physical aggression by both
- Violence increases as marriage or relationship declines
- Mutual blaming

#### Type 4: Separation Engendered and Post-divorce Trauma

- Uncharacteristic acts of violence that occur around time of traumatic separation or during a difficult divorce process
- Physical aggression noticeably absent during marriage
- Injured or abandoned party acts out of desperation (out of character)
- Perpetrated by male or female partner

- Sometimes looks like mutual abuse, but timing of abuse key factor
- Abuse traumatic and affects trust and level of fear
- Both admit to aggression and shame felt for perpetrating/ losing control
- Not likely to continue after separation divorce process resolve

#### Type 5: Psychotic/Paranoid Reactions

- Drug induced dementia or paranoid psychosis basis for violence
- Belief of betrayal and pre-emptive attack against mate – feelings of justification
- Delusions – fleeting, rambling, or incoherent ideas manifesting in unpredictable outbursts of verbal and physical aggression
- Spouse and others may have been in physical danger or implicated in delusional system
- Spouses can be oblivious to danger, or traumatized by partner's behaviour
- Severe mental health issues – even if transient in nature

## Appendix F

## REPORTING OF CHILD ABUSE – CHILD AND FAMILY SERVICES ACT

The Child and Family Services Act (1985) defines 'abuse' as:...

- (a) an act or omission by any person where the act or omission results in physical injury to the child
- (b) emotional disability of a permanent nature in the child or is likely to result in such a disability, or sexual exploitation of the child with or without the child's consent; ("mauvais traitements)

The Act goes further to outline the Best Interests of the child in 2(1)

The best interests of the child shall be the paramount consideration of the Director, the children's advocate, an agency and a court in all proceedings under this Act affecting a child, other than proceedings to determine whether a child is in need of protection, and in determining the best interests of the child all relevant matters shall be considered, including

- (a) the child's opportunity to have a parent-child relationship as a wanted and needed member within a family structure;
- (b) the mental, emotional, physical and educational needs of the child and the appropriate care or treatment, or both, to meet such needs;
- (c) the child's mental, emotional and physical stage of development;
- (d) the child's sense of continuity and need for permanency with the least possible disruption;

- (e) the merits and the risks of any plan proposed by the agency that would be caring for the child compared with the merits and the risks of the child returning to or remaining within the family;
- (f) the views and preferences of the child where they can reasonably be ascertained;
- (g) the effect upon the child of any delay in the final disposition of the proceedings; and
- (h) the child's cultural, linguistic, racial and religious heritage.

In terms of addressing developmental implications in terms of children's abilities to have a major role in proceedings, the act states

2(2) Child 12 years of age to be advised In any proceeding under this Act, a child 12 years of age or more is entitled to be advised of the proceedings and of their possible implications for the child and shall be given an opportunity to make his or her views and preferences known to a judge or master making a decision in the proceedings.

In 2(3) of the Act there is also provision for children under the age of 12 (Child's views may be considered) whereby ...In any court proceeding under this Act, a judge or master who is satisfied that a child less than 12 years of age is able to understand the nature of the proceedings and is of the opinion that it would not be harmful to the child, may consider the views and preferences of the child.

Family Conciliation has practice standards related to the reporting of abuse and refers practitioners to Part 111 of the Child and Family Services Act as follows:

Using Subsection 17 (1) of the Child and Family Services act a child in need of protection is considered ...where the life, health or emotional well being of the child is endangered by the act or omission of a person. The guidelines identify a child in need of protection as:

- a) is without adequate care, supervision or control
- b) is in the care, custody, control or charge of a person

who is unable or willing to provide adequate care, supervision or control of the child,  
or

(ii) whose conduct endangers or might endanger the life, health or emotional well being of the child, or

(iii) who neglects or refuses to provide or obtain proper medical or other remedial care or treatment necessary for the health or well being of the child or who refuses to permit such care or treatment to be provided to the child when the care or treatment is recommended by a duly qualified medical practitioner;

- c) is abused or is in danger of being abused;
- d) is beyond the control of a person who has the care, custody control or charge of the child
- e) is likely to suffer harm or injury due to the behaviour condition domestic environment or associations of the child or of a person having care, custody control or charge of the child
- f) is subjected to aggression or sexual harassment that endangers the life, health, or emotional well being of the child;

- g) being under the age of 12 years , is left unattended and without reasonable provision being made for the supervision and safety of the child; or
- h) is the subject or is about to become the subject of an unlawful adoption under the Adoption Act, or of a sale under section 84.

#### Reporting a child in need of protection

18(1) Subject to subsection (1.1), where a person has information that leads the person reasonably to believe that a child is or might be in need of protection as provided in section 17, the person shall forthwith report the information to an agency or to a parent or guardian of the child.



## Appendix G

## CODING GUIDELINES

Use following guidelines for following sections of review tool.

### 1. Classification of Case

1. If classification is not possible use n/a.
2. *Reasonable suspicion of child or spousal abuse occurring* is based on the evaluators comments somewhere in the report that he/she is concerned about the allegations of spousal or child abuse. Recommendations may also be an aid in determining this if the evaluator put some safety measures in place.
3. *Abuse not considered a major concern*- if evaluator indicated this explicitly or if in conclusions and recommendations there are not indicators that the abuse issue is being highlighted as an issue.
4. *Suspicion were such that referral was not made but recommendations developed to provide safety* – this should be straight forward.
5. *Not determined* –as described in tool.
6. *Abuse described*-as described in tool
7. *Abuse not described*-straight forward

### 2. Classification of Child Abuse

1. If classification not possible use n/a
2. *Confirmed child abuse* – if there is any information that came w court referral or other documents pertaining to this issue such as from child protection authority, or any admission.
3. *CFS actively involved* – any involvement including intake w a CFS agency
4. *Child Abuse unsubstantiated* – straight forward

5. *Child Abuse corroborated by children or collaterals*- this includes relatives, teachers etc.
6. *Child Abuse admitted by perpetrator*- if evaluator has an admission during course of assessment.

### 3. Classification of Spousal Abuse

1. If classification not possible use n/a.
2. *Spousal abuse confirmed* – same as in child abuse.
3. *Spousal Abuse unsubstantiated*- straight forward
4. *Spousal Abuse corroborated by children or collaterals* – family members teachers etc.
5. *Spousal Abuse admitted by perpetrator*- if admission occurs during course of assessment.

### 4. Allegations by Parents

Code allegations by spouses separately.

1. Infidelity: Any involvement by either spouse with a member of the opposite or same sex that would constitute adultery or intimate involvement outside the primary relationship.
2. Emotional, Physical, Sexual, abuse. Use spousal abuse definitions. Code separately based on report of the individual. Eg. If one parent identifies a form of abuse do not automatically count it in for the second parent.
3. Abuse of children. Use CIS descriptions and identify separately as above.
4. Alcohol /drug abuse. also code use of other substances in this category.

5. Irreconcilable differences...Code any reference to a situation where the parent found resolution to problematic issues in the relationship were not possible.  
Exclude 'conflict'; code conflict under: 'sever conflict/arguing'
6. Distancing/ deterioration reflects a relationship that has deteriorated emotionally to the point where the couple can no longer live together amicably.
7. Abandonment by spouse. Code only if this act is clear...exclude one parent leaving. The complaining parent must specify that the act was in fact an 'abandonment' of one's parental and spousal responsibilities.
8. Lifestyle Issues: Code / associations with deviant persons/ risky sexual behaviour; exclude drug alcohol abuse.
9. Mental Health of spouse: include only supported or convincing description of mental health issues such as severe depression; psychos; schizophrenia; manic depressive or diagnosed personality disorders. Exclude references to the other spouse as being 'nuts'; 'crazy' etc.
10. Criminal Behaviour- code any criminal behaviour other than drug alcohol abuse
11. Brainwashing/alienation: code any substantial behaviour that falls under the definitions of alienating behaviours. Exclude single references to comments such as; 'she has turned them away from me', 'she puts things in their head' etc, unless these references relate to a significant treatment of this behaviour in the text of the report or highlighted in some form.

12. Poor Parenting: any references that describe concerns about the other parent's ability to care for or parent the child or children physically or emotionally.

Eg. Concerns that a parent is overly controlling/authoritarian or too permissive, etc.

#### 5. Issues Identified by Counsellor

1. Code any references in the report where one parent identifies the other parent is interfering with access.
2. 2. Scheduling problems include any difficulties with time of visits, or amount of time of visits.
3. Supervised access includes supervision by any person including family member or professional. This can be supervision or attendance by someone arranged by the couple of the court.
4. Termination of access is the act of unilateral termination of access to a child by one parent. That can be the custodial parent of the access parent.
5. Mobility refers to any issues involving a move out of the province or significant distance outside the city of either a parent and/or a parent and child.
6. Reintroduction of access, mother or father: when an access situation is reintroduced or reactivated and can include access arranged for the first time.
7. Alienating parent: see description of alienation behaviours in appendix 4.
8. Poor Parenting Skills of mother or father. This would include assessment that either parent exhibited poor or questionable parenting skills. Eg. Authoritarian or permissive styles/neglect/etc.

9. Loyalty Conflict/Expressed: Where a child clearly expresses this conflict.
10. Loyalty Conflict Inferred: Based on the evaluator's opinion and stated in the report.
11. Lifestyle change: any change in lifestyle by one of the parents that is deemed significant by the evaluator and which has been a core issues in the dissolution of the marital relationship or the access arrangement between the parent and child.. (joining a religious cult/ motorcycle club etc)
12. Controlling behaviour by either spouse in terms of attempts to control or manipulate the other spouse through various means. Identified by the evaluator in the report either by reporting of parent (s) or by the evaluator as part of the assessment.

## 6. Child Abuse Allegations

### Definitions:

*Confirmed* – where in the text of the report the evaluator makes reference to formal confirmation through the court information, information of documents from a child protection agency.

*Collateral supported* – where in the report it is clear that collaterals witnessed aspects abuse to the child or children. Collaterals include relatives interviewed.

*Child supported* – where the evaluator indicates the child agreed they had experienced a form of abuse at the hands of the perpetrator.

*Not substantiated but alleged* – abuse that is alleged and/or suspected and recorded as such by the evaluator.

*Admitted* – admission by parent or other perpetrator.

## 7. Identification of perpetrator

There can be more than one perpetrator alleged in any given case. Perpetrator '1' is the main perpetrator and usually is a parent but can be a grandparent, sibling, or step-parent, step-sibling etc.

## 8. Spousal Abuse

### *Characteristics*

There can be more than 1 characteristic of spousal abuse in a case. Start with first one identified and add additional elements up to 3 total.

### *Elements*

There can be more than one 'element' in a given case. List first one, or the main one that appears to be stressed more, then add additional elements up to 3 total

## 9. Domestic Spousal Violence Types

Use Johnston and Campbell's typology

### Type 1: Ongoing /Episodic

- Abuse began early in relationship and either intermittent or ongoing over duration of the relationship
- Physical attacks frightening and severe
- Physical attacks could be life threatening
- More dangerous at time of separation – stalking, terrorizing partner, threats or attempts at murder or suicide/ pressure to return to relationship
- 'Batterer' profile: dominating, rageful, controlling
- Victim –
  - a) fearful, chronically depressed, helpless
  - b) assertive, defending,

### Type 2: Female Initiated

- Female initiates aggression
- Females seen as emotionally labile, 'histrionic', dependent and self-preoccupied
- Explosive temper outbursts when needs were not met
- Alcohol compounds reactions
- Throw objects, lunge at partner, scratching, biting, kicking, use of weapons
- Can escalate during decline of relationship
- Often admit violent behaviour
- Partner prevents or defends against attack (passively fends off)
- Partner could retaliate – defensive reaction (passive, depressed male partner)
- Physical retaliation by male partner less aggressive or damaging as compared to 'batterer'
- Male usually able to retain control

### Type 3: Male Controlling – Interactive Violence

- Violence arises out of escalating disagreement between spouses
- Switches from verbal assaults to violence
- Man or woman initiates physical struggle
- Defining feature is man's overriding response to assert control and prevail by use of physical force
- Does not involve sadistic acts, brutal beatings
- Varying amounts of restraint shown by male partner
- Beliefs by male partner of traditional male roles



- Physical aggression egosyntonic-accepted way of dealing with conflicts
- Partners often abusive with each other/ their children/ their parents
- Rationalization of physical aggression by both
- Violence increases as marriage or relationship declines
- Mutual blaming

#### Type 4: Separation Engendered and Post-divorce Trauma

- Uncharacteristic acts of violence that occur around time of traumatic separation or during a difficult divorce process
- Physical aggression noticeably absent during marriage
- Injured or abandoned party acts out of desperation (out of character)
- Perpetrated by male or female partner
- Sometimes looks like mutual abuse, but timing of abuse key factor
- Abuse traumatic and affects trust and level of fear
- Both admit to aggression and shame felt for perpetrating/ losing control
- Not likely to continue after separation divorce process resolve

#### Type 5: Psychotic/Paranoid Reactions

- Drug induced dementia or paranoid psychosis basis for violence
- Belief of betrayal and pre-emptive attack against mate – feelings of justification
- Delusions – fleeting, rambling, or incoherent ideas manifesting in unpredictable outbursts of verbal and physical aggression
- Spouse and others may have been in physical danger or implicated in delusional system
- Spouses can be oblivious to danger, or traumatized by partner's behaviour

- Severe mental health issues – even if transient in nature

**APPENDIX H**  
**Letter of Permission**

## APPROVAL CERTIFICATE

08 March 2005

**TO: Ron Bewski** (Advisor B. Bacon)  
Principal Investigator

**FROM: Bruce Tefft, Chair**  
Psychology/Sociology Research Ethics Board (PSREB)

**Re: Protocol #P2004:094**  
**"An Exploratory Study of Child Abuse and Spousal Abuse**  
**Allegations in Families Undergoing Custody Access Assessments"**

Please be advised that your above-referenced protocol, as revised, has received human ethics approval by the **Psychology/Sociology Research Ethics Board**, which is organized and operates according to the Tri-Council Policy Statement. This approval has been issued based on your agreement with the change(s) to your original protocol required by the PSREB. This approval is valid for one year only.

Any significant changes of the protocol and/or informed consent form should be reported to the Human Ethics Secretariat in advance of implementation of such changes.

**Please note that, if you have received multi-year funding for this research, responsibility lies with you to apply for and obtain Renewal Approval at the expiry of the initial one-year approval; otherwise the account will be locked.**