



Family Violence & Family Law Brief

Survivors' Views of Family
Courts: Findings from
the Canadian Domestic
Homicide Prevention
Initiative with Vulnerable
Populations (CDHPiVP)

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ALLIANCE OF CANADIAN
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CREVAWC is based at the Faculty of Education, Western University, London, Ontario, Canada, on the unceded territories of the Anishinaabeg, Haudenosaunee, Lunaapeewak and Attawandaron Peoples.

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I. Introduction: Centring Survivors' Voices

“Trust survivors, centre survivors, and above all learn to listen.”

— El Jones, Halifax's 5th Poet Laureate

Recent revisions to Canada's Divorce Act mark an important step forward in addressing the complex ways that family violence (FV) is perpetrated and perpetuated. These changes have also generated a need to bridge the gap between the legal recognition of coercive control “on paper” and a widespread understanding of how legal professionals might contend with it in practice. Moreover, the realities of coercive control raise important concerns about potential harms to survivors from within the family court process.

Promoting the health of FV survivors in family law proceedings requires that abuse be recognized across multiple contexts and that supports be integrated across sectors. This “holistic” approach to support calls upon legal and support service practitioners to:

- Address gaps in the family law system that leave survivors vulnerable to controlling tactics, such as financial abuse and legal bullying ([Family Violence & Family Law Issue #2](#))
- Understand the conceptual underpinnings of coercive control and recognize its various manifestations in family violence cases ([Family Violence & Family Law Issue #3](#))
- Respond to new and modified tactics of coercive control that have emerged during the pandemic ([Family Violence & Family Law Issue #6](#))

This brief adds to existing discussions of FV and family law by foregrounding the distinct knowledges that survivors have of coercive control. It centralizes survivors' experiences as a form of critical insight into how abuse is perpetrated—and often exacerbated—in relation to family court proceedings.

We recognize survivors as having a crucial role to play in forming just and equitable responses to family violence in society. Survivors' perspectives illuminate important truths about our legal, academic, support service institutions. They reveal critical gaps, failures, silences, and injustices, as well as vital acts of resilience, indicators of progress, and powerful reminders of what is at stake in our work.

This brief draws on interviews with domestic violence (DV) survivors as part of the Canadian Domestic Homicide Prevention Initiative with Vulnerable Populations (CDHPiVP), a six-year (2015–2021) project funded by the Social Sciences and Humanities Research Council of Canada (SSHRC). The CDHPiVP conducted research on domestic homicides, risk assessment, risk management and safety planning among populations in Canada that experience increased vulnerability to domestic homicide: Indigenous populations; rural, remote, and northern populations; immigrant and refugee populations; and children exposed to domestic violence.

Together, the work of the CDHPIVP and FVFL-VFDF projects serve to highlight:

- Key findings of the CDHPIVP that pertain directly to the family law sector.
- Survivors' accounts of how abusers can exploit the legal system to exert coercive control during family court proceedings.
- Survivors' experiences with barriers to support in family courts, and the ways that these barriers create risk of continued marginalization, violence, and/or secondary victimization.
- Ways that legal professionals can empower survivors with trauma-informed and survivor-centred approaches to engaging with clients.

Learn More: Canadian Domestic Homicide Prevention Initiative with Vulnerable Populations Conference, May 2021

- The [Preventing Domestic Homicide: From Research and Lived Experiences to Practice](#) conference featured lessons learned from the six-year CDHPIVP project.
- [Click here](#) to access presentations delivered by researchers, community partners, and survivors throughout this four-day virtual conference.
- [Click here](#) to view the powerful spoken word poem written by El Jones at the conclusion of the conference.

El Jones — Educator, Activist,
Journalist, 5th Poet Laureate of
Halifax

II. Project Background: The Canadian Domestic Homicide Prevention Initiative with Vulnerable Populations (CDHPiVP)

“Our situations are blamed. Our situations are the stuff of nightmares, they’re stuff that they tell stories about. They are stories, they are entertainment for the masses. [Yet] it’s hard to get someone to pay attention.”

— Nicole

The CDHPiVP was a six-year (2015–2021) project funded by SSHRC. It focused on domestic homicide prevention, including risk assessment, risk management and safety planning among focal populations including:

- Indigenous,
- rural, remote, and northern,
- immigrant and refugee, and
- children exposed to domestic violence.

The project reflected the efforts of a national partnership involving researchers from 12 universities across Canada, over 60 community organizations, and over 50 graduate students and research assistants.

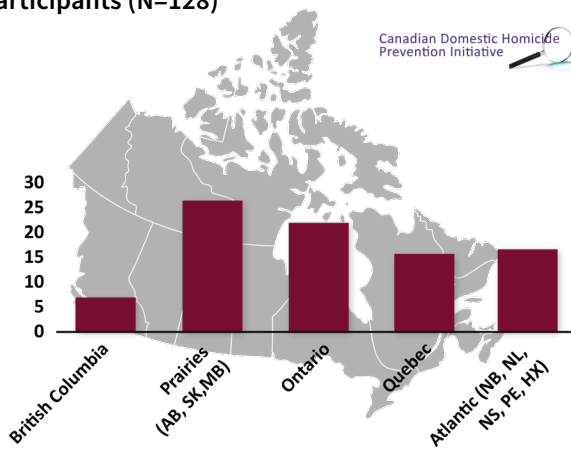
The CDHPiVP was organized into three phases:

1. A comprehensive literature review and a [national database on domestic homicides](#) between 2010 and 2019.
2. A [national online survey of 1,405 service providers and 366 interviews with key informant service providers regarding risk assessment, risk management and safety planning practices and work with the four populations](#).
3. [Interviews to learn from missed opportunities from survivors of domestic violence and people who have lost loved ones to domestic homicide](#).

Participants in the project came from across Canada (see Fig. 1). Ninety out of 128 participant interviews were conducted with survivors of domestic violence. Eighty percent (80%) of survivors self-identified as belonging to two or more of the focus populations. Seventy-three of the 89 survivor participants reported that they had children who experienced domestic violence or were a child who experienced domestic violence between their parents when growing up.

Seventy-three of the 89 (82%) survivor participants in the CDHPiVP reported that they had children who experienced domestic violence or were a child who experienced domestic violence between their parents when growing up.

Figure 1: Regional Breakdown of CDHPIVP Participants (N=128)



In the following sections, we focus on the experiences of 23 women who reported encounters with the family law judicial system. Pseudonyms are used to protect the anonymity of the study participants. Due to low response rates from men in the overall study, and a dearth of discussion about these encounters from male interviewees, the experiences of male survivors of family violence and family law proceedings could not be addressed in the brief.

Learn More: Canadian Domestic Homicide Prevention Initiative with Vulnerable Populations (CDHPIVP) Project Overview

The CDHPIVP project was conducted across six regions: Northern Territories, British Columbia, Prairie provinces (AB, SK, MB), Ontario, Quebec, and the Atlantic provinces (NS, NB, PEI, NL).

There were three goals for the project:

1. Conduct research on domestic homicide in Canada
2. Locate and identify strategies and practices that reduce the risk of domestic homicide and the violence that leads to domestic homicide
3. Enhance knowledge mobilization and learn from the broader community.

Further information about the project, including research priorities, population foci and project timeline, can be found at the CDHPI website, <http://www.cdhpi.ca>.

III. Survivors' Perspectives of Family Violence in Family Courts

I. Encounters with the Family Court System

“He will not let it go and it’s going on and on and on... He took my daughter away from me. For two years, I haven’t seen my younger daughter... He applied for child support to the court, and of course it was rewarded... \$800 of my money was going to the man who used to beat me up and he’s using the child for it and he’s not letting her even talk to me.”

— *Katya, describing her ten-year experience with the family court system.*

Family violence is a critical area of inquiry when considering post-separation parenting arrangements. While a cooperative “friendly parenting” approach to separation is feasible for some families, it may not be for mothers and children who have experienced abuse. Survivors may have good reason to oppose conventional parenting arrangements out of fear for continued or escalated violence. For instance, unsupervised contact with an abusive parent may expose a child to heightened risk of FV, including being used as a means of coercive control toward the ex-partner.

Survivors are also at increased risk of violence after separation (Hotton, 2001; Jaffe, Crooks, & Bala, 2008; Hrymak & Hawkins 2021a, 2021b). Next to a history of domestic violence, a pending or recent separation is the second highest risk factors predicting domestic homicide (Office of the Chief Coroner, 2017; Dawson 2017). Self-reports in the 2019 General Social Survey highlight the continued prevalence of post-separation violence:

- Forty-five percent (45%) of individuals who experienced FV from a former spouse also experienced post-separation violence (Conroy, 2021, p. 7).
- Women are more likely than men to experience violence from a former spouse (13% versus 7.7%) (Conroy, 2021, p. 7).

Given these risks, many mothers experiencing abuse make the difficult choice to live in poverty rather than seek spousal or child support if it means avoiding abusive interactions with their ex-partner (Jaffe, Lemon, & Poisson, 2003). Others may be deterred from leaving altogether for fear of being disbelieved or re-victimized by the legal system, accused of “parental alienation” during court proceedings, or killed by their abuser.

New provisions introduced to the *Divorce Act* in February 2021 aim to better address the significance of coercive control in FV (Nonomura, Poon, Scott, Straatman, & Jaffe, 2021). For instance, the revised *Divorce Act* defines FV in a broad manner that includes behaviours (such as coercive control) that do not currently constitute a criminal offence (Department of Justice 2020a). However, despite the increased capacity that this legislation provides for addressing FV in family law proceedings,

Over half (51%) of women who experience post-separation violence reported being sexually assaulted, beaten, choked, or threatened with a weapon.

(Lindsay 2014, p. 11)

many survivors remain vulnerable to a continuation of FV-related harms within the family court system itself.

A critical finding of the CDHPIVP interviews was that the family court system is often used as a tool of abuse by perpetrators to exert coercive control over their ex-partners, even in the post-separation context. Moreover, participants described how family court itself can become a source of harm for survivors. The analysis below draws upon the voices of participants/survivors to gain insight into how legal professionals can better support the needs of clients (and their children) who have experienced FV.

It should be noted that a diverse range of barriers can further compound the struggles faced by survivors of FV. Intersections of racism, classism, heterosexism, colonialism, ableism, and citizenship status not only impact risks of violence faced by survivors; often, they also interconnect with social factors such as financial precarity, credibility deficits, and language barriers that may negatively affect one's success in court. Some, but not all, of these interconnections were discussed by women in their interviews, creating limitations in the depth of coverage this brief can provide on how different intersections of oppression are experienced within the family court system. For more detailed coverage of the CDHPIVP research on the intersections of gender-based violence more generally, readers can visit <http://www.cdhpi.ca>.

2. Family Court as a Tool for Coercive Control

“He’s using the court system [to] abuse and control. He keeps pulling me back”
— Avery

Twelve of the 23 women reported that the family court system was used as an abuse tactic by their ex-partner. These tactics varied in application according to the specific vulnerabilities that the abuser sought to exploit, but they revolved fundamentally around attempts to incorporate the family court process itself into a regime of coercive control. The analysis below draws upon survivors' insights into how this process takes place and the harms it causes.

Disrupting Victims' Relationships with Children

Many survivors noted that their ex-partners sought to interfere with their relationship with the children. Serena described how her abuser sought to have her one-year-old child taken from her by falsely accusing her of uttering threats. She explains:

“I didn’t see her for nine months, fought for two and a half years in court... I provided two different psychiatric reports saying that I was good to go as a parent and they still would not allow me to have the children back until the charges were dropped. When I went to the trial, I proved through the text messages what had really happened. I was acquitted, but I never got the kids back.”

Katya also experienced false counter-allegations of abuse and violence when her abuser requested parental access. She was investigated three times by the Children’s Aid Society even though “no evidence of abuse or violence [was found] in [her] home.”

For Mia, the abusive partner’s attempts to weaponize the parent-child relationship were backed by an alarming degree of institutional power. Mia was told by her ex-partner, who worked for Children’s Aid, that

“If I did anything or told on him or tried to get away, he would make sure I would never see my kids... [He] would say Children’s Aid workers have all the power and they can write cases that will [affect] parent rights.”

It bears emphasizing that the coercive force of this threat lies not only in its practical implications for parental contact but also in its intended emotional impact: anxiety over the credibility of the threat, despair at the imbalance of power between parties, terror in realizing the lengths he might go to retain control, and dread at the prospect of losing access to one’s own children. While not all abusive situations involve a perpetrator with the capacity to exert such direct influence over the legal dispute (or who hold such an obvious conflict of interest), the salient issue is that perpetrators consistently use whatever powers they do have at their disposal to perpetuate their control.

Social biases are also an especially powerful tool for obscuring the significance of FV and attacking the credibility of survivors in family law proceedings. Grace described how her ex-partner deployed stereotypes about “parental alienation” to depict the children’s distrust of him as evidence of psychological abuse on her part:

“In family court he’s trying to cry parental alienation because he’s dug this up on the internet and apparently parental alienation is something women of my caliber do to men. And so now he’s crying parental alienation that I’m keeping the kids from him and I’m poisoning their minds. Now he’s threatening to sue me civilly and to sue my family civilly because I and they have poisoned the children’s mind against him.”

Ironically, when survivors bring their concerns about FV before the courts, it is often them, and not the abuser, whose parenting is viewed with increased suspicion (Meier & Dickson 2017). Several survivors shared their frustrations at being caught between the court’s expectation that they encourage a positive relationship between the child and the father, and their child’s own feelings (or fears) about him. The women often faced accusations of “parental alienation” when the father’s own actions caused his child to not want to see him. These experiences highlight a common

Learn More: Voices of Survivors in Family Violence & Family Law Resources

For other resources incorporating the voices of survivors, readers can access Family Violence & Family Law Issue #2, [Executive summary of Why Can’t Everyone Just Get Along?: How BC’s family law system puts survivors in danger.](#)

This issue presents the findings of a mixed-methods study conducted by the Rise Women’s Legal Centre and the FREDA Centre for Research on Violence Against Women & Children. The study’s analyses and recommendations draw upon the insights shared by 27 focus groups and 160 FV survivors and advocates from across British Columbia (Hrymak & Hawkins, 2021a, 2021b).

problem for FV survivors in family courts. Despite the fact that “Parental Alienation Syndrome” has been discredited by child psychologists and family violence researchers, fathers often succeed in persuading the courts that it was the mother’s manipulations—not his own history of violence—that caused his children to not want to spend time together (Meier & Dickson 2017; Milchman, Geffner, & Meier, 2020; Neilson, 2018; Neilson et al., 2019; Sheehy, & Boyd, 2020).

What is Coercive Control?

The revised Divorce Act recognizes “coercive and controlling behaviours” as a form of family violence. Coercive control consists of abuse tactics used to dominate or control an intimate partner or family member, physical or sexual coercion, manipulation/and or exploitation, isolation, intimidation, and humiliation (Chambers, 2021).

Crucially, this definition encompasses forms of “violence” beyond just physical conflicts (psychological, financial, and emotional harms are also recognized), and beyond just single incidents of harmful behaviour (Department of Justice, 2019; Gill & Aspinall, 2020; Katz, Nikupeteri, & Laitinen, 2020; Katz, 2016; Stark & Hester, 2019). Patterns of behaviour, and their cumulative impacts, are also recognized as part of a process of behaviours that remove a victim’s rights and liberties and entrap them in relationships (Katz, 2016; Stark, 2007, 2009, 2012).

The House of Commons Standing Committee on Justice and Human Rights is currently considering an amendment to the Criminal Code (Section 264) that would make “controlling or coercive conduct” a criminal offence (Bill C-247). By criminalizing coercive control, Canada would join countries such as England and Wales, Ireland, Scotland, and New Zealand that have already passed such legislation.

Family Violence & Family Law Issue #3, [Coercive Control & Family Law](#) provides a detailed primer on the conceptualization of coercive control and its implications for family law proceedings.

Learn More: Family Violence & Family Law Webinar

[Bridging the Gap Between the Needs of Survivors of Family Violence and the Realities of Family Court](#)

Presenters: Pamela Cross & Linda Baker

Emotional Manipulation, Harassment, and Intimidation

Survivors described a range of controlling behaviours by their abusers in family court. Their experiences illustrate how control tactics can persist throughout the legal processes aimed at administering justice—and even in the courthouse itself. For instance, Ava described how her abuser tried to manipulate her emotionally in order to gain the upper hand in their court case. He would “mouth across the court room ‘oh I love you, I’m sorry.’ But he didn’t mean any of it, [he was] just trying to bribe me into dropping the claim.”

Emotional manipulation may be exercised not only through appeals to a survivor's sympathy but also through various acts of covert and overt intimidation. Marta described how her ex-partner would constantly "be hanging around in [the] atrium area of the courthouse." As a result, she required a police officer to escort her simply to use the washroom and enter/exit the building safely. Katya felt uncomfortable in court because she felt her abuser was "verbally aggressive and... physically unstable and making movements toward me in and outside of the courtroom," which was "really stressful."

"My ex was trying all these intimidation tactics. He'd be hanging around in the atrium area of the courthouse. He was hanging around the whole time."

— Marta

To the extent that adult survivors are fighting in family court to protect their children from unsupervised time with an abusive co-parent, their vulnerability is compounded by the need to represent themselves as a "cooperative," "friendly parent." Insights such as Grace's illustrate the ways that this pressure can be weaponized to inflict emotional abuse during litigation:

"I think that abusers are multidimensional. They start to know that if this one avenue gets shut off I can't hurt her mentally. I can't hurt her physically anymore. I can't hurt her sexually... Now he's using family court as the means to abuse and he tries to demean me, talk me down."

Thus, despite the intended function of family court proceedings to enable survivors' separation from their abusers, the reality for many survivors was that the process itself became an arena for alternative coercive and controlling behaviours. For Grace and other survivors, going through the family court process without adequate support generated feelings of disempowerment and futility. Grace described the "belittling" experience of sitting in a courtroom while an abuser "[tries] to take the kids from you." She explained that "they become very tricky and manipulative about all the things that they can do to abuse, and so there's this piece of me that says, 'does it ever end?'"

3. Experiences with Lawyers and Courts

"Getting a lawyer is one of the most important things that you need to do, especially when kids are involved."

— Avery

The exasperation expressed by Grace in the previous section gives voice to feelings of disempowerment and marginalization that survivors of FV endure during protracted family court disputes. Courts and legal professionals have substantial influence in shaping whether survivors experience safety or harm during the divorce process. The women interviewed by the CDHPVIVP reflected upon ways that their safety (and, by extension, the best interests of their children) were hampered in court by social inequalities and a lack of trauma-informed supports. They also described ways that legal professionals provided vital support throughout their encounters with the family court system. Altogether, their experiences provide critical insight into the needs and interests of clients from a FV survivors' point of view.

Secondary Victimization

The relentless, protracted engagement with abusers through settlement meetings, lawyers' letters, and court dates is a widely cited cause of secondary victimization that exhausts survivors' capacities to resist their abuser (Hrymak & Hawkins, 2021b; Khaw et al., 2018; Laing, 2017; Rivera et al., 2012, Zeoli et al., 2013). Rivera, Sullivan, & Zeoli's (2021) research suggests that survivors who experience secondary victimization are:

- more likely to lose trust in the system's ability to make decisions that are in the best interests of the children
- less likely to seek legal assistance in future, and
- less likely return to court for future custody issues (p. 246).

Women who were interviewed reported that legal professionals and the police they interacted with did not understand the nature of physical and psychological harms they had experienced, or the safety risks they continued to face. As a result, the risk to their safety was exacerbated. Alyssa's experience illustrates how the misrecognition of survivors' experiences can extend to both adult survivors and the children. Her children feared spending time with their father because he "drinks and drives with the children in the car... and my own lawyer told me that I had no choice but to give my kids back to him." Alyssa characterized this response as "an impossible situation":

"Women like us are [like] prisoners of war... forced to negotiate their own freedom without power or weapons. Or forced into a situation—we leave abusive men, but we feel legally shackled to them. We can't get away... And yet we're getting blamed when we can't get them to cooperate. And the courts refuse to see it as domestic violence, so it all comes down to blaming the victim. 'Why can't you get along with this person?' 'I don't want to hear that they are abusive'... [But] there is damage to my children!"

Ava's treatment by a judge illustrates how secondary victimization may be experienced in combination with other dimensions of social marginalization. Her ex-partner "told the court system that he can't get divorced because of our religion... and the court says we can't go against your religion so we can't divorce them." In effect, the courts enabled Ava's religion to become a tool used against her, subordinating her wishes to those of her ex-partner and keeping her in an abusive marriage. In both Alyssa's and Ava's cases, the concerns expressed by survivors was devalued and the risk of harm to them was perpetuated not only by an abuser but also through the decisions of the court system itself. Their experiences highlight how the potential for "secondary victimization" is especially high in situations where survivors have not yet secured separation and/or independence from an abuser.

Financial Burdens, Cumulative Stress, and Isolation

The combination of financial constraints and time delays (brought on either by vexatious litigation by an abuser or by congestion within the courts) can also create safety risks for FV survivors, leaving

them more likely to experience prolonged contact with their abuser and/or to make compromises on necessary protections in order to resolve the case more quickly (Jaffe et al. 2014).

The new provisions in the Divorce Act promote alternative dispute resolutions (ADR) in efforts to increase the efficiency and reduce costs of divorce. According to the Department of Justice (2021b), the following administrative processes will be streamlined:

- In cases to determine (or redetermine) child support amounts, provincial administrative services will be provided to reduce court time and costs. This will be accessible at any time rather than requiring a fixed schedule.
- The process to alter a support order for individuals residing in different provinces or territories is changed to allow one court to handle the matter.
- Wherever appropriate, legal advisors will promote the use of family dispute resolution processes.
- Bringing these legislative changes into force enables Canada to become a party to the 1996 Hague Convention on the Protection of Children and the 2007 Hague Child Support Convention, which would make the family justice process easier when one or more of the parties lives in another country.

These changes offer some hope that the divorce process might eventually impose less of a financial burden on families in Canada. However, the lived experiences of FV survivors remains instructive for recognizing how financial constraint may remain a barrier to safety and justice for those escaping abuse.

What is Secondary Victimization?

Secondary victimization “refers to the victimization which occurs not as a direct result of a criminal act, but through the response of institutions and individuals to the victim” (Canadian Resource Centre for Victims of Crime, 2005, p. 6). Secondary victimization in family courts may result from negative or unresponsive behaviours toward survivors, such as:

- Refusals by officials or legal professionals to recognize a survivor’s experience as criminal victimization (or to discount the harm when it does not constitute a criminal offense)
- Intrusive, repeated, or inappropriate questions posed to survivors about the harms they experienced
- Disregard of a survivors’ safety concerns for themselves or their children
- Repeated exposure of the survivor to the perpetrator
- Victim-blaming attitudes including suggestions that the survivor is responsible for the perpetrator’s actions

(Canadian Resource Centre for Victims of Crime, 2005; Rivera, Sullivan, and Zeoli, 2012)

Several women reported that costs incurred for divorce, support, custody, access, and dividing the matrimonial estate amounted to over \$100,000. This may be difficult for survivors who lack the financial security of full employment (Isabelle, Brooklyn), who rely on social assistance (Serena), who are the primary or sole caregivers for their children (Serena, Grace), and who work multiple jobs (Ava). Isabelle represented the views of many other participants when she said “it’s a confusing system in which you end up feeling like there is no way to get through it without going bankrupt or taking a second job.” Ava worked “14–16 hours a day” to pay for legal fees, which was used against her in court by the opposing counsel as evidence that she was unaffected by her abuser’s actions.

Many survivors discussed experiences of vexatious litigation. Their ex-partners often used the court system’s lengthy and expensive processes as a tool for exerting coercive control. Sofia explained that her abuser received an inheritance and was “happy to spend [this] money [on taking me to family court] because he is making [my] life harder” through lawyer fees. Grace gave a vivid illustration of her prolonged legal struggles, stating: “the time I spent in court with this man fighting for child support—my child has grown four shoe sizes, two coat sizes. Who’s paying for all that? Me!” In this regard, legal bullying by FV perpetrators is not only a waste of the courts time, but it also works against the interests of the children by unnecessarily depleting the parents’ emotional and financial resources.

Negative physical and mental health outcomes were a common issue related to prolonged family court cases. Serena and Emma each described the compounding burden that parental duties, economic precarity, traumatic abuse, and a lack of institutional supports places on FV survivors. Serena stated: “I just *couldn’t* anymore. I weighed 108 pounds and I was starving to death on Social Services, living off \$600 a month and having both kids 15 days out of the month.” For those who cannot afford to pay for their legal services, Emma explained that

“there’s nobody there to really help us and everywhere we go for help the doors are slammed in our faces or we get the bucket response. And all it does is depletes our energy. We try to look for help and in fact there is no help out there.”

These responses corroborate findings from other research examining the obstacles faced by FV survivors in the family court system, such as Gutowski & Goodman (2019), and Bemiller (2008). These studies found that survivors frequently lacked the resources for quality legal representation (or any at all) and were thus at a disadvantage relative to their ex-partner. For some survivors, this situation may connect to economic or financial abuse suffered during the marriage. Control over a partner’s finances is a common coercive control tactic to deter survivors from leaving a relationship. For survivors that do leave, it may, in effect, be their own money that pays for their abuser’s legal representation (Gutowski & Goodman, 2019).

Support from Lawyers

Survivors spoke of many ways in which advice and advocacy from legal professionals helped them advance toward independence from their abuser. They talked about how this support eased

unfamiliar processes such as restraining orders (Mia), peace bonds (Ursula), police reports (Marta), negotiations over child support and parenting time (Katya), and supervised visitation (Scarlett, Chloe, Ursula, and Nicole). For example:

- Katya described how her lawyer helped her retain custody of her children by negotiating the amount of unpaid retroactive child support owed to her by her ex-partner.
- Scarlett described her positive experience with the Office of the Children’s Lawyer, whose report helped to enforce supervised visitation arrangements:

“They contacted us parents by phone, got our consent, met with us, we signed off the written consent and then they met the kids in the school. They came and met the kids and me at our house, they saw the kids and their father in the supervised access centre, they also went to the kid’s school, and they got reports... [the report] provides a well-rounded, clear picture of the whole story.”

- Marta described how her attorney’s work supported her safety from her ex-partner: her lawyer “acted as that go-between, that contact between him [the abuser] and me as far as the divorce goes. It meant I didn’t have to have any contact with him whatsoever.” She also discussed the compassionate treatment she received from the support worker and police escort assigned to her (due to her partner stalking her in the courthouse). They collaborated with her to form a safety plan and would follow up with her regularly to share information updates and well wishes.

“[My lawyer] acted as that go-between, that contact between him [the abuser] and me as far as the divorce goes.”

It meant I didn’t have to have any contact with him whatsoever.”

— Marta

What shines through in these examples is the vital role that effective, knowledgeable, collaborative legal support plays in bringing justice to FV survivors. Our analysis would be remiss if it allowed the systemic problems discussed above to completely overshadow this important work. Indeed, the purpose of the critiques shared by survivors throughout the brief is ultimately to bring attention to further dimensions of FV in which legal professionals can contribute to meaningful changes in the experiences of survivors. In the following section, we turn to some specific focus areas identified by participants.

Learn More: Family Violence & Family Law Webinar

[Healing Trauma: Gender, Trauma, and Paths of Healing in Family Law Disputes](#)

Presenters: Jenn Gorham and Leland Maerz

IV. Survivors' Recommendations

Survivors raised a range of suggestions for developing more robust responses to FV issues in family courts. The recommendations discussed below reflect key themes emerging across these interviews.

1. Educate Judges and Lawyers About the Impact of Trauma

The trauma caused by FV has far-reaching and long-lasting effects on survivors. Understanding the psychological and social impact of this trauma is crucial to making informed assessments of children's best interests and parents' capacities to fulfil them (Ellis, 2008). Survivors like Alyssa called upon legal professionals to apply child development and trauma-informed perspectives in their practices to prevent discrimination against survivors or secondary victimization, and to properly identify risks to children's well-being. Ursula's encounter with the family courts illustrates some of the current gaps in this area. During her case, her son disclosed to the judge that he had been molested by the father. The judge responded, "but your clothes were on," and then proceeded to coax Ursula into encouraging the boy to see his father, reasoning that if a mother would force her children to visit a dentist, she should also force her children to see a co-parent as well. Ursula's retort, "if there was a dentist hurting my child, I don't think so," was not well received.

Ursula also noted that the Legal Aid lawyer assigned to her case was unfamiliar with abuse cases. After terminating services with her first lawyer, she contacted Legal Aid to recommend that they should refer attorneys with experience in abuse cases to individuals who require them. She was told that Legal Aid did not take complaints against lawyers, even though her feedback was meant as a suggestion. Instead, Ursula was told that she could voice a complaint through the Law Society and pay a \$50 fee, which deterred her from pursuing the recommendation about FV cases any further.

Reflecting upon her experiences, Ursula proposed that courts should understand the dynamics of domestic violence and apply appropriate tools to determine what is the best interest for the children. The amendments to the Divorce Act now include a definition of FV that specifies children's exposure to FV as a factor for consideration when determining what actions are in a child's best interest. While these recent amendments may now help to apply a more trauma-informed judgment in cases like Ursula's, her experience remains instructive. Ursula emphasized that children "need to be heard. They need to be supported. They need to have that protection in place for them to thrive."

2. Make Anti-Discrimination Education and Accountability Mandatory

Connected to the importance of a trauma-informed approach in family law cases, there is a need for increased awareness of how mistreatment and secondary victimization is manifested against survivors from marginalized backgrounds. Participants called for mandatory anti-discrimination training for legal professionals that addressed the ways that gendered forms of prejudice (e.g.

credibility deficits, distrust of survivors) are exacerbated for survivors of FV who are Indigenous, immigrant, working class, disabled, LGBTQ2S, racialized, and/or do not fit the “ideal victim” archetype.

The need for training that addresses the multi-dimensional nature of social prejudices (and the negative impact these can have for legal proceedings) is illustrated in Katya’s experiences in family court. Katya described two instances of intimidation by legal practitioners that left her feeling re-victimized. The first was with the children’s lawyer, who told Katya that she was not smart enough to navigate the family court process without a family lawyer. Several times, she was told: “you’re ignorant,” “you’re not educated,” and was asked “you think you’re that smart?” As Katya recounts,

“At this point it was more painful than my ex because with him I knew what to expect and I knew him. And here you are representing my children. Why are you treating me like this? I felt that I was treated as a third-sort customer, not even human in that office.”

The second instance of victimization was in front of a judge, who insulted her for her accent and stated: “I understand why you don’t understand—it’s because you’re a foreigner.”

It is worth noting from both examples how this this treatment may diminish a litigant’s willingness to engage in legal processes that are already fraught with conflict. For survivors of violence who may already be coping with the trauma of psychological abuse and humiliation, disrespect from legal professionals may be especially harmful (Gutowski & Goodman, 2019; Rivera, Sullivan & Zeoli, 2021). In Katya’s case, she received a letter of apology from the judge, but only after she had reported the mistreatment and the intimidation his behaviour had caused.

It is also important to recognize that none of these experiences can be reduced to a single dimension such as racial, class-based, cultural, or gendered prejudice. The disrespect voiced by Katya’s lawyer and judge may have focused overtly on her educational and immigration history, but it would be naïve to assume that her mistreatment was due, by pure coincidence, to personal prejudices solely based on education by the lawyer and solely based on immigration by the judge. It is much more reasonable to consider how prejudicial behaviours manifest through a constellation of discriminatory attitudes all at once. Following Crenshaw’s (1989) seminal legal analysis of the “intersecting” effects of racial and gender oppression experienced by Black women (and subsequent scholarship specifically addressing issues of violence, e.g. Crenshaw, 1993), a critical assessment of Katya’s experience reveals that her mistreatment was shaped by the confluence of multiple factors—her gender, her immigration status, and, likely, her history of abuse.

Participants called for mandatory training that addresses the “intersectional” nature of discrimination, bias, and systemic marginalization. They also suggested that lawyers and judges undertake specialized, ongoing training on domestic violence to prevent re-traumatization and secondary victimization of survivors.

Learn More: [Domestic Violence in Immigrant Communities Case Studies](#)

Free ebook: This free ebook highlights the complexity of domestic violence cases in immigrant communities and the different legal processes that immigrant survivors of DV encounter in seeking justice for themselves and their children.

3. Encourage Collaboration Between FV Advocates and Legal Professionals

Collaboration has been a central focus of the Family Violence & Family Law project, and its importance for supporting FV survivors was reinforced in the CDHPVP's interviews. Participants encouraged legal professionals and FV advocates to work together in spreading awareness of the manipulation tactics used by abusers during legal proceedings and providing survivors with strategies for addressing these tactics when they arise. For instance, lawyers might:

- Devise signals for the client to indicate experiences of distress,
- Share grounding or breathing techniques to maintain composure, etc., or
- Direct survivors to specialized gender-based violence support services.

The women also emphasized that health and social service resources should not be limited to survivors; extending these supports to perpetrators of FV can also serve the best interests of the child and co-parent. Alyssa suggested that adults who require addiction support, counselling, or co-parenting education should be provided “Elders or mediators or trained people to help.”

Finally, survivors discussed how better inter-agency coordination would reduce safety risks and enhance service provision for FV cases. As Vanessa noted, coordinating criminal and family court matters involving FV could help reduce secondary victimization and institutional inefficiency, but there is currently only one Integrated Domestic Violence (IDV) Court in Canada that hears both criminal and family law cases. Serena and Avery also suggested that institutions develop safer, more centralized information sharing protocols to protect FV survivors. In both of their cases, their safety was put at risk during the discovery process, when their addresses appeared on documents that were shared with their abuser's counsel.

Learn More: Peter Jaffe Interviewed in the Law Times

In a recent interview with the Law Times, Peter Jaffe, Co-Investigator on the Family Violence & Family Law project, discussed the importance of safety, collaboration and diversity training for supporting survivors of FV. [Read the full article here.](#)

V. Conclusion: Putting Listening into Practice

In drawing upon the voices of FV survivors, this brief subscribes to the premise that survivors are “experts of their own experiences.” The insights shared by participants in the CDHPVIP study demonstrate how that experiential expertise can also extend into the area of survivors’ needs in the family court context. Thus, listening and learning from FV survivors is an imperative for strengthening service provision in the family court system.

Equally important is the need to convert this learning into action. This was such a resounding, unanimous demand from CDHPVIP project participants that it became the theme of the 2021 national conference: [Preventing Domestic Homicide: From Research and Lived Experiences to Practice](#). The points below connect key issues discussed in the current brief to practical tasks for supporting the health of FV survivors in family court proceedings:

Family violence looks different, and is perpetrated differently, in different contexts. Abusive behaviours exerted within the family court system are not characterized by a universal (set of) tactic(s). Rather, abuse is perpetrated in relation to multiple factors, and through multifarious means, and its appearance can vary depending on the surrounding context of the legal proceedings. Financial power, immigration status, religious affiliation, colonial oppression, gender roles, personal histories, mental health, safety fears, and other factors may all be used against survivors through the separation process, both in court and outside it.

Support resources for family law professionals (such as FV screenings and toolkits) provide an important means of discussing these difficult issues with clients, developing strategies that account for clients’ trauma and safety concerns, and incorporating supports from FV specialists. Legal professionals should collaborate with researchers, advocates, and survivors to continually develop these resources to meet the complex needs of FV survivors.

Family violence encompasses a range of non-physical as well as physical actions, often aimed at exerting control over others. The experiences shared by survivors in the CDHPVIP interviews underscore power and control as key motivators in the behaviours of many partners who commit FV. In the context of family courts, where survivors are taking a decisive step toward ending the FV they experience, abusers’ motivations to regain power and control can be especially strong. In addition to heightened risks of physical forms of post-separation violence, survivors reported a variety of non-physical abuse tactics during family court proceedings. Acts of legal bullying, such as making bad faith claims about “parental alienation,” threatening to file reports to child welfare services, or “conflicting out” potential legal representatives not only waste scarce resources but also manipulate the legal system to coerce and control the choices of survivors. These actions also work decisively against the best interests of the child by modelling abusive conflict resolution behaviours, interfering with the ex-spouse’s parenting, and creating no-win situations that place the child in a position of “middle” between the parents.

Legal professionals must confront these tactics for what they are and develop strict standards for protecting the integrity of family law proceedings and the safety of litigants. Law schools should contribute to these efforts by developing mandatory training that empowers students to respond effectively to situations involving family violence and coercive control.

Family violence is not “outside” of the physical or virtual courtroom. Legal professionals must work diligently and compassionately to address manifestations of FV within family law proceedings. Many survivors experience trauma responses throughout their case because they remain unsafe from an ex-partner’s violence. FV can remain a threat even within the courthouse itself. Yet in the face of immense vulnerability—vulnerability to an escalation in violence, to secondary victimization, to losing access to their children—survivors choose to enter the family court system in search of fair treatment for themselves and a safer environment for their children.

Family courts can only function justly when litigants are accorded safety and support. Universalizing trauma-informed approaches throughout family court proceedings is therefore a requisite step for deciding the best interests of children and ensuring the safety of survivors. Thus, Nicole’s words issue an emphatic call to action for all practitioners across legal, support services, and advocacy sectors:

“My case is free. [But] I am worth the effort. My children are worth the effort! Set a good example that this kind of violence in this community is unacceptable... Make the effort for me, make the effort for us, make the effort for yourself—this is not something that we can sit back and let happen.”

To learn more about the *Supporting the Health and Well-Being of Survivors of Family Violence in Family Law Proceedings* project, go to: <https://alliancevaw.ca> or our partnered research centres:

The Centre for Research & Education on Violence Against Women & Children

<http://www.learningtoendabuse.ca>

Dr. Peter Jaffe

Dr. Katreena Scott

The Freda Centre for Research on Violence Against Women and Children

<http://www.fredacentre.com>

Dr. Margaret Jackson

Muriel McQueen Fergusson Centre for Family Violence Research

<https://www.unb.ca/mmfc/>

Dr. Catherine Holtmann

Recherches Appliquées et Interdisciplinaires sur les Violences intimes, familiales et structurelles

<https://www.raiv.ulaval.ca/en>

Dr. Geneviève Lessard

Dr. Dominique Bernier

[Site Web du professeur Bernier](#)

RESOLVE: Research and Education for Solutions to Violence and Abuse

<https://umanitoba.ca/resolve>

Dr. Kendra Nixon

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https://uwo.eu.qualtrics.com/jfe/form/SV_85HQpyNZKr9D4NM

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