

LEGAL BULLETIN

Issue No. 39

Shedding Light on the Myths of Family Violence

Introduction

Family violence is a serious problem that affects many families. It can happen to anyone, and it often puts women and children at higher risk of harm.

As stated by the Ontario Court of Appeal in *Ahluwalia v. Ahluwalia*, [2023 ONCA 476](#):

[1] Intimate partner violence is a pervasive social problem. It takes many forms, including physical violence, psychological abuse, financial abuse and intimidation. In Canada, nearly half of women and a third of men have experienced intimate partner violence and rates are on the rise. What was once thought to be a private matter is now properly recognized for its widespread and intergenerational effects.



In British Columbia, the *Family Law Act* (the “FLA”) helps protect people from family violence in two key ways:

1. It can provide protection orders to keep at-risk family members safe.
2. It ensures parenting decisions are based on a child’s best interests, including protection from family violence.

Under the *FLA*, “family violence” can involve spouses, parents, and children.

It includes:

- Physical abuse (like hitting or forced confinement),
- Sexual abuse,
- Attempts to abuse someone physically or sexually,
- Emotional or psychological abuse (such as threats, intimidation, or stalking),
- Financial control or restricting someone’s personal freedom,
- Damage to property,
- A child’s direct or indirect exposure to violence.

Despite the protection available to victims under the law, many myths and stereotypes still exist. In *Petrie v. Lindsay*, 2019 BCSC 317, justice Sharma wrote that courts should not rely on long-standing stereotypes or assumptions (often called “myths”) about how victims of partner violence behave or report abuse. This principle aligns with the Supreme Court of Canada’s guidance in *R. v. Lavallee* (1990).

The definition of family violence under the *FLA* includes spouses, parents, and children.

Commons Myths About Family Violence

Here are some common myths and stereotypes about family violence that exist:

1. Family Violence Only Counts if There's Physical Harm - The *FLA* explicitly defines family violence broadly. The law protects against this stereotype by considering all conduct that demonstrates a pattern of coercion and control as family violence.
2. Family Violence Does Not Affect Children if They Don't See It - Even if children do not directly witness violence, any exposure—like hearing it happen or sensing fear—can be harmful. The *Family Law Act* recognizes that direct or indirect exposure to family violence is considered family violence.
3. Family Violence is often a “he said/she said” situation and thus impossible to prove if no one else witnessed it - In *Petrie v. Lindsay*, 2019 BCSC 317, Madam Justice Sharma emphasizes that the private nature of family violence means it often occurs without outside witnesses. Therefore, courts should not dismiss abuse allegations simply because no third party can confirm them (sometimes framed as “he said/she said”). She explains that this lack of outside observation is part of what makes intimate abuse so hidden and harmful, and it does not undermine a survivor's credibility if they cannot produce independent eyewitnesses.
4. That a victim must recall exact dates or specific details for the abuse to be credible - In *Petrie v. Lindsay*, 2019 BCSC 317, the court rejected the notion that a domestic abuse survivor should be disbelieved simply because they cannot pinpoint precise times or dates for each incident, especially when alleging a *pattern of abuse* over a period of years.
5. That if a victim returns to their abuser, then family violence did not occur - Section 184(1)(e) of the *Family Law Act* explicitly states that a victim's history of returning home or living again with the abusive family member does *not* prevent the court from issuing protection. It recognizes the complexities of abuse—that victims may leave and return multiple times—and counters the stereotype that going back proves the abuse “can't be serious.”

In *N. (K.M.) v. M. (S.Z.)*, 2024 BCCA 70, the court identified additionally socially pervasive myths and stereotypes about those victimized by family violence. In *N. (K.M.)*, The court acknowledges the “longstanding and pervasive” myth that women fabricate family violence allegations to gain leverage in family law. These myths are often used to undermine women's credibility when they report intimate partner violence.

The court outlines several harmful stereotypes that often appear in family law, including:

- A credible woman would disclose violence early.
- A credible woman would report the assault to the police.
- Women fabricate violence claims for legal advantage.
- Violence by a man against a woman has no impact on his parenting ability.
- Abuse will stop once the relationship ends, so there is no risk of future harm.

In *N. (K.M.)*, the court emphasized that the law is clear that judges must diligently guard against the potential for myths and stereotypes or unfounded or generalized assumptions about human behavior to affect their reasoning process. The court highlighted that standing guard against myths and stereotypes takes on heightened importance where there are allegations of family violence are present.

In this case, the court pointed out that the father framed his argument in line with these myths, accusing the mother of fabricating allegations to gain an upper hand in the custody dispute. The court criticizes this approach and emphasizes that these allegations need to be thoroughly evaluated based on the evidence, not assumptions.

In *Barendregt v. Grebulinas*, 2022 SCC 22, the Supreme Court of Canada addressed the myth that abuse of a spouse has nothing to do with the abuser’s parenting ability. At paragraph 143, the Supreme Court of Canada stated:

[143] The suggestion that domestic abuse or family violence has no impact on the children and has nothing to do with the perpetrator’s parenting ability is untenable. Research indicates that children who are exposed to family violence are at risk of emotional and behavioural problems throughout their lives: Department of Justice, *Risk Factors for Children in Situations of Family Violence in the Context of Separation and Divorce* (February 2014), at p. 12. Harm can result from direct or indirect exposure to domestic conflicts, for example, by observing the incident, experiencing its aftermath, or hearing about it: S. Artz et al., “A Comprehensive Review of the Literature on the Impact of Exposure to Intimate Partner Violence for Children and Youth” (2014), 5 *I.J.C.Y.F.S.* 493, at p. 497.

In *Barendregt*, the Supreme Court of Canada rejected the notion that violence toward a spouse has no impact on parenting abilities, underscoring the law’s broad commitment to protecting vulnerable family members and preventing further harm.

Conclusion

Overall, the Canadian courts have made it clear that myths and stereotypes about family violence have no place in legal proceedings. Contemporary decisions emphasize that abuse can be physical, emotional, or financial, that children can be harmed even when they do not directly witness violence, and that a survivor’s credibility should not be undermined by delayed reporting, lack of third-party witnesses, or returning to an abusive relationship. As the courts have stated in *Barendregt v. Grebulinas*, *N. (K.M.) v. M. (S.Z.)*, and *Petrie v. Lindsay*, the reality and complexity of intimate partner and family violence must be approached with sensitivity, careful evaluation of evidence, and an unwavering commitment to protecting the safety and well-being of everyone involved—especially children.

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