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**Intimate partner violence, family court, and assessment: a  
qualitative study of the experiences of women's advocates**

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## Abstract

Intimate Partner Violence (IPV) is a pervasive problem throughout New Zealand. Approximately a third of all women will experience some form of abuse from their partner in their lifetime. Literature on IPV highlights the difficulties these women face when they enter the Family Court system and the lack of understanding regarding the dynamics of IPV. Of particular concern are those women who undergo a psychological assessment as part of the custody dispute. The Family Court has posited the movement to collaborative parenting may outweigh the need to keep women and children safe. Consequently, women may not only be re-victimised, but both their safety, and the safety of their children, could be at risk. The purpose of this study was to provide a greater understanding of women's advocates experiences of issues of IPV, Family Court, and psychological assessment in New Zealand. Four advocates from Women's Refuge were interviewed and a thematic analysis conducted. Four superordinate themes emerged from participants' accounts: process difficulties, conflict, lack of expertise and gender-based issues, while a fifth theme of cultural differences emerged from one of the participants. These experiences were supported by the existing literature, and added valuable knowledge from a New Zealand context. Unexpected issues also arose, including the difficulty women with children face in being granted the right to relocate. This will help form the basis of continued research into the area, with the aim of gaining a more discerning picture of key issues that arise for women who have experienced IPV and who are embattled in a custody dispute in the Family Court.

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## Table of contents

Intimate partner violence, family court, and assessment: a qualitative study of the experiences of women’s advocates .....	i
Abstract .....	ii
Acknowledgements .....	iii
Chapter 1: Literature Review .....	1
1.1 Definitions .....	1
1.1.1 Intimate partner violence. ....	1
1.1.2 The Family Court.....	1
1.1.3 Custody. ....	1
1.2 Women’s Refuge .....	2
1.3 Prevalence of Intimate Partner Violence: a New Zealand Context.....	3
1.4 Best Interests of the Child .....	4
1.5 The Family Court .....	5
1.5.1 Pre-court services.....	8
1.6 The Hostile mother .....	9
1.7 Continued Abuse .....	11
1.8 Court professionals and assessment .....	16
Chapter 2: Research Methodology.....	21
2.1 Aims .....	21
2.2 Participants .....	21
2.3 Ethical Considerations.....	22

2.4 Method.....	23
2.5 Qualitative research.....	24
2.5.1 Thematic analysis.....	26
Chapter 3: Results.....	27
3.1 Process difficulties.....	28
3.1.1 Long, negative process.....	29
3.1.2 Continued abuse.....	32
3.2.3 Financial issues.....	34
3.1.4 Changes in protection orders over time.....	35
3.2 Conflict.....	38
3.2.1 Access versus safety.....	38
3.2.2 Law versus reality.....	43
3.3 Lack of expertise.....	47
3.3.1 Psychological assessment.....	47
3.3.2 Dynamics not understood.....	49
3.3.3 Lack of education and acknowledgement of Women’s Refuge.....	52
3.4 Gender-based issues.....	55
3.4.1 Kept in the same geographic area as abusive ex-partner.....	55
3.4.2 Responsibility.....	57
3.4.3 Judgements.....	61
3.5 Cultural differences.....	63
3.5.1 High-end physical violence.....	64

3.5.2 Avoidance of court system. ....	65
3.5.3 Shame.....	66
Chapter 4: Discussion .....	68
4.1 Family court .....	68
4.2 A Gender-based/ Gender-biased issue?.....	74
4.3 A cultural issue .....	79
4.4 Will it ever change?.....	81
4.5 Strengths, limitations and future directions of research .....	86
Chapter 5: Conclusion.....	90
5.1 Reflexivity .....	91
References .....	92
Appendix A .....	108
Appendix B .....	110
Appendix C .....	111

## **Chapter 1: Literature Review**

### **1.1 Definitions**

#### **1.1.1 Intimate partner violence.**

According to the Domestic Violence Act (1995), intimate partner violence (IPV) is a type of family violence, which involves physical, sexual and/or psychological abuse of one person against another who are, or have been, involved in a domestic relationship. It is a serious social issue, both in New Zealand and throughout the rest of the world, affecting individual's human rights, health and safety (Marie, Fergusson, & Boden, 2008). Women's Refuge (n.d.g) extends this definition to encompass emotional, financial and spiritual abuse.

#### **1.1.2 The Family Court.**

The New Zealand Law Commission (2003) states that the Family Court is where disputes between family members are resolved in a timely manner, for the welfare of that family, in particular the children. This includes reaching agreements, providing family with the relevant information and listening to the child's needs and views. It further notes the Family Court must be culturally sensitive, fair and just, keep up with socio-political factors, and utilise expert professionals who are well-qualified, understanding and empathic.

#### **1.1.3 Custody.**

The Care of Children Act (2004) defines custody as having responsibilities, rights and powers in raising the child. This includes where they live, their education, and the medical treatment they receive, as well as their culture, language and religion. The Act further states that when exercising these decisions, collaboration should be

sought with the child's other parent. It defines rights of custody as either sole or joint rights relating to care of the child, such as their day-to-day care, and where they will reside. The legal term for this is a parenting order, and is determined by the Family Court (Ministry of Justice, n.d.b.). It is based on the best interests of the child, which is stated as usually involving both parents.

## **1.2 Women's Refuge**

Women's Refuge in New Zealand support women and children who have experienced some form of abuse. They are at the forefront of work with IPV, offering advice to the government, collaborating with other organisations and producing informative research, as well as raising awareness about IPV. It was first established in New Zealand in 1973, by a group of women who wanted to provide a safe place for those who had experienced violence (Women's Refuge, n.d.e). There are now forty five Women's refuges located around New Zealand (Women's Refuge, n.d.b) and just under a thousand staff nationwide, of which the majority (64%) are volunteers.

In 2013, Women's Refuge (n.d.g) provided help to 20,000 women and children. They assert a majority of these women have experienced psychological abuse (64%), while 49% reported abuse that was physical, 23% financial and 11% sexual abuse. Furthermore, almost a quarter (24%) stated children were present at the abuse. They provide safe houses, an around the clock crisis line, online help, safety plans and support, guidance around protection orders, programmes for women, including parenting help, as well as childcare, education, and help with relocation (Women's Refuge, n.d.e). They also collaborate with other services, including lawyers, health care, counsellors, welfare and support.

Women's Refuge is culturally sensitive, with the recognition and promotion of diversity. Thirteen of the refuges are especially for Maori, and Women's Refuge has led the way on parallel development (Women's Refuge, n.d.h); this is in line with the Treaty of Waitangi's principle of partnership. Additionally, collectivism, feminism, and the elimination of discrimination against women underpin the values of Women's Refuge, which include integrity, self-understanding and individual development, and "relationships built on kinship and reciprocity" (Women's Refuge, n.d.f).

### **1.3 Prevalence of Intimate Partner Violence: a New Zealand Context**

Women's Refuge (n.d.c) states that a third of all women will experience some form of abuse from their partner in their lifetime, and yet less than 20% of these incidents are reported to police. It is not just women who are affected by this violence, with Women's Refuge noting that over 74,000 young people alone have been present at situations attended to by the police. In 2013, 7% of secondary students reported witnessing abuse between adults and 14% witnessed the abuse of other children in the home (New Zealand Family Violence Clearinghouse, 2014). Women's Refuge also highlight that IPV issues spread to the Family Court, with 3876 cases of IPV in the family court that involved children.

IPV has been of increasing concern in New Zealand, with a range of relevant legislation, interventions and specialised police training (Jaffe, Crooks, & Poisson, 2003). It extends to all areas of society, regardless of socioeconomic status, culture, or education (O'Campo, Caughy, & Nettles, 2010). Although both men and women suffer IPV, women are more likely to suffer higher levels of violence, more often, and are five times more likely to fear their life is at risk (Jaffe, Lemon, & Poisson, 2003). This can result in physical effects, such as bruises, fractures or broken bones, and internal

injuries, as well as emotional and psychological effects, such as anxiety, depression, suicide and substance abuse (Fanslow & Robinson, 2004).

It is a highly political issue, with controversy around prevalence of IPV. Fathers' Rights Groups assert men are prejudiced against and the statistics overestimated, while those working with abused women assert there is a lack of understanding of the severity and prevalence of IPV (Jaffe, Lemon, & Poisson, 2003). The authors expand upon these differences, drawing attention to the polarisation in issues between the two groups. For instance, Fathers' Rights Groups advocate for shared parenting, and false allegations and over exaggerations are used against men in order for women to gain custody. Advocates on the other hand, mark that shared parenting puts women at risk, IPV is more prevalent than is reported, and women are not only not believed, but punished when they make allegations. Kaye and Tolmie (1998) note that Fathers' Rights Groups have great sway in getting their agenda heard, particularly through politics and the media.

#### **1.4 Best Interests of the Child**

The Care of Children Amendment Act (2013) states that of paramount concern is the best interests and welfare of the child, which must be considered in relation to court proceedings involving custody or contact with a child. The child's views and wishes must also be taken into account. Section 4.2 maintains that one may also consider the behaviour of the individual seeking involvement with raising the child, where relevant to the child's best interests, nor should one assume that the placement of the child is dependent on a person's gender. Section 5 states that a child's care should involve cooperation between, and a relationship with, both parents. Nevertheless, section 5A states that IPV is to be taken into consideration for a parent/guardianship order or dispute, a final protection order has been in force, and the circumstances behind

the protection order. Despite this, researchers such as Jaffe, Crooks, and Poisson (2003) caution this is not always the case.

Researchers such as Jaffe, Crooks, and Poisson (2003) have criticised the pervasive misunderstanding that as long as a child is not directly abused, they will not be harmed from witnessing abuse. Children exposed to IPV may be affected in a number of ways, including emotionally, psychologically, and behaviourally. This may consist of nightmares or flashbacks, tantrums, anxiety, depression, bed wetting, and impaired cognition (Holden, Geffner, & Jouriles, 1998). It can impact their development, as well as their own views and attitudes of relationships when they are older (Bancroft & Silverman, 2002).

### **1.5 The Family Court**

Traditionally, Family Courts have largely ignored or minimised IPV as a factor in custody disputes, as well as not taking into account the complexity of each individual situation and unique needs (Jaffe, Lemon, & Poisson, 2003). It has been estimated that as many as half of custody disputes have a history of IPV, and studies have shown that these claims are often minimised in recommendations to the Family Court (Morrill, Dai, Dunn, Sung, & Smith, 2005; Kernic, Monary-Ernsdorff, Koepsell, & Holt, 2005). Other research, such as that by Johnston and Roseby (1997), indicates that IPV may be present in up to 80% of high-conflict, stressful or long-lasting custody disputes, with separation being a particularly dangerous time. In reaction to the loss of control, perpetrators may be at their most violent, and consequently, victims can be at the most risk (Jaffe, Crooks, & Poisson, 2003).

Pond and Morgan (2008) caution that custody and supervised access remain controversial issues. Fathers' Rights Groups in New Zealand have criticised the historic

tendencies of women being favoured in being granted custody (Jaffe & Crooks, 2004). Contrast to this, Jaffe, Lemon, and Poisson (2003) remark that abusive partners are more likely to gain custody or visitation than fathers who have no history of abuse. Hans, Hardesty, Haselschwerdt, and Frey (2014) assert that although Courts are required to take into account IPV, it may be played down, or pushed aside in the effort toward collaborative parenting.

According to Stahl (2011), co-parenting involves parents communicating with each other in regards to the child's education, health, and any other important aspects of the child's life. Stahl adds that children adjust better when this is achieved in the absence of conflict. As Elizabeth, Gavey, and Tolmie (2012) assert, the expectation of having both parents in a child's life for their wellbeing is reflected in legislation, but can become problematic with IPV, which raises concerns of safety and wellbeing for victims and their children. Joint custody, or maintenance of contact with a father with a history of being violent, can perpetuate IPV, putting both the mother and child at risk of physical, emotional or psychological harm (Beeble, Bybee, & Sullivan, 2007; Jaffe, Crooks, & Poisson, 2003); up to 45% of child abuse occurs in the context of IPV (Stark, 2002).

In their Family Court review submission, Women's Refuge's (n.d.a) report concerns in the variance of reasoning behind decision making in the family court. Alongside this, they criticise the apparent nature of the court in blaming violence on mothers, while supporting fathers in their appeal for custody. As a result, Women's Refuge maintains that women are not only re-victimised, but both their safety, and the safety of their children, are at stake. In addition, the connection between IPV and child abuse is ignored and the rights of the father to custody seem to overpower the need to keep women and children safe.

As Stark (2009) notes, it is unfortunately all too common where there is a history of IPV yet the court favours collaborative parenting in line with societal expectations. This is where Stark urges the most work is needed by professionals for the welfare of victims and their children. A study by Pond and Morgan(2008) revealed New Zealand lawyers tended to be averse to involving IPV allegations in a custody dispute; reasons included apprehension of limiting parental access to their children. Other studies, such as that by Holt (2003), show the pressure put upon women to change the situation, despite not being the abusive partner.

Busch and Robertson (2000) found a tendency of court professionals to believe the violence between parents was irrelevant to custody of the child. Jaffe, Crooks, and Poisson (2003) note that despite this misconception, it has significant effects and undermines the victimised parent's ability to trust, communicate and be equal, and is reported in many high conflict disputes. Women in their study reported being frustrated that the court did not take into account the effect of violence on their children.

There is some consensus that different approaches are needed for high-conflict disputes. Jaffe, Lemon, and Poisson (2003), comment that rather than cooperative parenting, where the back and forth transitions can impact on the child, there should be guidelines put in place in the best interests of the child. This would involve clear plans that limit opportunities for parents to have negative interactions.

The difficulty of decision-making in the Family Court is acknowledged; situations can be emotionally charged and stressful for everyone involved. Moreover, there is a lot of pressure, as these decisions have far-reaching consequences, including children's welfare and no matter how fair the decision may be, people can still be hurt from them (New Zealand Law Commission, 2003).

### **1.5.1 Pre-court services.**

Pre-court services such as mediation, are encouraged by the Family Court due to being less costly and more time-efficient than going through the Court (Jaffe, Crooks, & Bala, 2009). Family Dispute Resolution (FDR) is recommended by the Ministry of Justice (n.d.c) whereby parents or guardians can attempt to come to their own custody agreement through mediation and collaborative decision-making, without needing to attend the Family Court. At times, this can be a positive experience that may be more effective, as it is a decision both parties have negotiated and improved communication, instead of having imposed on them. Nevertheless, Elizabeth, Tolmie, and Gavey (2011), caution that it is not always appropriate, effective or safe, particularly when there is a history of violence.

The Family Dispute Resolution Act 2013 states that FDR involves helping all parties concerned to come to an agreement without going through family court proceedings, and the welfare and best interests of the child are considered paramount in these proceedings. The Care of Children Amendment Act 2013 states that applicants must participate in family dispute resolution, before family court proceedings begin. A judge may also require both parties to attend the disputes resolution after the dispute has started, or if they feel it will help reach an agreement.

The literature highlights the shortcomings of the mediation process, stating that women may not feel comfortable mentioning IPV, or if they do, it may not be addressed (Jaffe, Crooks, Poisson, 2003). For instance, Hirst (2002) found sessions continued in over 40% of cases where IPV was alleged. Conciliation strategies assume both parties are equal, but outcomes may be a result of fear or coercion rather than collaborative negotiation. Issues which contribute to this are financial and credibility inequities which

favour fathers, including their recall of events; women who leave abusive relationships can lack resources and be at a financial disadvantage (Jaffe, Zerwer, & Poisson, 2002).

IPV is recognised as the biggest threat to equality in Family Court counselling. If one party has been subjected to abuse of any kind, including psychological, emotional or physical, that history will colour the mediation process, reminding the victim of what can happen if they disagree with the abusive party (Henaghan, 2007). At the heart of IPV are issues of power and control, and perpetrators may utilise tactics such as intimidation, coercion, and manipulation of children (Jaffe, Lemon, & Poisson, 2003). This results in power inequalities, which colour the mediation process. It may be intrinsic to the victim's sense of safety to placate the perpetrator, and hence this emphasis on compromise may result in an unfavourable outcome for not only the victim, but the children as well (Stark, 2009). This is echoed by the New Zealand Law Commission (2003), in particular with gender bias in the Family Court.

### **1.6 The Hostile mother**

Featherstone (1999) notes the gendered responsibility of women caring for the family and maintaining relationships. Boyd (2003) asserts the expectation of collaborative parenting is inherently gendered, with mothers expected to maintain the relationship between the child and father, even if it puts her at risk. This influences how the mother is perceived; if this relationship fails, then she may be viewed as hostile. Furthermore, when there is no contact, it may be viewed as being selfish, by not looking out for the needs of the child. This societal expectation is so powerful that if mothers do not conform to that standard, they may be viewed as hostile (Elizabeth, 2010).

Socio-historical factors influence the definition of motherhood (Henderson, Harmon, & Houser, 2010). This leads to moral standards of what a 'good' mother is,

and what a ‘bad’ mother is, in comparison with the normative standard. Mothers may face criticism for failure to protect the child if they stay with an abusive partner, but leaving can be dangerous, and they may fear losing custody, placing their children at risk of harm (Morrill et al., 2005). If a woman maintains abuse allegations, she may be perceived negatively for being self-centred or resentful; all the while the father may be deemed suitable to be in the child’s life (Stark, 2009). Reluctance to collaborate with the father can be misconstrued as being hostile, rather than the fear of continued abuse and trying to protect her children (Dore, 2004).

As a result of this, women may feel pressured to stay quiet, in fear of the consequences if they speak out about the violence (Neilson, 2003). Elizabeth, Gavey, and Tolmie (2010) discuss the discourse of the hostile mother who are seen by media and professionals alike as unjustly keeping her child away from the father. This perception exists even when there is a history of violence and Elizabeth et al. note that it can result in a mother’s silence, so as to avoid negative outcomes. This distracts from the core concept of the best interests of the child by directing attention away from the history of the father, instead focusing on the mother’s actions.

Worryingly, backlash from abuse allegations may result in mothers being perceived as misrepresenting facts in order to win custody, which could negatively impact their own case for custody (Jaffe et al., 2009). These beliefs, that allegations are excessive and sensationalised for the purpose of gaining custody, are held by many, including Family Court professionals (Jaffe, Lemon, & Poisson, 2003). Mental health professionals may downplay the effects of violence, due to comparing the situation to other types of violence they deal with in their profession. This can be compared this to

an iceberg; professionals are only viewing the tip of the iceberg, while advocates understand and see that the majority of the iceberg is underwater.

There is concern in the literature about the importance placed upon collaborative parenting (Saunders, Faller, & Tolman, 2013; Zorza, 2007). Dore (2004) refers to this as the “friendly parent” (p. 41) concept, whereby custody is awarded to the parent who will help maintain the child’s relationship with the other parent, which is in the best interests of the child. Dore asserts these parents are expected to not be hostile or present unwelcome allegations, which is particularly worrying when IPV is an issue. It can put the mother and child at risk, and result in the mother being afraid to come forward in fear of losing custody.

### **1.7 Continued Abuse**

Busch and Robertson (2000) conducted case studies of the experiences of abused women, and found a recurrent theme to be the failure of the legal system in addressing violence. Women and children were not only at risk of violence, but women’s allegations were minimised, or they were held partly accountable for the violence. Busch and Robertson assert the Family Court seemed to favour maintaining relationships over safety. Over the last two decades, there has been increased evidence of the significance of father involvement on the child’s wellbeing (Elizabeth, 2010). Additionally, there is a misconception that abuse ends with separation; however the reality is there is growing evidence post separation perpetrators manipulate the situation and abuse can continue, or worsen (Jaffe, Zerwer, & Poisson, 2002; Jaffe, Crooks, & Poisson, 2003). Statistics Canada (2001) note a post-separation increase in violence reported by 24% of IPV victims.

Beeble et al. (2007) express concern about the lack of research into the manipulation or harm of women through their children. Examples include using custody disputes to monitor the mother, interrogating children about her activities, and continued abuse through visitation rights or threatening to hurt or take away the child (Jaffe, Crooks, & Poisson, 2003). A staggering 88% of women in their study reported these experiences, with emotional abuse especially prevalent, while 97% of women in the study by Jaffe, Zerwer, and Poisson (2002) reported post-separation abuse.

Researchers such as Bow & Boxer (2003) note that custody of children, visitation rights, and child support are all a means of maintaining power and control for the perpetrator. Kernic et al. (2005) point out reports of continued abuse, or threat of abuse, perpetrators deliberately not bringing children back at agreed times, and women not fighting for custody in fear of retaliation. Perpetrators may also try and turn the child against the victim, suggesting it was their fault the family is no longer together, or undermine their authority by using bribes and encouraging them not to listen to the parent (Bancroft & Silverman, 2002); this can negatively impact upon the child's adjustment to the separation.

It has been suggested that perpetrators may try and manipulate the court process, continuing their control and abuse, while appearing in a positive light to professionals (Jaffe et al., 2009; Bala, 1999). According to Sinclair (2000), custody disputes average over three years when IPV is an issue. Perpetrator's strong personal and social skills, and ability to come across as a concerned and caring parent, may even persuade the judge to award them custody (Bow & Boxer, 2003; Zorza, 1995). In the study by Scott, Crooks, Francis, and Kelly (2002), abusive men admitted to utilising the Family Court proceedings to gain control or continue abusing women. Likewise, they may refuse to cooperate with supervised access (Jaffe, Crooks, & Poisson, 2003).

On the other hand, Jaffe et al. (2009) further caution that victims may be suffering from the effects of violence which impact on their behavioural or psychological functioning, including exhaustion, depression and substance abuse, which can impact a psychological assessment to the court. This can undermine the court's views on their parenting skills and character, while the perpetrator may be viewed in a positive light (Gondolf, 2001). Nevertheless, researchers such as Jaffe and Crooks (2005) assert their functioning can significantly improve once the ordeal is over. They may need time and support to recover from the trauma and abuse, and be an effective parent.

IPV is related to a lack of parental cooperation (Austin, 2000). IPV can increase, and even become lethal, upon separation (Hotton, 2001). Adding to this, Hardesty and Chung (2006) note that women have reported feeling more vulnerable when children are involved, as it provides the abusive partner opportunities for further contact and abuse. Not only are perpetrators more likely to become violent after separation, but they are also more likely to lack effective parenting skills, displaying high levels of conflict, rejection and coercion; they may even be abusive to the children (Jaffe, Johnston, Crooks, & Bala, 2008).

Jaffe, Lemon, and Poisson (2003) caution that Family Court judges may be swayed by father's emotional appeals and claims of change, as well as focused on allowing them access to their child's life, that can overlook safety. Women's shelters have noted victims continue to be put in danger and abused, with visitation enabling perpetrators to maintain power and control through threats and violence (Jaffe, Crooks, & Poisson, 2003). In their study, Jaffe et al. observe that over half of the women experienced abuse after separation, particularly relating to custody disputes, including threats about taking the child or not providing child support.

Despite the movement towards collaborative parenting, researchers such as Jaffe et al. (2009) warn that different outcomes may be necessary when there is a history of IPV; shared custody may not be a safe option and can endanger the victim and children further (Hardesty & Chung, 2006). In the best interests and safety of the child and other parent, this could mean supervised or little to no contact from the offending parent. As they mention, increased campaigns and social awareness of IPV seem to be at odds with the Family Court's emphasis on collaborative parenting, and letting go of the past for the sake of the child's best interests. They emphasise the complexity of the issue and highlight that every case is different; instead of a blanket solution, increased resources and training are recommended by the researchers, as well as professionals working together.

Although false claims do occur, minimisation or complete denial of harm by perpetrators is far more common (Jaffe et al., 2009; Jaffe, Lemon, & Poisson, 2003). Studies by Shaffer and Bala (2003) and Johnston, Lee, Olesen, and Walters (2005) have shown female victims as more reliable in their accounts of abuse, than perpetrators in their denials of the allegations. Johnston et al. further note that between half and three-quarters of the allegations made by victims can be substantiated in some way.

The New Zealand Law Commission (2003) found there was the perception the Family Court was gender biased, with apparent "pro-feminist, anti-male bias" (p. 197). As well as this, they discuss that despite best intentions towards fairness and equality, each individual is influenced by socio-political factors, which can unconsciously influence their decisions. In their report, they acknowledge the shortcomings of granting protection orders, which can result in retaliation against the victim, as well as accounts of women who have felt that judges were patronising and "trivialised her experiences" (p. 202). Furthermore, they state their support in limiting perpetrators of IPV access to

children as even if they had not been violent to the children because witnessing the violence has been a traumatic experience for the child and is therefore not in their best interests.

Research conducted by Gravitas Research and Strategy (2006) showed that many perpetrators of family violence expressed the importance of keeping the abuse hidden from the child in order to protect them; it was also a motivating factor to put a stop to the violence. Additionally, not all perpetrators will fight for custody, simply choosing to move on with their lives (Jaffe et al., 2009). Other times, women may avoid the legal system, preferring for it to all be over and to not antagonise the perpetrator, rather than seek the child support they are entitled to (Jaffe, Lemon, & Poisson, 2003).

In their study, Varcoe and Irwin (2004) found child custody was the biggest concern for women, and they struggled to protect themselves and their child, while simultaneously working on the child-father relationship, in line with what was socially acceptable. All women reported their partner manipulating the children, with many threatening to harm them or take them away, in order to maintain power and control and get what they want. Not only does it affect the parent, but it can additionally impact upon the emotional, physical and psychological wellbeing of the child (Stark, 2009). Kelly (1994) asserts exposure to IPV is a form of psychological abuse. As stated by Cunningham and Baker (2004), children who witness IPV may be in a constant flux of conflict; they interpret the situation, question whether they are to blame, worry about what will happen, try and fix the situation and develop coping mechanisms to protect themselves. Researchers such as Stith et al. (2000) have shown weak-to-moderate links between witnessing abuse and becoming a victim or perpetrator of violence later in life, carrying on the cycle of violence.

## **1.8 Court professionals and assessment**

Despite the final decision for custody lying with a Family Court Judge, custody evaluators, such as psychologists, are implicit in the process (Jaffe et al., 2009). According to the Care of Children Act 2004, the Court has the power to obtain psychological reports from an appropriately qualified psychologist. These reports involve investigating the effect of the current custody arrangement on the child, their relationship to each parent, each parent's psychological functioning, child-rearing skills, capacity to provide for the child and ability to collaborate with the other party, as well as the positive and negative consequences for each custody option (Stahl, 2011). The Act specifies that this may occur only if the report will be the most accurate and cost-effective method to provide critically relevant information to the dispute and is not used merely to determine the wishes or desires of the child.

As stated by Stahl (2011), it is the role of the psychologist as the custody evaluator to be objective, assess the family as a whole and make recommendations to the court for the welfare of the child. Due to the complex nature, and sensitivity required in custody disputes, reports by court-appointed assessors are becoming increasingly relied upon (Davis, O'Sullivan, Susser, & Fields, 2010). This task is made more difficult when IPV is alleged or suspected.

Davis et al. (2010) note that specialised knowledge is required by these evaluators, including all types and effects of abuse, power differentials, correlation between intimate partner and child abuse, and the effects of abuse on victim's assessments. Saunders et al. (2013) assert that IPV is a major issue when providing reports for custody disputes, and if ignored may result in a range of negative outcomes, including the violent parent winning custody and visitations that put the victim and children in danger.

Bow and Boxer (2003) highlight the complexity of evaluating custody disputes, especially when IPV has been alleged because of the pervasive silence and underreporting that are common. Evaluator's recommendations can have a major impact on the custody decision. Various methods of harm intrinsic to the abusive relationship can be extremely difficult to identify; assessment continues to fall short in determining abuse patterns and the effects of custody battles (Dutton & Goodman, 2005). This is made more burdensome by Family Court attitudes in that abuse allegations are simply a means to win custody and parents should instead overcome their differences for the benefit of the child (Stark, 2009).

Allegations of abuse can go back and forth, and perpetrators may continually outright deny or make excuses for the violence, and blame the victim (Bow & Boxer, 2003). Additionally, IPV is notoriously difficult to substantiate, with a lack of reports of violence to the police (Statistics Canada, 2001), as well as lack of witnesses to the abuse (Sinclair, 2000). Consequently, this can result in professionals not taking IPV into consideration, or minimising it as a factor of custody (Jaffe et al., 2008).

The issue of visitation with an abusive parent and possibility of harm calls into question the effectiveness of assessment, as well as ethical boundaries (Stark, 2009). Stark mentions that professionals utilised by the Family Court accommodate its value system into their assessment. However, the normative standard of collaboration may also lead to missing abuse, inappropriate visitation recommendations or even victim-blaming. All too often, IPV is minimised or overlooked and Stark calls for professionals to remedy this, and put protective measures in place.

Professional evaluators have been criticised due to a lack of expertise about IPV and overemphasis on psychometric assessment. There have been criticisms of not taking

IPV into account when determining custody, including making assumptions about false or exaggerated allegations, bias in favour of males, and the lack of utilising other sources (Bow & Boxer, 2003). In conjunction with this, Box and Bower note that although observing interactions can be useful, especially in regards to their parenting style, there is no evidence that it can help identify violent tendencies.

Researchers such as Jaffe et al. (2008) caution the lack of assessment tools which enable professionals to distinguish types of violence and the effects on parenting. They recommend using multiple sources to get a more accurate picture of the situation. This includes neutral observers, such as teachers or neighbours, as well as being aware of children's silence, indicating they may have witnessed abuse. In addition to this, they assert psychological issues of the perpetrator, such as major depressive disorder, schizophrenia and substance abuse are relevant.

It can be particularly difficult for professionals when parents have contrasting views and accounts of their relationship and possible abuse. Alleged perpetrators may have a new partner who testifies for his character. This is why Jaffe et al. (2009) highlight the importance of careful and accurate assessment; they encourage psychologists to look at the overall pattern of behaviours, rather than specific incidents. On top of this, they recommend a number of interviews with each parent, which can help break through any facades put up by an abusive parent, as well as psychometric testing of the history of abusive behaviour and injuries sustained. Gathering information from others involved with the family can also be useful, but should be reflected upon critically.

Hardesty and Chung (2006) note the lack of support for women alleging abuse. They call for increased identification of abuse, including routine screening, and a

supportive and non-judgemental environment so women feel they can talk about it and taken it seriously. In-depth interviews conducted by Hughes and Chau (2012) revealed women's calls for professionals to take more time in understanding their situation, and help them come to a safe arrangement for both their child and themselves. The study also stressed the need for cultural sensitivity with some women explaining that cultural differences led to many misunderstandings.

Haselschwerdt, Hardesty, and Hans (2011) identify common misconceptions of IPV held by Family Court professional; for instance, beliefs may be held that IPV is irrelevant to custody disputes and ends with separation, false allegations are commonplace and a way for women to win custody, and that abused women are unstable or weak. When women therefore present differently to these stereotypes, such as if they are angry or hostile, authors such as Jaffe et al (2003a) caution it may result in women being viewed negatively, and as merely trying to prevent the perpetrator from having custody. Saunders et al. (2013) report evaluator's bias in believing women make false allegations of violence to win custody. In their study, they found custody evaluators, who believed these false allegations were common, were also more likely to believe mothers were alienating, it was in the best interests of the child to have the father in their life, and, consequently IPV was irrelevant to custody.

Hovarth, Logan, and Walker (2002) found variation in the way custody was assessed among professionals and reiterated the point that psychometric assessment should not be over-emphasized, instead forming only a part of assessment. Likewise, they should be individualised, and safety plans put in place, as well as legal and community support so the relationship between the child and father can be maintained in a safe, supportive environment for everyone (Hardesty and Chung, 2006).

Jaffe et al. (2009) call for accurate and thorough assessment of all cases to ensure the best outcome, which keeps victims safe; individuals and situations vary in their risks, and as such, the interventions required. It is important for professionals to understand the risks of violence, and the impact on both children and women (Frederick & Tilley, 2001). Adding to this, Fidler, Bala, Birnbaum, and Kavassalis (2008) advise that professionals investigate children's reactions to visitation, including any possible apprehension of encountering abuse, which could reinforce abuse allegations. As Jaffe et al. (2009) warn, unless careful assessment is undertaken, IPV could be overlooked and disputes merely taken as a result of custody agreements. Care also needs to be taken when interviewing children, including what they have encountered, any fear or apprehension they may have, and reasons behind why they may be requesting to be with a certain parent.

Varcoe and Irwin (2004) go as far as to say that the legal system extends the abusive partner's power and control over the victim and their children. They call for increased understanding and better approaches to issues of IPV, custody and assessment. Busch and Robertson (2000) commend legislative changes but state there needs to be increased communication and collaboration between social, health, legal and child services in order to effectively protect women and children from IPV violence. In line with this, Jaffe and Crooks (2004), two notable researchers in the field, state that New Zealand has been a leader in considering IPV in custody disputes. However, they caution because the relevant legislations are not being translated into daily practice due to a lack of resources and Family Court professionals need to take into account the extent and consequences of IPV in custody disputes.

## **Chapter 2: Research Methodology**

### **2.1 Aims**

The aim of this study was to explore Women's Refuge advocate's experiences and concerns of their client's experiences of the Family Court process. It also aimed to provide a greater understanding of intimate partner violence, Family Court, and psychological assessment in New Zealand, and will help form the basis of continued research in this area, with the aim of gaining a better understanding of the key issues that arise for women who have experienced IPV and have had to attend Family Court.

### **2.2 Participants**

Four advocates from one Women's Refuge site in an urban area were interviewed. Women's Refuge is "New Zealand's most significant domestic violence organisation" (Women's Refuge, n.d.i) and their advocates have varied experiences with Family Court and the psychological assessments conducted for Family Court. This purposive sampling allows researchers to find a mostly homogenous group to whom the research question will be relevant, as well as to examine similarities and differences in detail (Smith & Osborn, 2003).

All four participants were women, aged between forty-four and forty-nine. One identified as European, two as New Zealand European, and one identified as New Zealand European and Maori. Three identified their highest level of education at the tertiary level, with one identifying the highest as secondary school. In regards to their marital status, one responded that she was married, one was separated or divorced, one was in a de facto relationship, and another responded "other" without specification. The mean number of years each advocate had spent at Women's Refuge was eight, while the mean time they had spent in the profession was ten years.

This sample size is in line with qualitative methodology, which tends to be conducted with a relatively small number of people, who produce rich and detailed accounts for analysis (Larkin, Watts, & Clifton, 2006). This helps researchers to explore the meaning and understanding of participant's experiences, and in essence is about the quality of these accounts, not the sheer number of them (Larkin & Thompson, 2012). With an in-depth focus and close examination of detail, Smith and Osborn (2003) highlight the need for small samples; in particular for students, they have recommended approximately three participants, so that in-depth analysis and examination can be made, without research becoming too overwhelming or unrealistic.

The interviews were recorded and transcribed; although the process can be time-consuming, the focus is on examining participant's accounts closely, rather than making sweeping generalisations (Smith & Osborn, 2003). Transcripts were produced verbatim, including pauses and nuances, in order to incorporate data as naturally as possible (Willig, 2013), with data only being carefully reduced in analysis. In line with Smith (1999), researchers used open-ended questions with minimal prompts, enabling participants to take control of their stories, including what direction they were taken.

### **2.3 Ethical Considerations**

An ethical analysis was conducted prior to this research, in line with the Massey University code of ethical conduct for research, teaching and evaluations involving human participants and the research met the criteria for "Low Risk Notification" rather than requiring approval from the Human Ethics Committee. A Low Risk application was filed with the University's Research Ethics Office. Participants and their personal dignity beliefs, privacy and autonomy were respected at all times. Each participant was supplied with a written information sheet (Appendix A) explaining the research,

including its aims and procedures; and written informed and voluntary consent (see Appendix B) was obtained from each participant prior to collecting data. Each participant was informed of their right to withdraw at any point, including being able to stop the voice-recording at any time. Participants were also informed their participation in this study would have no impact on their job and interviews were conducted at a time suitable for participants, so as not to interfere with their schedule.

Due to the nature of the research, confidentiality was a particularly salient ethical issue. Pseudonyms were used, and any identifying information removed in the interview transcripts. Participants were recruited from two different Women's Refuge organisations, including one for Maori Women's Refuge, to help provide a balanced cultural perspective, in line with the principles the Treaty of Waitangi of partnership, protection and participation. To further ensure confidentiality the specific refuge site will not be identified.

## **2.4 Method**

Semi-structured interviews were conducted with each participant in a private room at Women's Refuge. This location was chosen as it was convenient for the participants, and people tend to be more comfortable in familiar settings (Smith & Osborn, 2003). Semi-structured interviews are the most common method for data collection in qualitative research; in their meta-analysis, Brocki and Wearden (2006) found almost all studies incorporated semi-structured interviews into their data collection. As Smith and Osborn (2003) state, this is a flexible way to collect data, enabling researchers to modify their subsequent responses and explore important or unexpected areas. Such interviews allow participants to discuss their experiences, guided by researcher questions, which can also serve as triggers (Willig, 2013).

Even though a pre-set list of questions was developed for this study (Appendix C), it served only as a general guide; as Smith and Osborn (2003) recommended, the order in which the questions were asked were fluid, and new areas and concerns that arose were explored. This flexibility in the interviews revealed areas we hadn't considered, and showed what was important to the participants. Interviews had no set timeframe to allow participants to speak as freely as they wanted, we used minimal prompts, asked one question at a time and monitored how the participant was affected by the interview. Willig (2013) emphasises that researchers are tasked with maintaining balance, between controlling the direction of the interview and facilitating participants to explore what is important to them and possibly lead research in new directions.

As well as this, semi-structured interviews help build rapport with participants; establishing rapport with participants was essential to the interviews, to ensure the participants were comfortable in discussing their experiences, as freely and openly as possible. Interviews were conducted by me and my supervisor, who has a long standing relationship with Women's Refuge. It was decided that my supervisor be present at the interviews as the trust and rapport would be strengthened. Women's Refuge does not allow research to be conducted often because of their need to protect their clients and confidentiality, but was willing to participate in this research due to the relationship established with the supervisor and their desire to get this important information out to a wider audience. Although there are advantages to semi-structured interviews, Smith and Osborn (2003) point out that they also reduce researcher's control, are time-consuming and more difficult to analyse.

## **2.5 Qualitative research**

Bruner (1986) distinguishes paradigmatic, quantitative knowledge, which has been utilised by positivist sciences focused on empiricism, from narrative, qualitative

knowledge, which focuses on stories, experiences, and the subjectivity of how individuals construct their world. McLeod (2011) discerns that each type of knowledge complements the other and both are essential to psychology.

According to Guest, MacQueen and Namey (2012), there are various approaches to qualitative research. Methods are generally more flexible and exploratory, and less structured than quantitative methods. Qualitative methods have been utilised in the past for research involving women and the Family Court. For example, narrative analysis allowed Elizabeth et al. (2010) to focus on women's stories and their perspectives, in order to give Family Court professionals a better understanding of their situation. Adding to this, Hughes and Chau (2005) conducted a qualitative study of how women's experiences of IPV are viewed by the Canadian Family Court. Jaffe and Crooks (2004) call for more research into understanding abused women's experiences of separation and custody.

McLeod (2011) proposes qualitative research methods are concerned with social constructions of the world, through both individual and collective action, including language, stories, meanings and beliefs; knowledge is both complex and subjective, and shaped by human beings. McLeod challenges researchers to choose topics which are socially significant. A researcher's commitment to change has often been at the heart of qualitative research (Kidder & Fine, 1997). McLeod (2011) explains that qualitative researchers have tended to study novel topics or ideas, or not consult the literature as to avoid bias; however, McLeod cautions that this is not feasible and research should build upon other research and the literature.

### **2.5.1 Thematic analysis.**

Themes are frequently drawn from qualitative methods which aim to understand a participant's experience (McLeod, 2011). McLeod notes the difficulty in defining exactly what a theme is, stating that it is not just what an individual says; it is a "recurring pattern, which conveys something significant about the world (or the particular aspect of the world being discussed) means to a person" (p.145). It enables core themes or ideas of an issue or phenomenon to be shown (Joffe, 2011).

McLeod (2011) describes thematic analysis as a stand-alone method for analysing interviews with participants which is not limited to a single epistemological assumption; rather it is "flexible, straightforward and accessible" (p.146). Such flexibility can be utilised across a broad spectrum of research that may involve experiences, understandings and views, and practices (Braun, Clarke, and Terry, 2015). It allows researchers to identify and analyse patterns from the data, resulting in a greatly organised and detailed pattern of themes (Braun & Clarke, 2006). It has been used in countless studies to produce quality research, and is noted for the emphasis on hearing a participant's voice, while forming a general consensus of themes across the participants.

Themes may be deductive, stemming from a theoretic idea, or inductive, and emerges from the data itself (Joffe, 2011). As recommended by Joffe, researchers in this study utilised both types. We had some pre-conceived theories related to custody disputes and IPV based on literature reviews, but also remained open to new issues which arose. Thematic analysis was chosen not only for its flexibility and ease of use, but also because it is well suited to illustrating a group's, such as Women's Refuge advocates, experiences and understanding of a phenomenon or issue, such as custody disputes and IPV.

### **Chapter 3: Results**

The process of thematic analysis first involved reading the transcripts multiple times, allowing total immersion to better understand participant's experiences and life world. This also involved recording my own observations and recollections of the interviews. The data was then coded; Braun et al. (2015) explain that each code "captures a key analytical idea in the data and conveys this to the researcher" (p. 100). These codes were written on participant's transcriptions, alongside the relevant data. Larkin (2015) affirms that this is the lengthy, complex part and requires the researcher to be systematic and detailed. Braun et al. (2015) note the more data you code, the deeper you engage with the data and develop more insight. As such, this researcher went back and checked and added to coding multiple times until satisfied that it addressed the research question.

These codes were then summarised into clusters and general themes were developed, after which the researcher made connections between themes. This included mapping out and reviewing themes, ensuring they fit with the coded data, and incorporated the ideas and meaning of the data as a whole (Braun et al., 2015). Categorisation followed, with certain themes incorporated under superordinate or master themes. Themes may stand alone in the data or complement other themes, and some may subsume within larger themes (Guest, MacQueen, & Namey, 2012). As the authors state, the most common technique in identifying themes is repetition, but there is no set threshold for the number of repetitions required for each theme.

Themes were defined and named. Participants were asked general questions about their Family Court experiences and issues that they had come across. Four superordinate themes emerged from participants' accounts: process difficulties, conflict, lack of expertise, gender-based issues, while a fifth theme of cultural differences

emerged from one of the participants. Subsumed under each of these themes emerged more specific themes.

### **3.1 Process difficulties**

This was a significant theme throughout the interviews. Each participant had negative experiences with the Family Court, with issues ranging from the length, cost, and changes which had occurred over time. This can be seen in the response by Susan:

It's the whole, umm dragged out court hearings for months, the expenses of the lawyers, and it all has to be paid for, or the woman if she has an extremely low income can apply for legal aid. Umm but it all comes with cost, time, it can take months and months um and then you know in the cases where there is a horrific psychological report or a lawyer for child overlooking the domestic violence and recommending things that are taken quite seriously by the judges that aren't safe, that exposes the woman to more domestic violence. So yeah it's all of that, whole package around it, the whole system, so it's not just the judge.

In each participant's accounts, there were some positive experiences. However, these positive experiences were outweighed by negative experiences and for many seemed to only occur in certain circumstances. For instance, Susan stated:

Sooo parts of it, yeah it works ok but it has to be a certain...situation that's really clear-cut and really obvious to the court system, that there's high-end physical violence and it's likely to happen again. And it gets murky, when it's not just the straightforward, high-end, physical violence from a person, you know from a perpetrator who's clearly umm an unacceptable person in society shall we say...And it gets trickier, if he's professional, educated, smooth...And I think people need to understand that to engage with this process is umm takes a lot.

Jane reinforced this by adding that the Family Court “should be a place where she can feel validated”, implying that in reality it isn’t. The perpetrator should be “held accountable for their behaviour” because we “should live in a society that won’t tolerate it”, but in the majority of her experience, that is not the case.

### **3.1.1 Long, negative process.**

Recurrent through Emily’s interview was an emphasis on the negative aspects of Family Court for women who had experienced IPV. She explained that the Family Court is a “very difficult process for the women to go through, and that it doesn’t necessarily go in the direction they would want it to, in a positive way for them, and I think they find it quite difficult”. Not only does Emily find the process difficult for her clients, there seems to be no justice, in what is a long process the women neither expected nor understood:

So women come to the Family Court with big issues going on in their family and they want those to be dealt with, and they maybe want some justice for what’s gone on. And what happens, is a really lengthy process, um that doesn't get them the justice that they want, umm and also just ties, once this starts, they're tied into this process they never would have expected. So, psychological reports and lawyer for child, and court appearances that they didn't really understand... And yeah, it’s months and months and months of going through rigmarole that isn't necessarily for her benefit.

There was a focus for Emily on how difficult it is to prepare her clients for the court process. She said they “don't fully comprehend how long it will be, what’s involved” and “you don't get justice... You'll probably get a decision where she has to kind of suck up quite a lot of what comes out of it”. She mentioned again that women

have to 'suck it up' and stated that "there just doesn't seem to be any end to it"; this along with her saying that "if they'd really realised what they'd look like at the beginning, they might never have started it. You often think god, what have I got them into" emphasises her worries about the experiences her clients go through, and her questioning her role in helping them entering the process.

When working with women who have children, she said she "will tell them straight up, if you think they [father of the children] won't get a lawyer, then I suggest you don't involve the court". However, "if they think that they're going to get a lawyer that will look really bad for them" if they take the children away without the father's consent:

The judge will say hmm that wasn't ok was it, that you took the children, and tried to do that, so it doesn't look good for them. So if they think they're going to be getting themselves a lawyer, then you, you can't advise them to pick up the children and go. So you are advising them to get protection order, parent order, you know, relocation orders if they need them. And then they're in that bloody process. Do you know what I mean? In which case, I wouldn't then be saying to her any of that stuff of what it might look like. I will be saying it's tough. I will be saying justice is not really what this about, you know you probably won't get the two-penneth that has been taken out of you back. I will try to frame it up like that so she gets an idea but I wouldn't get into specifics of any of that, because otherwise you've got her at this point when she's already terrified about what's going on. Absolutely terrified of what's going to happen in the next few months.

It seems that Emily is conflicted between helping her clients understand what the process will entail, and ensuring that those expectations don't overwhelm them at an

already stressful time. She mentioned one situation in which she “didn’t dare tell her [the client] what psychological reports often look like”. As a further explanation, she noted that if she fully prepared her client, it would “muck her up for the report”. Moreover, it is “such a messy process” that takes months and months, stating that it took one of clients six months to get the “protection order, parenting order and then relocation orders that she wants”.

Emily states that she “would love to review the whole bloody court system, so that it wasn't so father focused”. She feels “that the whole process is so negative for women” and “just knocks her down, knock you down an inch here, an inch there, until you just have no faith in the system at all”. Adding to this, an interesting point was made by Susan about the difference in the process for women with children, compared to those without children seeking protection orders:

It’s probably been more of a difficult process for women to go through. Um and not all the outcomes have been great...ah...probably things like protection orders and that work best for the women, and the court system works best for the women without children and most of the ones that have been more complicated and difficult, and not great safety outcomes, have been umm the women with children.

Safety is a real concern for her clients, and although she understands the courts have “big wait lists”, she hopes that the process will be “prioritised and sped up, because it’s a high risk time” for her clients. As she states, “if the bars been reached, it’s a safety concern, perhaps it doesn’t have to drag on for months”. She talked about the issues with access agreements and how difficult they can be to change:

As soon as the agreement happens, ..., and he is just picking them up from the

house, and taking them and being alone with them for the 24 hours of 12 hours, or however long it is...And also, if it's not working, it's quite a rigorous process, to keep going back to the court, and they're not that keen on it.

As Susan mentions, “to have to go through that whole process, you would want the outcome that she came out with to be better than if she hadn't of gone through that whole process”. The process can be so negative for women, it's as if Susan feels that it is not worth it, and they would have been better off not entering into it.

When discussing the process, Jane explains that “once you engage in that process, you will be ordered to do stuff. And you can't not do it. Consequently, she states “I do know we're going to court less, and we've got good reason to not be”.

### **3.1.2 Continued abuse.**

Entering into this process does not protect women from abuse, and may even perpetuate it. Emily highlighted that it “just continues to abuse them, because even if they've got a protection order, they're still being abused by him through the court”. The process can even put their lives in danger. When talking about one of her clients who was killed by her ex-partner, Emily said:

That whole process fed into his grandiose ideas that he had already, that he didn't have to listen to anyone, he didn't have to behave right in the court and he didn't behave right in the court... because he just took control of the courtroom... And they just loosely controlled that, so the whole process that led up to there, and the lawyer for child not really understanding the dynamics in the first place, and the protection order not being enforced properly. He just had this massive idea of himself. And that's part of what led to that.

Perpetrators may also be well aware of the limitations of the system, and reinforce this to the women. Emily noted that one of her clients was told by a perpetrator that “Refuge can’t do anything, police can’t do anything, and they’re not supporting you are they”. This in turn makes the process even more difficult.

Susan gave more insight into what happens in the court room, saying although Family Court is different to Criminal Court, women still need to give evidence. They will still be asked questions, as well as listen to the perpetrator:

He can stand up and do his big rants, so it can be really awful and upsetting for the woman, to have to you know sit through a whole day of a long dragged out court hearing, and be in the same room and give evidence..., if the questions are through the lawyer, they're still coming indirectly from him and they're still upsetting and maybe implying something that isn't the case... And she's allowed a support person, but he can contest it if he's not happy with it.

So despite having suffered abuse, Susan said women are “maybe a metre away from the person on the stand”. Adding to that, “often there's times where you walk past each other... there was once even when the lawyer was kind of like walked past us and was smirking”. She further commented that even she felt the tension despite being a “confident person” and said you “really feel the uncomfortableness of it yourself”. So for her to feel that, one could not even imagine how the women themselves must feel in that situation. Despite courts perhaps having a negative view of a perpetrator, and being sympathetic to women, Susan noted that:

Even in those cases, when the perpetrator of the abuse is annoying in court, does rant and rave, does make a little bit of a fool of himself, umm and the victims

probably viewed with a little bit of sympathy, it doesn't mean that the decisions that come out of the court really uphold her safety.

Yet another example of the continued abuse was provided by Jane, who said that her client's protection order was not made full and final "because her partner was in a position to get lawyer-ed up". He found out his rights and used that as "a way to re-victimise her, prove to her that what he said was true, that she won't get the kids. That he can behave towards her how he sees fit. That she's the crazy one, she's the difficult one". Not only that but she said "there's a few more of those stories coming through as well".

### **3.2.3 Financial issues.**

Incorporated into the negative process is the financial burden on women. Three of the four participants talked about the cost of the court process, and the effect that it has on their clients. For instance, the father's contact with children may be supervised in the beginning, but as Emily states:

That can't go on indefinitely. The court will pay for, I'm just trying to think, is it 12 sessions it may be, and they can extend it out more if they feel the need. But really at that point, they'd be saying to the parents that they both have to pay for that, because it doesn't automatically mean the father has to pay for that. Lots of the women have to contribute to that as well, regardless of what position they're in... if I was personally in that position, and the court was saying you have to contribute towards your abusive partner, or ex-partner, seeing the children, I'd be so mad, like I'd be soooo mad. I don't know how they handle it so well.

Adding to this, lawyer's fees add to the financial burden of those entering the Family Court process. When asked what the ideal situation would be, Susan responded

that when the “woman's reached this threshold experiencing domestic violence, the legal costs are free... You shouldn't have to pay thousands of dollars for a protection order to keep yourself safe... the norm would probably be \$1500-\$2000”. Each participant was realistic in understanding that, as Violet notes, “there’s no pool of money that, like it can’t go on forever”. However, Violet expressed concern that “sometimes that’s a deciding factor as well. That you know you guys need to work something out because we can’t keep paying”.

### **3.1.4 Changes in protection orders over time.**

This was an unexpected theme that emerged from the interviews. Emily first mentioned how much more difficult it has become, stating that ten years ago “it was a fairly straight forward process to get protection orders or parenting orders and you just had to go in and show that you were really afraid of this person and you had good reason to be”. She explained how the Court would “err on the side of caution and grant protection orders”. However, that is no longer the case:

But over those ten years it’s moved away from that. And it almost feels like they see the figures for how many protection orders have been granted and all that is too high and you have got to get those down somehow and so they’re not erring on the side of caution so much... Because the protection order, I mean it actually doesn't do anything to that person unless they breach it frankly

Violet echoed this concern about the changes that had occurred, mentioning that “it’s been really depressing”. Before, she said it was almost an even split, which meant “you could have a little bit of hope and a little bit of faith in the system”. However, that is no longer the case since the changes in the Family Court; the “process that some of

the women have to go through just doesn't work for them". As a bit of background to these changes, Violet explained that:

You used to be able to apply for a parenting order, just like you can for a protection order, you go to your lawyer and apply, when there's a child involved or children involved, but now you've got to kind of go through this FDR process, which is family disputes resolution, process, and it's almost like everyone is treated the same until you can prove you're not the same... And it seems to me that if there's physical violence and its quite high end physical violence and by that I mean its regular and it's quite, you know quite severe, there's nothing vague about it, then the system works well, but when there's a lot of psychological abuse and not much physical then the women, a lot of women that I have worked with, end up being treated kind of the same as if this was any other marriage break up ,in the Family Court.

Adding to this, Violet recalled another time she had encountered the issue these changes were causing for her clients. The perpetrator was served with a parenting order and given the chance to respond. He is then going to represent himself in court, which means "if it goes to court it's even worse for her... he is allowed to cross examine her in court... I think the judge is kind of trying to make the process go well, but actually the judge gives him more time". However, if it has been "the old system, there would of been a parenting order applied for without notice, he probably would have been served with that" which she said she thought would be much more straightforward.

Another example was provided by Jane, in regards to one of her clients that had applied for a protection order. Jane mentioned that when her client applied for a protection order, she had to share how her ex-partner had been abusing her was

“eroding away her self-confidence, and her dignity and her ability to make decisions, to work well”. That was something her client had “kept from him, and it was just that little bit of her that she was like no I’m not going to let you know that”, and yet she had to reveal that for the protection order. Along with this, Jane highlighted that although it can be a negative process for their clients, there are many other women who go through the process without engaging in the services of Women’s Refuge:

You know in the new process, you know where unless it's, basically if you're not hooked up with Women's Refuge, um you have to go through all of this mediation facilitated hui you know finding a way forward, you know. And often that entails her just giving up something. Really, that's what they want her to do. So it must be pretty awful, if your experiencing domestic violence, psychological violence, financial violence, spiritual violence, and you don't see that as domestic violence and you engage in that system, wow, that would be pretty awful. At least the women we support can come back afterwards or go for a coffee afterwards and just go arrrgh and we just go yeah...god, well that was complete shit. Umm yeah I mean at least they have someone who gets it, understands it and can sort of back up their feelings, and what they think happened.

Jane also commented on the changes that she had experienced over her time in the profession, stating that when she first started, they mostly got the orders they applied for. They also didn't mind father's access to the children as that's “always pretty much been a given that these children will grow up with their father in their lives, even if you know, even if he's not that great a dad anyway, mothers are often keen for some involvement”. But now, she explains it's like the Court is continually questioning

whether what the woman is saying is true. Jane notes that it feels like they don't believe the woman, and instead she is expected to prove what she is saying is true. Jane questions why it is that way:

You know it almost feels like it comes from a place of we don't believe you, prove to us that this, it's like she has to just prove. Why can't we just believe her? Like women don't lie about this stuff. And there are these ideas that women drag men into court to punish them, for ending the relationship, or to punish them for whatever. Nah, women don't do that. Am I saying that's never happened? Definitely not. I mean some crazy, crazy people might have decided this is a good idea, I'm going to stick it to him and drag him into Family Court because I just hate this man now so much, that I just want to make his life miserable. Yeah, that probably has happened, but hardly.

## **3.2 Conflict**

Two major themes of conflict arose from the interviews: access versus safety and law versus reality. For instance, throughout the court process, it is required that the best interests of the child are put first. However, Susan questioned how those best interests are decided, stating “another thing to change is this idea of fair and 50/50 and you know, to actually what really works best for the child”.

### **3.2.1 Access versus safety.**

A serious concern for the advocates was this notion that father's access outweighs both the mother and child's safety, and subsequently the best interests of that child. In regards to one of her clients, Emily expressed concern that for one of her clients, the perpetrator is “going to get unsupervised contact with the children... even

though there's all this other stuff going on, where he's still abusive to her in the background".

Although Emily talked about how they discussed what would be best for the child, they were not "truly taking account of all the stuff that's gone on, or the effect on the mother, or the on-going effect on the mother". Not only that, but the manipulation of children that can occur, with Emily noting how her client's children were "being subject to daddy asking what mummy's doing, is she going out at nights, who does she see, what are things like at home".

Of the court process, Emily said she thought it was "tilted towards this, in New Zealand fathers have to have contact with their children. You know, even the murderers get contact with the children". It seemed that she thought the court was so focused on this access, that her clients are just ignored:

There's lots of times I've been in court where...the women trying to get her point across about how bad it's been and how long it's been going on and the judges really just like we have to sort this out, you're going to have to give some ground here, because we're going to have to get an answer.

In line with this though, Emily explained that it is not that women are trying to keep the father out of the child's life; they just want to ensure safety is maintained. Emily said that this applied to even her "most extreme ones", including one who was killed; that client had wanted the perpetrator "involved with the children. She saw that they needed him, and she wanted a safe way for that to happen". As well as this, Susan expressed concern about father's access being at odds with women and children's safety:

When he was having the visits with the children, as ordered by the Family Court, um there was certain, he was a very highly strung man, with quite a temper and quite a low tolerance and he had different scenes and things with the children, you know things where instead of calming the children down, where he had really big battles with the children and stuff.

To emphasise this issue even further, and the consequences that occur, Susan noted another client where a “particular report recommended the children be in the full time care of the father, who later killed the mother”. These concerns about safety do not end there, with Susan explaining her experience in a perpetrator’s lawyer trying to use “dropping the protection order as a bargaining tool with the child access”. She is particularly concerned about this safety through access, as the women has to have contact with the perpetrator:

What I've felt strongly about is that the woman is protected through the access...But what makes me cross, it's not even so much the access, the fact that she has to have on-going abuse and the children also have to witness the stuff. So what I'd like to see is it all protected in that way. An identified person, and if there's just no supportive, responsible family who could, who are prepared to step up and do that, then perhaps it has to be someone who's paid to do that, like the supervisors... But um I'd just like to see those proper safeguards in place, where she doesn't have to keep having contact with the person who's done this stuff to her.

Susan reported that it is not uncommon for fathers to end up with more access than they asked for or even wanted, and it’s about “this compulsory contact with the father of your children”. In her experience, it has been suggested to women that they

need to “wean the child [from breast feeding]” in order for fathers to have access to their children. She highlighted how “breastfeeding a child should override [father’s visits]”. As she talked about her experiences, it seemed that the father’s access outweighed not only safety, but the best interests of the child:

The way he spoke about it, which mortified me, was um about when viewing domestic violence deaths, they viewed suicides of abusive partners. And that, that was a big part of the deaths, and that was what they were trying to reduce. So by alien, by taking children away from abusive fathers, and those abusive fathers then kill themselves, the Family Courts responsible for those deaths... Those people, those abusive partners who might commit suicide, they're um really unwell, really unstable, really dangerous. Um a lot, in a lot of cases, and um, that's indicative that they could also kill their children. Or kill their partner, who's left them... And so to prevent those deaths, we have to keep those poor victims having the contact with that abusive partner so we can prevent domestic violence deaths.

Susan emphasized that the system seemed to be “more about 50/50 care, and overlooking the domestic violence”. When asked what she thought should change, she noted that “perhaps perpetrators of domestic violence have to prove themselves a bit. So, you know prove you can do this one visit supervised by the family lawyer. Prove that you cannot breach the protection order in the interim if they're doing any breaches in the interim that should be firmly taken into account”.

Violet mentioned that one of her clients “doesn't trust that he [the perpetrator] will be able to look after the child on his own”. Not only that, but she said “all she's really seeking is some... consistency... it's kind of really disruptive because there's no

regularity in their routine”. These women want their child’s best interests to be put first, as is required by the Family Court as well as “wanting him to be out of her life because they have been separated for ages but he’s still constantly in her face about all the issues”.

There was one particular client that Violet talked about at length, who had a protection order against her ex-partner who she said had threatened to kill her and “had physically hurt her in the past and their oldest son”. She tried to stop the access, for fear of her and her children’s safety, but the “lawyer gave her a bit of a hard time”. Not only that, but Violet stated the Judge “ripped into” her client, telling her off but was “very patient” and “very nice” to the perpetrator. In the courtroom, the perpetrator was yelling at her client, “ranting and raving and putting her down”. In the end, Violet actually had to say something to the lawyer, who mentioned to the judge that it was not appropriate. When talking about that scenario, Violet mentioned that the perpetrator was “allowed free reign” while her client “wasn’t allowed to explain anything” and “every time she said something the judge would kind of put her down”. Violet explained that despite the concerns, and behaviour in court, the judge ruled that:

Contact start immediately with both boys, that the younger boy go there every weekend, that the older boy, who did not want to see his dad and said that, she ruled that he must see his Dad...he had his own bed, but no bed for the young boy...wouldn’t that be a sign that if you had sold all your furniture, no bedding, no nothing for this wee boy and yet he was still allowed to go with his dad?.

In addition, the focus was on access, despite the older boy’s expressed wishes. He “could articulate very well that he didn’t want to see his dad. But...the judge was insisting that there was contact”. Violet mentioned that it amazed her “because the son

was hurt by his dad a few years ago and remembers it” and she thought he would have “more of a voice”. As Violet summed up the Family Court situation:

I think there's so much of a focus on the dad being present in the child's life. And that's paramount. Even when they say the safety of the child is paramount, I think that what is paramount is the dad's contact. Because someone, somehow, believes that that is the most important thing in a child's life.

### **3.2.2 Law versus reality.**

The conflict between law and reality was particularly focused on protection orders for Emily. She mentioned that although the law is “black and white” about protection orders, that is not how it plays out in reality:

See you might apply for a protection order without notice and be granted it the same day ,and that's a beautiful thing and there it is, but it's a piece of paper and you've very often got an abuser who's going to carry on and try to do those things anyway. And what the law says is that it acts like a bubble around you and your children and protects you from that person but actually you have to enforce it, and you need the police to be on board at the same level as you, but their system works quite differently, because the courts dismiss the really low level breaches, even though we know that in domestic violence those really mean something...: In the court, they don't, so they just bargain those off, so they don't actually get the repercussions that they're supposed to at each step... and he's already got the message that it means nothing, she's already got the message that it means nothing.

She elaborated that the police have said to them that “because the court doesn't want to see those lower level things, they want that bargained down, so they're stuck with what they can keep presenting to the court”. Furthermore, she noted that the “premise of a protection order is that you don't have to prove all of that stuff, you know you say that this happened and that's enough when you're saying that you need to be protected. In truth you actually do have to prove it, if you can”. When asked about what should change, Emily responded with:

If I were to wave my magic wand, it would be that the letter of the law is stuck to, so if you read what it is to have a protection order and how it works, let's do that, that would work, I think that would make a big difference... Someone does something, right there and there, really clear line in the sand, you've broken this protection order, this is how serious this protection order is... Teach them that it's not ok. Teach them that people will react, if you do that stuff. Action will be taken.

Emily says that it is about making the Family Court process “cast iron [with] what it's set out to do”. As she states, she thinks the “men would get a really clear message, really early... And if they weren't getting the message and behaving, then it would be closed down fast, but that isn't what happens”. Here you can sense her frustration that the law isn't what happens in reality.

Susan identified that “a bit of a conflict between um the, the understanding of domestic violence and safety for the women and children, and the beliefs that the Family Court has around parental contact...access and shared custody and all that kind of stuff”. She too had experienced the police explaining what happens when they take lower level breaches to court. She was told that if the police take minor breaches to the

court, they “get slapped on the hand by the judges, and the judges are why are you wasting our time taking this into the court”. She states this applies to The Hague convention as well:

Well the funny thing about The Hague convention is I think it was originally introduced to protect women whose partners, um abusive partners might take off with the children back to the Middle East or something, and you never see them again... I think there has to be a...a way of proving the domestic violence, and once it's proved... So that means the domestic violence is already established, the judge agrees, everyone agrees there's a safety risk. I mean even that would be something, once you've got that benchmark.

This is especially the case for what constitutes abuse and protection order breaches. Despite psychological abuse falling under domestic violence, that isn't necessarily how it translates into the real world:

The law considers psychological, and a variety of forms of abuse, but the way its enacted, the focus for lawyers and judges is very much on physical, and ongoing physical threat, yeah. Um I think the psychological has to be really overt, and has to be something that they would really interpret in their understanding, as something, you know, some sort of really...really damaging psychological abuse...they don't think it's enough...that's not given the weight that it should be...my experience is that it's got to be quite overt...It has to be quite, yeah quite extreme. Yeah it's not just, I mean physical violence is just physical violence, and it's really just physical violence but psychological is much more interpretive, yeah. And people put much more of their own opinion on it I think,

and I think perhaps there's thresholds and it might depend on what judge you get, it might depend on what lawyer you have, yeah.

Susan further explained this as the “interpretation of the law doesn’t match... the actual Domestic Violence Act [1995]”. It fails to take into account what “everyone knows and understands about domestic violence” and is influenced by outside factors:

I think there's swings at different times, and I think there was quite an influence from the Fathers’ Rights Groups on the Family Court. And I think that umm judges very much took what they were saying, and took what certain experts were saying about not cutting off contact with fathers.

Even with the court process itself, she stated that it is “portrayed more as the lawyer for child is there to talk to the children, find out their views, and have their views expressed in court”. However, that is not always the case in practice, as in her experience “there's some cases where children would probably rather not be having the access”, so their views aren’t being prioritised.

Violet noted that her “assumption was that if there’s domestic violence then you can be exempt from that FDR process, but actually it’s not as easy and simple as that”. Jane also expressed concern about the chasm between what is written in the law, and happens in reality. Women should be protected from psychological violence but she cautioned “that’s actually not true” as they are told they “don’t really have the grounds for that”. She said she “would be really interested in how many protection orders are issued purely on the grounds of psychological violence”.

### **3.3 Lack of expertise**

Inherent to this research were the advocates' concerns of the lack of education and expertise in the Family Court process and assessment. As a reminder of what is at stake, Emily discussed one of her clients, where "the abuse was glossed over" and the perpetrator was "portrayed really well":

He killed her... And that's exactly what could happen with any number of these, I mean it's fairly surprising that it doesn't happen more often, because it just feeds into people like him. The grandiose, I can do anything, I'm in the right. And it does feed into that, I mean this guy that we're talking about now with the client in the safe house, he's very similar. Really grandiose ideas, no regard for what the law says very similar stuff.

#### **3.3.1 Psychological assessment.**

Our research had a particular focus on the advocate's experiences with psychological assessment, and although there were some positive experiences, these were outweighed by negative ones. Emily raised a number of concerns in regards to her experience with psychological assessments within the Family Court:

Ohhh, I think that too much credence is given to them by the judge, that they should be a part of the picture, and actually what happens is that they're the all-consuming answer to the picture, even though that person only meets with your client maybe for an hour or so... there's no real mention of any of the abuse that got her the protection order, it hasn't been addressed

Not only has she experienced too much of an emphasis on assessment, but also the shortcomings of it. She cautioned that if a Family Court Judge is "going to give so much weight to a psychologists report, it needs to look at everything, and really include

it". When talking about psychological assessment with one of her clients, Emily stated the result was "a really even across the board report, so she's come out of it looking the same as her ex-partner, even though there's all this stuff gone on, and still going on".

When asked more specifically about whether psychologists talk to a range of people, Emily noted that "they don't have to, that's the really interesting thing about it". For her client, the psychologist spoke to her client, her ex-partner and "didn't speak to anyone else on our client's behalf". Further to this, even though issues with the ex-partner had arisen, the psychologist excluded them from the report:

You would think he'd got some proper mental health stuff going on or personality stuff going on. And this woman, this psychologist has seen that, because it took her two months to engage him into the process because he was being so difficult, and this stuff was going on, and she actually went back to the court herself, and said look what shall I do, this is really difficult, I can't get him to engage. Then she managed to meet with him, she hasn't included any of that... she's experienced in doing this work for the court surely to goodness that shouldn't happen.

Likewise, Susan had experienced "reports that were really completely overlooking the domestic violence". As she mentioned "there's been some horrific ones" but what has horrified her the most, is the "psychological report that once again overlooked a lot of psychological abuse". Not only has she experienced reports that overlook violence, but psychologist's also being taken in by the perpetrator:

It seems like the psychologist meets with the father first and very much takes on his views, and he, I mean these men are often quite manipulative, quite charismatic, and umm quite, quite convincing, but then when they meet with the

mother, they're quite coloured by um what they've become convinced of already. And it's almost like they've been too influenced and are not unbiased.

This can have a negative impact on the women, and influence subsequent interactions and overall assessment. She elaborated that the “woman was pretty much told off by the psychologist and given a bit of a lecture when she met with her, rather than be asked a lot of information and asked for her side of the story...prejudging”.

### **3.3.2 Dynamics not understood.**

Emily discussed how the dynamics of IPV are often poorly understood, which affects the process the women go through. In her experience, neither “lawyers for child, nor most of the judges really truly grasp the dynamics of domestic violence”. That lack of training “really plays out in the court room... the abuse will be understated, they just won't grasp the extent that it will be affecting the women”.

Women are put into situations, where Emily feels the history is not taken account of enough, and women are put through processes which they shouldn't be. Women are expected to come to an agreement with the perpetrator which Emily states “doesn't recognise domestic violence at all”:

That's just treating it like these are all the same things, break ups that went ok, break ups that were a little bit difficult, break ups where there's a bit of an argument, domestic violence is all in the same pool... And she's had years to be brainwashed and trained to, whatever into doing as she's told, and having to go along with it, and then she's got all the pressure, plus a mediator who's probably pressuring her as well.

For one of her clients, Emily noted that the “lawyer was insistent that it needed

to go through the mediation process”. In this particular case there were additional inequalities in power, as “he had this huge dynamic of power over her, she was a young woman who'd had a drug problem”. As a result, “right from the get go he was just handed the power back, and she just was pushed in to giving him all the things she wanted”. She explained:

But it just seems nonsensical to, to put her back into a mediation process, particularly because I also feel like the mediators are not highly trained and don't have the skills to understand the dynamics of domestic violence. And so they do put both those people into a meeting with a mediator with no lawyer, no person for support.

When women are expected to go through mediation, and the dynamics of IPV are not well understood, it can be a difficult and unfair process. Violet discussed one of her particular clients who went through mediation:

She ended up contacting a lawyer, who suggested that she go through the FDR process as well, and it this stuff that's going on which is now not physical, is not recognised either and so she actually went through mediation with him and I said to her you don't have to go in the same room with him, you don't have to go through mediation and she said oh well, the mediator phoned me and said I am very experienced in this you know I'll be able to protect you, um but she said it was dreadful and she felt like the mediator sided with him, which she knew would happen because he is lovely...there are huge issues that they're not recognising.

In another one of her client's experiences with mediation, Violet explains the negative impact on her client that occurred because of this lack of understanding. She

was in mediation with her client, and the perpetrator was “going off, and getting really upset and bringing up the past and talking about her family badly”. This was all done in another language, despite Violet’s warnings that could happen, and her client “was victimised the whole day”. This resulted in her agreeing “to something she didn’t want to agree to...just to get out of there”, and afterwards Violet said her client “was a mess, she was really down, she was really anxious. She felt like what she'd been through was horrific”. Likewise, Jane commented on how inappropriate mediation can be for women who have experienced IPV:

And you can't go to couple's counselling. Because you know lots of couples counselling comes from this place of ok this is a no blame space, you know like we're not going to bring up you know and it's sort of like well I get how that would work if you know were in a normal relationship or a relationship without domestic violence. But domestic violence, it's... completely different. It's full of lies and blame and misrepresentation...And if you're not really savvy as a counsellor, you're just going to slip into that, and you're going to end up being the person further victimising and oppressing her.

When asked how much training they receive, Jane responded that she didn’t know, but that Women’s Refuge doesn’t do it. This leads on to the next sub-theme of the lack of education and acknowledgement of Women’s Refuge, which can be first highlighted from this excerpt from Jane:

You know I did a four year social work degree at university um and what did we get on domestic violence? We didn't get a session on domestic violence. Um I did my training with Susan from the city’s Women's Refuge. She was already

volunteering, she was volunteering while she was studying her degree. And they asked her to talk about it. To the class. She got up and talked about it to the class.

### **3.3.3 Lack of education and acknowledgement of Women's Refuge.**

Throughout the interviews, the theme of lack of education emerged. Emily noted that it is common for “people who don't understand the dynamics to be taken in by the men. Because lots of the men are clever, intelligent, witty...you know, very convincing. But you wouldn't expect the psychologist to take it in”. Emily specified this lack of education is applicable to court professionals, including judges:

I think that the judges all need to have a certain standard of education, and to be upskilled, I don't know what they get now, but I don't think it's enough, to really understand the dynamics of domestic violence. And I would say the Refuge needs to be involved in that, because we are the biggest provider, we have been going the longest, we do know what we're talking about. I would say exactly the same about the lawyer for child, and I would say...that a real firming up of what's expected of the psychologist.

She felt that if “they were all trained to the same standard” that it “would make a difference”. Susan's experiences echoed this lack of education, mentioning that for those who do not work in the area, they don't “really have the full understanding of domestic violence, and the effects of domestic violence, and the risks as well”. This too applied to those within the Family Court system, with her mentioning that “even judges should have some really intensive, and lawyers, if they're working in the family law area, and especially lawyers for children, they should actually have some really intensive education around domestic violence”. Due to this lack of education, people may not understand other types of violence occur with IPV, other than physical violence:

That don't fit into their kind of umm great physical risk category, a whole lot of other cases, they're treated, the woman is experiencing domestic violence, the children are experiencing or witnessing domestic violence, but um the whole formulas that are used and the whole way it is treated, is probably pretty much the same as those cases of parents having the disputes, where there's no, and trying to get help to get to a settlement, where there's no domestic violence. And I don't see a lot of difference in the way women experiencing domestic violence, and even some of them have protection orders, are being treated when it comes to arranging the child stuff.

Jane noted the misconception that occurs with IPV, stating that there is an assumption many people have that it is “having the shit kicked out of you. Like it’s like big serious, like the tried to strangle you, punched you in the face, the kicked you while you were on the ground, you know that sort of stuff”. However, she stressed that actually, “you can be stood over in such a way that you fear for your physical safety without ever actually having been assaulted”. This was a particularly poignant topic with Jane, who further talked about this effect of psychological abuse:

Uh I've never a heard a woman not say that, who's experienced both. They would way rather have the physical assault, because also the physical assault is something yeah that brings it to a head. And there's an end to it. And often there's some remorse. There's maybe an injury, you know like there's something that you can show for it... Whereas psychological violence is...you can't see it, he doesn't have to feel responsible for it because he doesn't see it every day either. You can't show it to anybody. Um and it's the psychological violence

that...that takes, that takes away who you are; as a woman, as that person, as the mother, as the person who does that job, as the awesome daughter.

Not only have the participants experienced a lack of education within the court system, but there seemed to be a consensus that Women's Refuge is not contacted or sufficiently involved in the process. For instance, Emily remarked that they never usually are contacted:

If they knew what I know about domestic violence, they wouldn't work that way... And what about for instance having Refuge somewhere, why isn't Refuge recognised, why doesn't Refuge have a voice anywhere? It's like, it's the last person they want to speak to... I think the powers that be, have not necessarily liked refuge because we don't fit nicely into the government agency box, we're kind of a rogue feminist urrrgh hairy...But yeah, why doesn't Refuge have a voice, like I got to have a voice in that report, with the client that's just come out really well. I see her more than anyone else in this country. I have them in our [safe] house, I see them under all the circumstances any day or week or month would take into account you know nobody else gets to see them the way I do and that's probably very similar for lots of our clients, why wouldn't you ask us...Because Refuge is unique in that we provide that wrap around, complete wrap around service when its needed. I don't think there's another agency out there that gets to see people under those circumstances and have the understanding of Domestic Violence and the courts and Police, Work and Income all of that stuff.

Their knowledge and experienced is not utilised to its fullest extent. This again can be highlighted by Susan's knowledge of protection orders and the misconception

that commonly occurs with them. She stated within a protection order, there the contact and non-contact part, and she thinks “sometimes still there's police who don't understand that.... One is non-contact and one's non-abuse. So you still have the non-abuse part but you don't have the non-contact part”.

### **3.4 Gender-based issues**

Each participant expressed concerns that the court system raises a number of issues for women. Violet stated “it's all in the favour of the dad, who it doesn't seem to matter what he's done”.

#### **3.4.1 Kept in the same geographic area as abusive ex-partner.**

As is the nature with qualitative research, an unexpected issue was raised by participants: often, women are unable to relocate and are kept in the same geographic area as their abusive ex-partner. Each of the participants felt deeply concerned about this issue. As Emily stated, “once you're in the court system, there's no option to pick up and leave”. She added that its:

Really low numbers of women who ever get granted the right to leave, that hardly ever happens. Predominantly, it's the father's right to see the children, and have contact with the children, and have contact with the children, which ignores all of those other things.

One of her clients had been “brought back under the Hague convention” which Emily feels will result in her client having to stay here, “in the same area as the abuser”. She highlighted another experience where her client was not able to relocate, and had to “suck it up”. Not only that, but “she's going to get no justice whatsoever, because all these horrible things have happened to her family, but no one's going to say that's terrible, we should do something on your behalf”.

In Susan's experience, this occurs even when the woman does the "right processes". For instance, one of her clients "had got the day-to-day care, she'd got the protection order, she'd you know done what women are told you should do to keep themselves and their children safe". She was passionate about this issue, pointing out a negative experience with one of her clients who had moved back to be with family, was settled and had support but was ordered by the Family Court to go back to the same area as her ex-partner, so he could have access to their child. She had no family support there, and was only allowed to move back to her family when "he had a new girlfriend and he moved back". She sums this up as "it's his way of punishing her for leaving him, and he's also using the children he doesn't necessarily want to see this much and have this much access to...but it's about him continuing to have access to her". Besides this, she commented:

But it's also about him punishing her for leaving him, and umm him reacting to the loss of control that he's had, because abusive partners have extreme control, and this is a way of regaining you know some of that control. But the whole, where women can live with children, or returning from, to their family from somewhere they only agreed to live temporarily, that kind of stuff is a real issue for us and feels really really unfair. Especially when women are forced to live away from their home country or ummm are forced to live away from their family support.

Even when they manage to leave, they are "brought back". Susan recommended in cases of IPV "the Hague convention should be treated differently". "The woman should be allowed to be living where they've got their supports and if they've experienced that domestic violence, and they've reached to have access to the children,

he has to move there”. This process is not short either, as Violet pointed out those in Women’s Refuges’ safe houses now, who were wanting to relocate, it was taking “6 months or more, to get permission to move out of the area, or to have it declined”. In addition, Jane disclosed the effect this has on resources:

They're all being kept here by the courts. They're taking up space. I mean that's ridiculous, like they're taking up spaces um in a Refuge safe house that is specifically designed to keep women safe from imminent risk. And we can't use them like that. Because they're full of women being forced here by the courts..., I mean I just sort of think that there's, there's no accountability, there's no onus put onto him. I mean you know if he's desperate to be a part of his children's life, um go back to Europe. Have access to your daughter, move. Like what on earth, why does everything have to move and change around him

### **3.4.2 Responsibility.**

The sense that women were burdened with responsibility emerged from the interviews. One of these major burdens seemed to be around access and supervision. Emily attested that if it is not supervised by the court, then the women “have to find a way to sort it themselves. And that, even they do it themselves, which lots of women would just buckle under and do it and deal with it, and put up with the abuse”. More specifically, she pointed out:

Many, many, many, who just deal with it [the abuse] outside of it [the court] in their own way and who's to say that isn't better in some ways, you know, I mean it's really difficult for us to judge isn't it? I have met people who have been dealing with a situation like that with their ex-partner for ten to fifteen years and they have just sucked it up and made it work but and that's hugely damaging and

hugely damaging for the children to have seen those dynamics and go on probably to think that's OK.

Susan expressed concern over this responsibility as well. She explained that “the woman has on-going contact that she'd rather not have with the abusive partner”, on order to keep her children safe:

Umm so say the women does have to have him coming to the door to pick up the children, and he comes in and she's not able to just get him to just leave. Or umm a woman with very young children, who he's not used to looking after, and he's officially got an access visit for the whole weekend and he, in the instance I'm thinking of, he just come back to the house a couple hours later with two crying, you know, a crying baby, and a crying toddler, and she lets him in and lets him there for the weekend, having his access visit, because she's concerned for her children, and she knows he's not able to care for them.

So, “even if he's difficult and unreliable, it's like, almost like the mother is responsible for creating these visits for the children and making it all happen. It just, it actually shouldn't have to be her responsibility”. In one of her experiences with her clients, Violet talked about the responsibility that was placed upon her client, the impact this had, and what it must be like for those who do not have the support of organisations such as Refuge:

She got to a point where she burst into tears and then this young woman said ok, I will see what I can do, but she found the whole thing traumatic... And it made us think about, what about women that can't pick that phone up, you know or can't um advocate for themselves or even understand that they're allowed to, you know like and then they could end up in a situation of mediation being in the

same room as their ex-partner...with this new process she had to write her own application for a parenting order without the help of a lawyer...she had done this big application and then she cried because she said I felt like I you know I poured my heart into this application and now it's not going anywhere and it, yeah it was just really traumatic for her.

Jane seemed to have experienced this burden of responsibility with a number of her clients. She made the point there could be “lots” of women who do not engage with their services, especially when abuse is psychological and they may “just think that it’s a bad relationship; made some bad choices there”. She explained further that women do take responsibility and can “bear the most incredible burdens”. Even throughout managing the abusive relationship and custody dispute, women “carry on working, raising their kids, maybe looking after parents, being good friends to people, like they're managing all that stuff”. Jane further explained that when fathers do have access, women often take responsibility for ensuring their child is safe, even if it means putting her safety at risk:

And often, guys have had nothing to do with kids, and if they're small babies, they've never changed a nappy, they wouldn't know how to make the bottle and yet they want shared care. And she's completely freaked out. And you know what she ends up doing. Ok, you can come and see the baby here at my house. And next minute he's parked up, boots under her table, having dinner. Because that's what's safe, that ok if I have to let him see the kids. At least then I'll know the kids safe... And then it's like I may as well get back into the relationship, actually that's best for the kids. And in some ways she's right...because without

her there to protect the kids, who's going to protect the kids. And then people say how could you subject your children to that.

Women's lives are negatively impacted, and they may blame themselves for what has happened. They may not realise that what they have been through was really traumatic, and that it is normal to struggle with the effects of violence:

And you know what's really sad about it, is that um rather than seeing that something was done to them that was unjust and had no true basis for that happening, they do live their lives thinking that they caused that to happen... They're a bit crazy, they're a bit ugly, they're a bit fat, they're a bit dumb... Yeah they're needy, demanding. Like she's going to live her life thinking those horrible things happened to me because of me. That's what's really sad about it... You know we expect women to be depressed. We expect them to have had suicidal thoughts. We expect them you know to have a variety of mental health stuff going on for them. You don't work with a woman who experiences domestic violence whose mental health is not impacted. They don't sleep, they have panic attacks, they're depressed, they can't eat, can't stop eating, they're drinking too much, they're taking too many drugs. Yeah they're self-harming. Like yeah, yes you are, absolutely you are. We would expect you to be doing all of those things as a response to your experience of domestic violence. That's completely normal. And that freaks her out when she hears that shit. She's like what, normal, I'm not crazy.

In a more specific experience, Jane explained the effect on her client and how it “impacted on her ability to do her job, um she felt quite insecure about some of the

parenting stuff, she was second-guessing herself about moving into another relationship”.

### **3.4.3 Judgements.**

Not only are women kept in the same area as their ex-partner and burdened with responsibility, but they can also be the target of negative judgements. In her experience with clients, Emily mentioned that:

There've been really...sweeping statements made about the women that you can't imagine you would make, like this woman has a come hither voice on her answering machine, and that she's got big breasts, and wears low cut tops...and that goes into the report, and that's what goes to the judge... you get the impression that they're really anti-women.

These judgments can stem from psychologists, who form a major part of the Family Court process. Emily said that “with a couple of these psychologists it was like they're actually are anti-women...they have an anti-women stance, which probably is not that they're being taken in by the guys but that they've already got this...thing going on”. So Emily explains that “woman expect not to believe, to be believed because that's what they've been told. You know, nobody will believe you, you're nothing. So it is what they often expect when they come to us and they're pretty shocked when we go wow that's terrible, we really believe you”. These judgements can be made throughout the court process, and add to a woman's burden as she struggles with what is happening:

I think sometimes women might be viewed as being difficult, keeping the children from the father as a punishment, umm perhaps being a bit mad. As I heard one particular lawyer for child putting it, sort of, he said you know these mad women just want to make things difficult. But um I think perhaps the

women are given the certain view over the domestic violence, of being a bit difficult and causing difficulties, and that's when they can get almost told off by the judge. Like women have been threatened by the judge before in terms of umm if you if you continue to you know counter this court process and counter these visits with the father, you are at risk of losing your children. I can put them in his care permanently. The women have been told like that.

Susan additionally reported experiences where she felt women were being judged, particularly by psychologists, stating she was particularly horrified in one case where the psychologist judged her client “based on her sexuality”. In her report, she noted the “woman had a husky...alluring type of voice on her answerphone”. Susan remarked on how the psychologist also focused on how her client was dressed and “took a really biased view and put some kind of sexual connotation on the way she looked”.

When asked whether there was the same focus on the male's aspects, Susan responded “no, no none at all, which was interesting because I actually thought this male was possibly a little bit of an um philanderer”. So the psychologist was “completely taken in by him and a lot of the views repeated in the report were pretty much his views...and had all been focused on the supposed shortcomings of this woman”. Susan seemed to really struggle with how these judgements and statements could be made in a psychological assessment, and the bias that occurs:

She talked about um the woman being, something like curvaceous and alluring... it [the psychological assessment] doesn't go into the male's physical attributes. So it was just a real focus and I didn't really understand what it was there for, yeah. I mean I think I would understand if it said she dressed tidy

maybe, if you're trying to give the presentation of the woman, maybe that she dressed tidy, or maybe she was untidy and looking stressed and tired.

With these particular cases, Susan said she was “just so shocked and confused. And the women were really upset too by it, and confused”. These judgements have also extended to the mother’s “decision to work full-time”, as well as having a “new partner after she had separated from the previous partner”. Lack of education and understanding can aggravate judgements made about these women. Jane made a particular note of this:

So you know people, when you do community education stuff, people you know bring up that stuff about why don't they leave, and actually a more interesting conversation is why would you leave. Like so you're saying she's experiencing violence and it's unsafe, and people are especially judgmental if you have children, why don't you leave, how can you subject your children to this. And if you stack up all of the layers of the violence, of the abuse, especially the psychological and spiritual and whanau violence, and you put all that up there, how can she leave. Like if she leaves, what happens? It's like juggling, like if you drop, you know you just got to keep going. Because if you stop or you drop something, you know what's going to happen, the whole thing's just going to fall apart. It's interesting. And I don't think the court deals with that very well.

She said “believe her. Because you might be the first person who's believed her, or the first person she's been brave enough to share this with”.

### **3.5 Cultural differences**

This last theme came entirely from the interview with Jane who, because of her work with the Maori Women's refuge, enabled a greater exploration into cultural

differences. Recurrent throughout her interview were references to high-end physical violence, family intervention (and avoidance of court system), and shame. She commented that they dealt primarily with Maori women who had a lower socioeconomic status:

The middle class um educated, and good jobs Maori don't come to Women's Refuge, really. I mean they don't go to the other Refuge as much as they should either, but they go more I think than come to us.... Because .the level of need that needs to be met is way lower, because we do all that housing, income stuff. Sorting out grumpy ex-landlords that you owe rent to, like all that stuff that comes with the impact of poverty as well as domestic violence we manage as well. So that makes us really popular for those women.

### **3.5.1 High-end physical violence.**

Despite issues in the previous section in getting protection orders, Jane highlighted that her organisation is largely getting them, stating that the “ reason why we're getting protection orders is because Maori women, who come to Women's Refuge, are often here because they're at the high end of physical violence”. They “are at that high-end stuff and it's really, really obvious”. Because of that, the bigger issue for her clients “is actually not so much protection order but parenting order stuff”. On a slightly different note, when talking about the violence, she said this:

And it sometimes it's weird, it's like um without the violence, they're afraid there will be nothing. So, the violence validates them in a way. And, you can feel that you mean something to somebody, because of the, because the violence shows emotion. And passion. And feeling. And you're a part of that. And when

that's not there, who are you? Well you're alone. Yeah you don't have any violence anymore, but actually you don't have anything else either.

### **3.5.2 Avoidance of court system.**

Maori may approach the process in a different way to non-Maori women. She stated Maori women are less likely to enter into that system, noting that with one of her clients, she didn't think "she ever engaged with the system and thought justice will prevail". In line with this, she said that:

I think Maori are traditionally suspicious of such, you know the courts, and police, and stuff like that. So I think Maori women probably do go into it a little bit more...suspicious... And probably might, probably yeah more like it won't go their way. Because that's probably their experience of the systems.

She noted how due to the emphasis and rules of the Family Court on "shared care, and access, and the ability for parents, fathers even if they're abusive fathers, to have access to their children", they are less likely to support Maori women into that process. Adding to this, she explained that family intervention occurred more for Maori families:

We do have women who go through and secure parenting orders. But less likely, probably, than the other Refuge. I don't know why that it is.... they're not...probably as likely to grab a parenting order I think as a non-Maori person.... Umm I wonder, and this is just my speculation, that because there is this understanding that children belong to the whole whanau, that it doesn't feel like there's such a drive to have ownership over access to children.

Because a lot of those decisions for Maori families aren't made by the one person, they're made quite collectively. And that's not horrible for that person, that's support and that's what it looks like and that's how the best decisions are made, collectively... Yeah so yeah that happens lots and I think that also happens a lot around domestic violence, which may be also why we're not in the loop. Because family find out, they get involved, they put a plan together, they think of something.

### **3.5.3 Shame.**

Jane has a particular interest in why these differences exist for her Maori clients. During the interview, she mentioned this notion of shame that Maori women who have experienced domestic violence may feel:

Like why is it different if you're Maori? Like why is it different? And it just is different. And one of the interesting things when I've asked women that, Maori women that, is that they, I mean I'm not sure of the right language to use, but there is so much shame, attached to domestic violence. But there's also so much shame attached to being Maori, to being a Maori poor person, a Maori uneducated poor person, a Maori uneducated poor person who experiences violence. Who doesn't have a job. You know, who's estranged from her whanau, who doesn't know her language, isn't connected to her culture. Like there's just so much shame, that if you don't have to put your hand up, you're not going to. And I get it.

Her passion when discussing this shame was moving, and it was a topic that we as researchers were not expecting. She mentioned that her clients did not want to be looked at "as that Maori person, that Maori person we see on the news, that we see on

Police 10/7, that we see in the stats, that we see in prison, that we see at work and income". So she says they don't, instead they stay silent. When asked whether she thought the media fed into this shame about being in violence, Jane responded with:

Hugely. I mean in this country, Maori are the most watched community in the whole country.... You know every negative bloody thing. You know because we are watched. We are watched constantly. If you turn that lens on any other cultural community in this country, you would find that ugliness there too.

She gave Lee Tamahori's (1994) film *Once Were Warriors* as an example, which involves high levels of violence. Jane stated that she hears those stories about the violence her clients have experienced:

We hear stories like *Once Were Warriors*, we hear those stories. Umm I always tell this story of this young woman, I mean she wasn't young she was like 25, but if you met her you'd think she was 18, she acts like an 18, she looked like an 18 year old and emotionally, she just didn't mature past being 18. And when you talk to her about being Maori, and about like if you ask her her iwi or where she's from, who her people are, she doesn't know. She can't tell you that stuff. But she can tell you four generations of violence in her whanau. She can't share her whakapapa to this family but she can share her whakapapa to violence. Hers, and her siblings, her mothers, her aunties, her uncles, her cousins, her grandmother, and her grandfather, and her great grandmother, and their family. Like her whakapapa to violence goes back four generations and she knows it, all of it. That blew me away.

## **Chapter 4: Discussion**

The present study aimed to explore advocate's experiences of IPV, Family Court and psychological assessment in New Zealand. Women's Refuge advocates identified the issues women who have experienced IPV have with custody disputes and Family Court. There were difficulties with the process, including duration and negativity, continued abuse, financial issues, and the changes that had occurred over time with protection orders. They raised concerns over conflict between access and safety, and the law versus reality.

A major theme was the focus on the lack of expertise and education around IPV and the lack of understanding of IPV dynamics, including in psychological assessment. The advocates also noted gender-based issues, with women having to remain in the same geographical area as the perpetrator, as well as facing more responsibility and judgments. An added issue which was identified was the cultural differences, particularly with Maori women's increased likelihood of experiencing high-end physical violence, the shame they felt regarding the violence, and the increased likelihood of family intervention.

In the following sections, results from the study will be discussed more thoroughly, and in line with the literature. This includes the Family Court, and issues surrounding it, as well as whether this is a gender-based/gender-biased issue. In conjunction with this, the impact of culture, as well as the current state of the issue and whether it will ever change will be examined.

### **4.1 Family court**

Results in this study support previous research and the literature. Recurrent through this research, Family Court was found to be a difficult and negative experience

for women. This is in line with studies such as that by Rivera, Sullivan, and Zeoli (2012), who also found that the majority of women had negative experiences with Family Court and mediation and were re-victimised. The advocate's experiences in this study highlighted how throughout the Family Court process, IPV may be minimised or ignored, and women may be re-victimised with their safety compromised. When women leave, the perpetrator often loses some power and control, which places women at risk of harm or re-victimisation. This study drew attention to how the Family Court process may be used by perpetrators as a means of trying to regain power and control back.

Not only do women have negative experiences, but disputes in Family Court may require all parties involved to contribute to the cost of court services, including lawyers and special reports, independent to the court's outcome (Ministry of Justice, n.d.d). A major, and unexpected, finding from this study was the issue with protection orders. Even though there are protection and parenting orders that women can, and do, apply for, they are insufficient and can come with their own problems. They are set up to protect women, but they may actually put them at more risk. It was emphasised in the interviews that protection orders work best for women who do not have children; poor safety outcomes are more common for those who have children. Once a woman gains a protection order, the perpetrator is served with the protection order. Protection orders are often not finalised; rather, they are temporary, until they can be heard in court. Respondents also have the right to contest a non-violence programme, which is part of the order, as well as to apply for financial aid (Ministry of Justice, n.d.h).

As the advocates mentioned, this only re-victimises the women further, reinforcing he can continue to exert power and control over her. An interesting finding was the changes which occurred over time in the Family Court process, with the emphasis now on collaboration and mediation. According to the Ministry of Justice

(n.d.g), these changes came into effect on 31 March 2014. Family Dispute Resolution (FDR) can be an effective process, but it is not for everyone; it fails to take into account the different dynamics that occur with IPV.

Couples ending a relationship with children are usually expected to work it out themselves, without court involvement; a parenting through separation course, as well as FDR is encouraged (Ministry of Justice, n.d.i). While there is an exemption for victims of IPV in participating in the FDR, it is a complicated process and IPV has to be substantiated through the court's approval of a protection order. Many women who have experienced IPV, especially psychological abuse, have not been granted a protection order and therefore have to go through the FDR process with their abuser. If the two parties cannot come to an agreement, and FDR is not an option, it will proceed to Family Court, where the decision will be based on the best interests of the child.

Even if FDR occurs, the mediator can stop the proceedings if there has been a history of domestic violence (Ministry of Justice, n.d.a). Individuals may also have a support person present, but *only* if all involved agree (Ministry of Justice, n.d.e). That process is not fair when IPV has occurred. The advocate's experiences are supported by literature that asserts IPV impacts equality, and negatively influences the process. Likewise, it reinforces the notion that a woman is hostile if she refuses to cooperate with the perpetrator, and there needs to be a different process that takes into account the dynamics of IPV.

New Zealand Police (n.d.) state "if you have a Protection Order, you have specific protection from any physical, sexual or psychological abuse (and that includes threats or harassment). Police policy is to arrest a person who breaches a Protection Order". However, the advocates in this study each expressed concerns that breaches are

not being dealt with effectively. If protection orders are going to be effective and protect women, they need to be enforced. As noted in an article by Downes (2014), Edward Livingstone made headlines when he shot and killed his two children. Before this, he had breached his protection order twice. To add to this, Shadwell (2013) writes that Sarwan Lata Singh was murdered by the very same man who she had a protection order against. Recently another woman, a mother of two, was killed by her ex-partner, who had been served with a protection order earlier in the day, before he killed her. In New Zealand, recently there have been a number of women who have been killed by ex-partners, all of whom had protection orders, and most had several breaches of the protection order, with no action taken against them for the breaches until they killed the women.

Even when protection orders are approved, they come with their own issues. They can cost between \$1500-\$1800 (Pickett, 2015) and multiple breaches can occur, which may merely result in a ‘slap on the wrist’, if any action is taken at all. As illustrated in the interviews with the advocates, the police have their hands tied with what they can take to the court. Protection orders may even be used as a bargaining tool in custody disputes. Adding to this concern is that despite psychological abuse being a recognised type of abuse, because it is much more difficult to “prove” it may be ignored. This is the difference between what is written in the law, and what happens in reality.

Psychological abuse is less likely to be taken seriously, despite it being the most common form of abuse, with painfully negative consequences (Rivera et al., 2012). In the study by Beeble, Bybee, Sullivan, and Adams (2009), they found psychological abuse had a more negative effect on women’s life satisfaction, compared to physical abuse. Each of the advocates expressed great concern that psychological violence can be extremely traumatic for women, and yet due to its nature, is not taken as seriously as

physical violence. To reiterate this importance, it was summed up perfectly by Jane when she said psychological violence “takes away who you are. As a woman, as that person, as the mother, as the person who does that job”.

Another major, and concerning, issue is the lack of experience and education of professionals. This is in line with the literature, which has questioned the effectiveness and objectivity of assessment. This extends to both court professionals and psychologists. As Jaffe, Lemon, and Poisson (2003) explain, “secrecy, denial, and cover-up” (p. 35) are inherent to IPV, it can be extremely difficult to assess, even if clinicians may sense there is more going on than there appears. The advocates highlighted their largely negative experience with psychological assessment, which could be biased and didn’t take into account the dynamics of IPV, and which the Family Court placed too much emphasis on. A major concern was how clinicians could be taken in by the perpetrator’s personality, despite extensive literature pointing out their ability to manipulate people and situations.

These assessments are supposed to look at aspects such as a parent’s psychological functioning, ability to look after their child, collaborate with the other parent, and any other relevant information. They should also be objective; as shown in this study, as well as in the literature, that is not always the case. These assessments require expertise and education about IPV, which many psychologists, as well as other court professionals, may lack. This is supported in the literature, with researchers such as Davis et al. (2010), calling for increased education and greater consistency among reports; as they state, “a family’s fate should not depend on which evaluator is appointed” (p. iv).

In addition to increased expertise and objectivity, and a decrease in bias in making assumptions, psychologists should also use multiple sources, including neutral observers. As well as this, they could look at behavioural patterns, controlling behaviour and past history, including violence and court orders. It is also imperative to be reflective and critical, and utilise multiple interviews to gain a better understanding of the situation.

The Family Court itself can be inconsistent and lack understanding of the dynamics of IPV, which can lead to women being re-victimised, and fuel the perpetrator's need for power and control, the cornerstones of IPV. As shown by the advocates, it puts the safety of the woman and child at risk, and can resort in them wanting to avoid court, avoid protection orders and force them to stay in an abusive relationship for the sake of the children's safety. This is despite the law stating that if there is known violence, the Family Court will usually not grant them custody (New Zealand Police, n.d.). Again, there was a serious concern among the advocates of the discrepancy between what is written in the law, and what happens in reality. The law should be clear and enforced, but unfortunately that does not appear to be the case.

*The people's report* (Wilson & Webber, 2014) was also very critical of the Family Court, highlighting its failures and how it perpetuates the victimisation of those who have suffered from IPV. It also commented on process difficulties, especially financial issues, as well as perpetrators being believed over victims, who may be viewed negatively. New Zealand has a dismal record when it comes to IPV; we have the highest reported rates in the developed world (Ministry of Justice, n.d.f). This is at odds with how we pride ourselves as a nation. For instance, New Zealand Now (2014), a website by Immigration New Zealand, lists why immigrants should "choose New Zealand". Among the top reasons given, were that we are a family friendly, safe and secure nation,

and “we’re an easy-going and happy country largely free of personal violence”. This is an issue throughout the world, which has been well-researched and is proving difficult to combat.

The literature is critical of the tendency of the Family Court to favour collaborative parenting, and be influenced by societal expectations which in turn ignores or minimise the effects of IPV. The advocates do not want to scare their clients away, but they also want to give them some preparation for what is ahead, including the difficulties and bias associated with assessment. Some advocates commented that it can at times be best for their clients to try and avoid the Family Court, to keep themselves and their children safe; however, there can be serious consequences and it could go against them if they do end up in court. However, due to these concerns with Family Court, IPV and custody, and the lack of understanding, if they follow the recommended procedures, they may end up being re-victimised, and the perpetrator may even end up with custody.

#### **4.2 A Gender-based/ Gender-biased issue?**

A result which arose from this study was how custody and IPV appears to be a gender based, or perhaps biased, issue. It has been acknowledged that men do suffer IPV, and a minority of women may not be genuine in their reporting of IPV in a Family Court situation, but on the whole, women are more likely to be victimised and encounter a large range of issues.

Part of this result, which was unanticipated but extremely important, was the advocate’s concerns that mothers are often unable to relocate; instead they have to stay nearby their child’s father, or leave their child behind. The father in turn though is able to move wherever and whenever he likes. These concerns are echoed by Behrens (2003),

who argues women have to forego their best interests, and even their safety, for what the court deems the ‘best interests’ of their child. Behrens reinforces the notion that fathers can relocate despite perhaps being successful in preventing their ex-partner from moving. This is summed up as uneven legal rights, as well as a burden responsibility for mothers, and calls for more recognition to be given to mother’s reasons for relocating. This raises its own questions of why that is the case. Why is it that women have to revolve their lives around their perpetrators?

Worldwide, relocation disputes in the Family Court are a controversial and complex issue. The Hague Conference on Private International law (HCCH; 2015) is a worldwide organisation which currently has 80 members. An individual can apply to have their child returned from overseas under The Hague Convention, provided they have guardianship or rights of custody, the child is under 16 and living in New Zealand prior to being taken, and they were taken without consent of that individual or family court (Ministry of Justice, n.d.k). However, there are certain situations when this application could be rejected. The Ministry of Justice (n.d.j) gives a range of reasons this may occur, including “a grave risk that the return of the child would expose the child to physical or psychological harm” or “the child does not want to go back, and is old and mature enough for its views to be considered”.

Taylor, Gollop, and Henaghan (2010), explored this issue in a New Zealand context and noted the variations in decisions that occur. They do not take issue with trying to prioritise a child’s best interests, but the decisions can involve subjective reasoning and uncertainty at what really is the child’s best option. They comment that although overall among New Zealand Family Court Judges, decisions about relocating are fairly even, for and against relocation, individual judges may have a higher rate of allowing relocation, or declining relocation. However, the researchers caution this may

not be due to bias, and involves many factors which influence decisions. They acknowledge it is extremely difficult for all involved, including the court professionals, and it can be a length, costly, and emotional process. It is interesting that the authors comment that decisions are fairly straightforward when violence is an issue; if that is the case, then why is it that so many of the advocate's clients in this study struggled with relocation?

The notion that this a gendered issue is supported by researchers such as Taylor et al. (2010), who state the majority of relocation orders involve mothers trying to relocate, and fathers objecting to this. Behrens (2003) supports the advocates concerns that it can merely be a way for the father to maintain power and control. Behrens sympathises with fathers but does not believe their needs should outweigh the mother's. Behrens (2003) also discusses the relevance of the best interests of the child, highlighting the subjectivity of judge's beliefs, as well as how the effect of the relationship between the child and their main guardian can often be ignored.

This gender issue can also be applied to organisations that are utilised. Women's Refuges are experts when it comes to IPV. They themselves have said they have daily interactions with these women, they see them more than anyone as they offer a full range of services to women who have experienced IPV. They see their clients across a range of situations, and are privy to what occurs with the courts, police, work and income and any other agencies. And yet, as it was pointed out in the interviews, they are rarely acknowledged, let alone utilised. One of the advocates also mentioned that women being unable to relocate are taking up their resources. They do not have an infinite number of safe houses and resources, which are taken up by women kept in the area by the courts; if they had just been able to move, they could settle and be with their family and have supports elsewhere.

It raises the question of whether there are biases which are interfering with the process. Why aren't there protections for women in our court system? Two recent opinion pieces in newspaper articles highlight how much of a gendered issue this is. The first piece, by Stewart (2015), is fuelled by New Zealand's lead ranking of reported IPV in the developed world, and openly puts responsibility for both the problem and solution to IPV on men. Stewart states men can no longer use the excuse of women being violent, when women suffer higher levels of violence, more often. She criticises how much of this violence is underreported, and when it is spoken about, women are the ones speaking up and suffering the consequences; she urges men to intervene and help make it unacceptable in our society. In response to this, Burrows (2015) calls for gender-balanced views, instead of views portrayed by "feminists" in the media; the negative connotation associated with feminism is concerning, but beyond the scope of this research. Burrows does not stop there though, criticising the power and control model and "biased" data, which are unfair to men, and calls for blame to not be placed solely on men.

The advocates illustrated how even when women go through all the right processes, such as getting a protection and parenting order, there are no guarantees. Not only are they responsible for organising them, but they are responsible for visits and supervised access. Each advocate expressed concern it actually should not have to be the woman's responsibility; they are the victims, so why is more responsibility not placed upon the perpetrators. Women even put themselves in danger to ensure their child is safe, with the interviews revealing how they may have the perpetrator in their house, in order to make sure their child is safe and looked after. This is in line with the literature, where women are expected to take responsibility for maintaining

relationships, even if it endangers her safety. If she tried to prevent contact, she can be viewed as selfish or even hostile.

Women can be judged negatively. Psychologists themselves, may take a negative stance to the woman, and favour the perpetrator. What was interesting was that in each of the advocate's experiences, these psychologists were women. They focused on the women's physical aspect, but did not make the same judgments on the men. There seemed to be a real focus on the women's faults, but not the men's, despite their violence. This too is in line with the literature, which points out how mental health professionals can overlook the dynamics of violence, and view abuse allegations as women trying to gain custody.

Instead of being prejudiced, Jaffe et al. (2008) assert that it should be acknowledged these women are dealing with a stressful situation and the strenuous circumstances taken into account; their unwillingness to collaborate or communicate with their abusive partner should not be seen as hostile or alienating. They need more support. Women in the study by Jaffe, Crooks, and Poisson (2003), stated their child's welfare was their top priority. In contrast to this concept of the hostile mother, most women wanted the father to remain in the child's life, and would be happy with visitation plan, as long as the issue of violence was addressed and dealt with. A powerful statement was made by Jane: "Believe her"; that could be one of the most important things you ever do.

It is time to challenge the notion that it is a mother's sole responsibility to maintain relationships; or that she is hostile and does not want a perpetrator to have access due to safety concerns; or that she is criticised if she stays in a violent relationship, but also criticised for leaving and not wanting to collaborate with the

perpetrator. It is not just the Family Court which needs to take note, but society as a whole needs to examine its expectations, assumptions and biases. These women need support, not criticism; understanding, not judgement.

### **4.3 A cultural issue**

As highlighted by the advocates, not only is it a gendered issue, but a cultural issue. There is a lack of research into IPV and the effects on Maori (Hoeata, Nikora, Li, Young-Hauser, & Robertson, 2011). Almost half of women and children who seek help at Women's Refuge are Maori, despite Maori making up only 15% of the total New Zealand Population (New Zealand Violence Clearinghouse, 2007). In their report of crime and safety, Mayhew and Reilley (2007) found being young, Maori, single or separated, a sole parent and/or living in an impoverished area were particular risk factors for IPV. The report states that Maori women and single parents are up to four times more likely to be threatened or assaulted by their partner.

This raises serious questions of why this is the case. Why are Maori women at a higher risk of serious, high-end physical violence? Jane voiced these questions in her interview, unsure as to the reasons behind it. Adding to this, not only are these women suffering higher levels of violence, but there appears to be feelings of shame attached to being a victim of IPV. This was an unexpected outcome for the study, but is supported by studies such as that by Hoeata et al. (2011), with one participant noting they did not want their whole family to know what had happened.

Jane was passionate about this, explaining that Maori women do not want to be "that Maori person we see on the news, that we see on Police 10/7, that we see in the stats, that we see in prison, that we see at work and income". So instead of coming forward, they stay quiet. In the study by Hoeata et al. (2011), even involving Women's

Refuge, a “white organisation” (p. 8) was deemed embarrassing and shameful. This is reinforced by the media, who fuel the shame about being in a violent relationship.

Again, Jane touched upon this in her interview, when she stated not only are Maori the “most watched community in the whole country”.

This may also be contributing to Maori women wanting to avoid the Family Court-system. Concerns about Family Court’s cultural sensitivity are reported by Women’s Refuge (n.d.a); for example, they assert despite the impact of family violence on Maori, few Maori are actually accessing the court. In their study, Busch and Robertson (2000) observed the lack of cultural awareness for Maori women who had suffered violence. The New Zealand Law Commission (2003) affirms the need to use expert practitioners in assessing for IPV in all court applications as well as for IPV training for court staff. They further note the lack of services that are culturally sensitive to Maori.

This impact of violence on Maori was addressed in *the people’s report* (Wilson & Webber, 2014). Included in this was the contribution structural and cultural violence made to intergeneration violence and negative cycles, resulting in violence becoming part of their identity. Other research, such as that by Hoeata et al. (2011) has implicated patriarchal expectations and gendered roles, stemming from colonisation. Wilson and Webber (2014) also highlighted how IPV negatively impacts on Maori spirit, and can lead to feeling ashamed; this in turn has been linked with increased levels of violence and victimisation (Gilligan, 2003). The report states that these feelings were reinforced when they tried to seek help, which is of particular concern. Moreover, it may help explain why Maori women are avoiding the system, as Jane had posited there may be many Maori women who do not even contact Women’s Refuge.

Researchers such as Stith et al. (2000) have found correlations between witnessing or experiencing violence in childhood, and an increased likelihood in being either a perpetrator or victim of IPV in adulthood. This was supported by experiences of Maori women in the study by Hoeata et al. (2011); one of the participants mentions it is a way of life which has been “naturalised” (p.5).

#### **4.4 Will it ever change?**

In support of the results of this study, the literature is full of statistics about the issues women who are victims of IPV face when involved in a custody dispute. Despite this, the issue seems to not only be not improving, but actually getting worse. This leads to questions of why that is the case. Is society becoming immune to it? Do we still not view it as a serious enough issue? Maybe there is something to this theory; it seems almost every day there is another story in the media about family violence. Perhaps it is a self-defence mechanism; the belief it only happens to others. It could also be hypothesised that there is a belief it is not our problem, or is a problem of the poor. Despite these misconceptions, IPV can happen to anyone, regardless of their socio-economic status, education, culture, location or background (Adams, 2015). Until there is an acknowledgment that it doesn't discriminate, how could anything change?

A recent article, by Tait (2015), in the New Zealand Herald, highlights that this violence is increasing; there are reports of victims having “body parts bitten off, maimed from severe burns and footprints left on their heads”. Individuals interviewed for the article included Dr Neville Robertson, a prominent researcher in the field, and lecturer at Waikato University, as well as Dame Tariana Turia. Robertson noted “violent men isolated their partners by cutting them off from family, friends and support networks; lowered women's self-esteem to the point they questioned their own sanity, and used the threat of violence to keep this cycle turning”. He pointed out that there

seems to be the notion it is a private issue and people do not want to interfere; Turia supports this and calls for wrap-around services for these families, before violence escalates.

The focus has been largely on children's adjustment during separation; authors such as Jaffe, Lemon, and Poisson (2003) attest that there is a lack of discussion involving IPV and women may stay with their perpetrators for the sake of their children's wellbeing. This is despite researchers such as Jaffe and Geffner (1998) finding that separation/divorce can lead to better outcomes, and even save lives. Not only that, but the Care of Children Act (2013) clearly states IPV should be taken into consideration; it has a negative effect on a child's development, and therefore raises questions of how it could be in their best interests for an abusive parent to have custody. Exposure to violence is psychological abuse; it is in the best interests of the child, and their mother, to be free from violence. This is especially the case if the child is abused themselves, which was noted by one of the advocates in this study; despite the child suffering abuse from his dad, and not wanting to go see him, it was ordered by the Family Court, thereby ignoring the child's wishes.

On the Ministry of Justice (n.d.g) website, there is a list of projects the Ministry is currently undertaking in relation to family violence. This year they consulted the public in regards to reviewing relevant laws and judicial understandings. They highlight the establishment of a chief victim's advisor and nationwide safety service, to provide help and support to victims of violence. They are working at decreasing the lengthiness of trials and are supporting the police in initiatives aimed at improving the safety of at individuals who are at high risk of violence.

The Ministry of Justice's (2015) public discussion document goes into more specifics. It questions the legal definition and dynamics of IPV, especially power and control. Referred to as coercive control, it involves "controlling or intimidating behaviours to undermine the autonomy of the victim and make them fear for their safety" (p. 13). It is discerned as a gendered issue, with women far more likely to experience IPV, the majority of which involves coercive control. Worryingly, and in support of what was said by the advocates, women with children, especially young women, are at increased risk of IPV.

The Ministry of Justice (2015) also highlights the relationship between IPV and child abuse, whether direct or indirect through exposure; this can impact on a child's psychological, physical, emotional and social development and wellbeing. The review mentions amending the law to ensure both the child and parent are kept safe through parenting arrangements. There is an acknowledgement that FDR may not be appropriate when IPV has occurred, as was highlighted by the advocates in this study, especially as perpetrator's can manipulate the custody situation to continue to abuse mothers. Parents need to be kept safe, not only for their welfare, but for the welfare of their child's.

The Ministry of Justice (2015) also acknowledges the difficulty in responding to protection order breaches when the violence is psychological in nature, as discerned by the advocates in this study. Often, situations are taken at face value, where the violence may seem minor, instead of looking at the whole pattern of abuse, and understanding the effect psychological violence can have. The Ministry also notes shortcomings of protection orders include their cost, which can act as a barrier, as well the complexity of the applications, again highlighted by the advocates. A hypothesised solution that they propose is more help with applications and/or better access to legal aid.

In regards to protection order breaches, just as the advocates mentioned, the review reinforces if a line is drawn, and offenders know where the line is and the consequences of crossing the line, they will be less likely to breach an order; this includes being arrested and prosecuted. Currently though, the line is blurred and often when a protection order is breached, there are no consequences; this allow for the abuse to continue, especially with psychological abuse. Additionally, due to a lack of recognition of psychological abuse in reality, even though it appears in the law, it is much more difficult for a woman to obtain a protection order when the abuse is not visible. The review notes victims may be more hesitant in applying for an order when the abuse is more psychological.

An idea to counteract this is for clear mandates for judges about the potential for violence in parenting arrangements. This includes clarification that children be free from all violence, including being witness to it. This could even be incorporated as part of the best interests of the child. A straightforward suggestion is for parenting orders to be consistent with protection orders, which is already required in Australia (The National Council to Reduce Violence against Women and their Children, 2009).

This study found custody disputes can be a long and negative process for women who have suffered from IPV; there is now increased acknowledgement that the process hasn't been working and there are serious issues which need to be taken into account. The government's review looks to not only speed the process up but improve the education of Family Court judges and professionals. There is evidence it is not a quick, simple fix. Better access to support and services, and multi-agency collaboration and communication, could also go hand in hand to improve the process.

Adams (2015), New Zealand's Minister of Justice, has asserted that while crime, including youth crime, has decreased substantially, family violence levels, including IPV, are not following the same trend and remain high. Adams acknowledges what was found in this research, that Maori women are more likely to experience IPV, and at higher levels, being three times more likely than Pakeha women to be killed by IPV. Over 40% of police call outs involve family violence, and it is estimated that up to 80% of cases go unreported.

Approximately \$1.4 billion are spent each year addressing family violence, the majority of which involve hospitals, doctors visits and prisons; a mere \$42 million of this is actually spent on prevention and screening (Adams, 2015). Perhaps if we spent more on trying to help prevent the problem, targeting the cause of IPV at its core rather than being overwhelmed by the symptoms, it could make a difference.

As part of the family violence review announced by the government (Adams, 2015), law and practise will be modernised, to keep up with what is known about family violence, yet no specific strategies have been proposed; it is therefore difficult to know what changes to the court systems will actually occur. Some ideas involve alternate pathways to reporting violence, rather than going through courts, and changes to protection orders which will look at increasing funding, and requiring offenders to be arrested for any breach. Alongside this, police will take each matter seriously and enforce protection orders, all of which combine to promote safety for victims. There is an admission that the review will likely raise discussion into how much parental safety is considered in regards to the welfare and best interests of the child. A major component of this will be the relevance of violence in custody disputes, and it is stated it may involve victim's safety being considered paramount.

The dynamics of IPV, as well as the silence and underreporting that are commonly associated with it can make it hard to substantiate, but that does not mean it does not occur. These are important initiatives, targeted at family violence, which need to be taken seriously and not ignored. It is not just about legislative changes; it is also about translating these into practice. These women are dealing with not only the issues related to divorce or separation but the added stress of IPV. They are struggling with emotional, physical and socioeconomic issues, yet court experts, and society as a whole, expect them to cooperate with their abusive partner, and put differences aside for their child, which may only add to the stress and put them, and their child, at risk of further violence. As noted by Jaffe, Lemon, and Poisson (2003), exposure to violence can result in a number of issues such as delayed development, anxiety, depression, aggression/bullying and negatively impact their education.

#### **4.5 Strengths, limitations and future directions of research**

Researchers such as Yardley (2000) and McLeod (2011) have recommended a number of strategies to help establish validity in qualitative methods. First and foremost, McLeod recommends contextualising the study; the demographics of the participants were ascertained, and the study placed with a sociocultural and historical context. This is echoed by Yardley, who extends this to the literature and information from participants, including the interviews and analysis. In line with this, researchers made every effort possible to ensure rapport was established, participant's felt comfortable and were at ease discussing their experiences.

Researchers immersed themselves in the transcripts and were sensitive to the data. Access was given to as much data as possible, with a great number of excerpts to support arguments and ensure the participant's voices were heard. Conclusions were linked to participant's transcript excerpts, with these dominating analysis; such primary

data enables reader to hear the participant's voice. Likewise, this helps show that the research is not focused on only what we want to hear or find out, which McLeod (2011) cautions qualitative research had been criticised for in the past. McLeod explains that qualitative research has a tendency to be long and complex, so this research aimed to be as clear as possible, also keeping results separate from the discussion.

A literature review was conducted, ensuring the study was sensitive to the context of existing literature. As well as this, the sample size was relevant to the study aims, with the focus being on detailed accounts of advocate's experiences of Family Court and assessment with their clients who have suffered from IPV. In line with Yardley's (2000) principle of commitment and rigour, researchers devoted time and attention to the research, and made sure the study was thorough, with a systematic and detailed analysis, as well as transparent and coherent. In addition, impact and importance is a component of validity, and we hope this research makes a contribution to the literature. Ethical considerations were explained and followed in the research.

As is the nature in qualitative methods, the sample size was small, and was more about gaining an understanding of participant's experiences, rather than producing generalizable results, as in quantitative methods. However, it was limited in that the participants were from only one organisation, in one region. If participants from other areas were interviewed, they may have had different experiences. In addition, it was the advocate's experiences of their client's experiences with IPV, Family Court, and psychological assessment which were explored. Interviewing the victims themselves may have led to different perspectives and experiences. It would be of note for future research to gain the first-hand experiences from victims, from all over New Zealand.

The effect of interpersonal variables on the interview context also needs to be acknowledged. These include researcher's gender, age, education and role; past experiences and expertise also influenced the questions and cues that were asked, which impacted upon the direction and content of interviews. Researchers needed to be mindful of how their own subjectivity influenced not only the interviews, but analysis and discussion. As such, a reflexivity statement is included at the end of this research, as the expectations, views, experiences and motivation of researchers is an important component of research and needs to be acknowledged.

Researchers also only interviewed one advocate who identified herself as of Maori ethnicity. It would be recommended for future research to further investigate IPV and custody as a cultural issues, including why violence levels are so much higher, why there are feelings of shame, how much more family intervention occurs and why, and any other issues may not have been mentioned in this study. As well as this, research should look into how support and services could be increased, and be more culturally sensitive.

Instead of a one-size-fits-all approach, authors such as Jaffe, Lemon, and Poisson (2003) propose initial screening and better educated and knowledgeable professionals to help prevent the justice system from re-victimising women and their children. Elizabeth (2015) cautions that changes in the Family Court need to be implemented with great thought, but will not in itself be a magical solution. The research and recommendations abound the literature and, as Elizabeth asserts, it is now time for a clear path and leadership from the government, with the determination to implement change. Of particular note will be the results of their public discussion document.

This study will help form the basis of continued research into the area, with the aim of gaining a more discerning picture of key issues that arise for women who have experienced IPV and who are embattled in a custody dispute in the Family Court. We all need to address these issues. We all need to take note of the importance of culturally-appropriate services and increased education and work towards changing attitudes in our society. Along with this, increased research and implementation of services and programmes could be extremely beneficial, as well as multi-agency collaboration, communication and wrap-around services for individuals in need.

## **Chapter 5: Conclusion**

The aim of this study was to explore advocate's experiences and concerns of their client's experiences of the Family Court process, and to provide a greater understanding of intimate partner violence, Family Court, and psychological assessment in New Zealand. Unsurprisingly, and in line with previous research, it was found to be a long and difficult process for women who have suffered from IPV; they are burdened not only with dealing with the effects of the violence, but financial difficulties, continued abuse and re-victimisation. The overall picture is that perpetrator's access to their children are prioritised over a woman and child's safety, despite the best interests of the child, including to be free from experiencing or witnessing violence, being paramount.

These negative experiences are compounded by a lack of expertise and education from Family Court professionals, including psychologists involved with assessment. The dynamics of IPV, particularly the hallmarks of power and control, need to be better understood; perhaps then, rather than the current expectations on women to collaborate with their perpetrators and undergo mediation, her and her children's safety will be prioritised.

This is a gendered issue. Women bear tremendous responsibilities; they take responsibility for keeping their children safe, even at the risk of their own welfare, and may be kept in an area so a father can have access to his child. Women are much more likely to be subjected to negative views, both from Family Court professionals and society as a whole. Maori women face not only these issues, but higher levels of violence and feelings of shame. More research is needed in this area, to both understand why that is the case, and to help lessen the burdens they face, as well as an increase in culturally appropriate services.

New Zealand's statistics on IPV are shocking. The experiences mentioned in this study form only a minute part of that picture. There are many more that do not engage in services, and face a lack of support, whose experiences we are as yet unaware of. It is time for us all to acknowledge this issue and the overwhelming research around it, and time for the safety of women, and their children to take priority.

### **5.1 Reflexivity**

Reflecting upon this research process, I have undergone my own personal journey. Prior to this, I was largely ignorant to IPV, perhaps because it made me too uncomfortable. As such I was hesitant to pursue this research, unsure of how useful I would be and what I could contribute. I began researching it more thoroughly, and was overwhelmed by the statistics and literature showing just how serious a problem this is. The issue was well published, the statistics were there, and yet nothing was changing; it seemed to be only getting worse. Nevertheless, they were still numbers; it was not personal. Throughout the interviews though, the Women's Refuge advocates personalised it for me. I could see the battle they fought every day, how much they cared about their clients, and yet the hopelessness they seemed to be increasingly experiencing in trying to change things and look out for their client's safety and best interests.

I have had a range of reactions and emotions and it has been difficult to remain balanced throughout this research. Despite my best efforts it could be hard at times to remain objective and I therefore acknowledge that my own biases and subjectivity will have influenced this research. I am hopeful though that it will make some contribution to the issue, along with the increasing prominence of this area in the media, and the government's proactive stance on reaching out to the public and getting opinions on legislative changes.

## References

- Adams, A. (2015). *Launch of family violence discussion document*. Retrieved from <http://www.beehive.govt.nz/speech/launch-family-violence-discussion-document>
- Austin, W. G. (2000). Assessing credibility in allegations of marital violence in the high-conflict child custody evaluations. *Family and Conciliation Courts Review*, 32, 504-513.
- Bala, N. (1999). A report from Canada's 'gender war zone': reforming the child-related provisions of the Divorce Act. *Canadian Journal of Family Law*, 16, 163-227.
- Bancroft, L. & Silverman, J. G. (2002). *The batterer as parent: the impact of domestic violence on family dynamics*. Thousand Oaks, CA: Sage.
- Beeble, M. L., Bybee, D., & Sullivan, C. M. (2007). Abusive men's use of children to control their partners and ex-partners. *European Psychologist*, 12, 54-61.
- Beeble, M. L., Bybee, D., Sullivan, C. M., & Adams, A. E. (2009). Main, mediating, and moderating effects of social support on the well-being of survivors of intimate partner violence across 2 years. *Journal of Consulting and Clinical Psychology*, 77(4), 718-729.
- Behrens, J. (2003). U v U: The High Court on relocation. *Melbourne University Law review*, 27, 572-589.
- Bow, J. N., & Boxer, P. (2003). Assessing allegations of domestic violence in child custody evaluations. *Journal of Interpersonal Violence*, 18(12), 1394-1410.

- Boyd, S. (2003). *Child custody, law and women's work*. Don Mills, ON: Oxford University Press.
- Braun, V., & Clarke, V. (2006). Using thematic analysis in psychology. *Qualitative Research in Psychology*, 3(2), 77-101.
- Braun, V., Clarke, V., & Terry, G. (2015). Thematic Analysis. In P. Rohleder & A. C. Lyons, *Qualitative research in clinical and health psychology* (pp. 95-113). London, England: Palgrave Macmillan.
- Brocki, J. M., & Wearden, A. J. (2006). A critical evaluation of the use of interpretative phenomenological analysis (IPA) in health psychology. *Psychology & Health*, 21(1), 87-108.
- Bruner, J. (1986). *Actual minds, possible worlds*. Cambridge, MA: Harvard University Press.
- Burrows, W. (2015, November 11). Domestic violence debate dominated by women's perspectives. *Stuff*. Retrieved from <http://www.stuff.co.nz/stuff-nation/assignments/facing-our-greatest-shame/13094512/Domestic-violence-debate-dominated-by-womens-perspectives>
- Busch, R., & Robertson, N. (2000). Innovative approaches to child custody and domestic violence in New Zealand: the effects of law reform on the discourses of battering. *Journal of Aggression, Maltreatment & Trauma*, 3(1), 269-299.
- Care of Children Act. (2004). Retrieved from <http://www.legislation.govt.nz/act/public/2004/0090/latest/whole.html#DLM317>

- Care of Children Amendment Act, No. 2. (2013). Retrieved from  
<http://legislation.govt.nz/act/public/2013/0074/latest/DLM4896287.html>
- Cunningham, A., & Baker, L. (2004). *What about me! Seeking to understand the child's view of violence in the family*. Retrieved from  
[http://www.lfcc.on.ca/what\\_about\\_me.pdf](http://www.lfcc.on.ca/what_about_me.pdf)
- Davis, M. S., O'Sullivan, C. S., & Fields, M. D. (2010). *Custody evaluations when there are allegations of domestic violence: practices, beliefs and recommendations of professional evaluators*. Retrieved from  
<https://www.ncjrs.gov/pdffiles1/nij/grants/234465.pdf>
- Domestic Violence Act, No. 86 . (1995). Retrieved from  
<http://www.legislation.govt.nz/act/public/1995/0086/latest/DLM371926.html>
- Dore, M. K. (2004). The “friendly parent” concept: a flawed factor for child custody. *Loyola Journal of Public Interest Law*, 6, 41-45.
- Downes, S. (2014, January 16). Protection orders no saviour, experts say. *Stuff*. Retrieved from <http://www.stuff.co.nz/national/crime/9618367/Protection-orders-no-saviour-experts-say>
- Dutton, M. A., & Goodman, L. (2005). Coercion in intimate partner violence: towards a new conceptualisation. *Sex Roles*, 52(11/12), 743-756.
- Elizabeth, V. (2010). Turning mothers into villains: gaps and silences in media accounts of custody abductions. *Feminist Media Studies*, 10, 51-67.

- Elizabeth, V. (2015). Where there is a will there is a way. But is there the will in New Zealand to tackle family violence? That is the question. *New Zealand Sociology*, 30(1), 207-214.
- Elizabeth, V., Gavey, N., & Tolmie, J. (2010). Between a rock and a hard place: resident mothers and the moral dilemmas they face during custody disputes. *Feminist Legal Studies*, 18(3), 253-274.
- Elizabeth, V., Tolmie, J., & Gavey, N. (2011). Gendered dynamics in Family Court counselling. *New Zealand Journal of Counselling* (Online). Retrieved from [http://ndhadeliver.natlib.govt.nz/delivery/DeliveryManagerServlet?dps\\_pid=FL12304804](http://ndhadeliver.natlib.govt.nz/delivery/DeliveryManagerServlet?dps_pid=FL12304804)
- Elizabeth, V., Gavey, N., & Tolmie, J. (2012). The gendered dynamics of power in disputes over the postseparation of children. *Violence Against Women*, 18(4), 459-481.
- Family Dispute Resolution Act. (2013). Retrieved from <http://www.legislation.govt.nz/act/public/2013/0079/latest/DLM5616808.html>
- Fanslow, J., & Robinson, E. (2004). Violence against women in New Zealand: prevalence and health consequences. *New Zealand Medical Journal*, 117 (1206), 1-12.
- Featherstone, B. (1999). Taking mothering seriously: the implications for child protection. *Child and Family Social Work*, 4, 43-53.
- Fidler, B. J., Bala, N., Birnbaum, R., & Kavassalis, C. (2008). *Challenging issues in child custody assessments: a guide for legal and mental health professionals*. Toronto, Canada: Carswell.

- Frederick, L., & Tilley, J. (2001). *Effective intervention in domestic violence cases: context is everything*. Minneapolis, MN: Battered Women's Justice Project.
- Gilligan, J. (2003). Shame, guilt, and violence. *Social Research*, 70(4), 1149-1180.
- Gondolf, E. W. (2001). *Batterer intervention systems: issues, outcomes, and recommendations*. Thousand Oaks, CA: Sage Publications.
- Gravitas Research and Strategy. (2006). *Reducing family violence: social marketing campaign formative research*. Retrieved from <http://areyouok.org.nz/assets/Document-files/research/formative-research.pdf>
- Guest, G., MacQueen, K. M., & Namey, E. E. (2012). *Applied Thematic Analysis*. Thousand Oaks, CA: SAGE Publications Inc.
- Hague Conference On Private International Law. (2015). *Members*. Retrieved from [http://www.hcch.net/index\\_en.php?act=states.listing](http://www.hcch.net/index_en.php?act=states.listing)
- Hans, J. D., Hardesty, J. L., Haselschwerdt, M. L., & Frey, L. M. (2014). The effects of domestic violence allegations on custody evaluators' recommendations. *Journal of Family Psychology*, 28(6), 957-966.
- Hardesty, J. L., & Chung, G. H. (2006). Intimate partner violence, parental divorce, and child custody: directions for intervention and future research. *Family Relations*, 55(2), 200-210.
- Haselschwerdt, M. L., Hardesty, J. L., & Hans, J. D. (2011). Custody evaluators' beliefs about domestic violence allegations during divorce: feminist and family violence perspectives. *Journal of Interpersonal Violence*, 26(8), 1694-1719.

- Henaghan, M. (2007). Legally rearranging families: parents and children after break-up. In M. Henaghan & B. Atkin (Eds.), *Family Law Policy in New Zealand* (pp. 269-360). Wellington, New Zealand: LexisNexis.
- Henderson, A. C., Harmon, S. M., & Houser, J. (2010). A new state of surveillance? An application of Michel Foucault to modern motherhood. *Surveillance and Society*, 7, 231-247.
- Hirst, A. (2002). *Child custody mediation and domestic violence*. Paper presented at the 2002 Family Court Services Statewide Educational Institute, Long Beach, CA.
- Hoeata, C., Nikora, L. W., Li, W. W., Young-Hauser, A. M., & Robertson, N. (2011). Maori women and intimate partner violence: some sociocultural influences. *MAI Review*, 3, 1-12.
- Holden, G. W., Geffner, R., & Jouriles, E. N. (1998). *Children exposed to marital violence*. Washington, DC: American Psychological Association.
- Holt, S. (2003). Child protection social work and men's abuse of women: an Irish study. *Child and Family Social Work*, 8(1), 53-65.
- Hotton, T. (2001). Spousal violence after marital separation. *Juristat*, 21(7), 1-18.
- Hovarth, L. S., Logan, T. K., & Walker, R. U. (2002). Child custody cases: a content analysis of evaluations in practice. *Professional Psychology: Research and Practice*, 33(6), 557-565.
- Hughes, J., & Chau, S. (2012). Children's best interests and intimate partner violence in the Canadian family law and child protection systems. *Critical Social Policy*, 32(4), 677-695.

- Jaffe, P. G., & Crooks, C. V. (2004). Partner violence and child custody cases: a cross-national comparison of legal reforms and issues. *Violence Against Women, 10*(8), 917-934.
- Jaffe, P. G., & Crooks, C. V. (2005). *Understanding women's experiences parenting in the context of domestic violence: implications for community and court-related service providers*. Washington, DC: Violence Against Women Online Resources.
- Jaffe, P.G., Crooks, C., & Bala, N. (2009). A framework for addressing allegations of domestic violence in child custody disputes. *Journal of Child Custody, 6*(3-4), 169-188.
- Jaffe, P.G., Crooks, C.V., & Poisson, S. E. (2003). Common misconceptions in addressing domestic violence in child custody disputes. *Juvenile and Family Court Journal, 54*, 57-67.
- Jaffe, P. G., & Geffner, R. (1998), Child custody disputes and domestic violence: Critical issues for mental health, social service, and legal professionals. In G. W. Holden, R. Geffner, & E. N. E. Jouriles (Eds.), *Children exposed to marital violence: theory, research, and applied issues* (pp. 371-408). Washington, DC: American Psychological Association.
- Jaffe, P. G., Johnston, J. R., Crooks, C. V., & Bala, N. (2008). Custody disputes involving allegations of domestic violence: toward a differentiated approach to parenting plans. *Family Court Review, 46*(3), 500-522.
- Jaffe, P., Zerwer, M., & Poisson, S. (2002). *Access denied: the barriers of violence and poverty for abused women and their children's search for justice and community*

*services after separation: A summary report.* London, Canada: The Centre for Children & Families in the Justice System.

Jaffe, P., Lemon, N., & Poisson, S. (2003). *Child custody & domestic violence: a call for safety and accountability.* Thousand Oaks, CA: Sage Publications.

Joffe, H. (2011). Thematic analysis. In D. Harper & A. Thompson (Eds.), *Qualitative research methods in mental health and psychotherapy: a guide for students and practitioners* (pp. 209-223). Chichester, United Kingdom: Wiley & Sons.

Johnston, J. R., Lee, S., Olesen, N. W., & Walters, M. G. (2005). Allegations and substantiations of abuse in custody-disputing families. *Family Court Review*, 43, 283-294.

Johnston, J. R., & Roseby, V. (1997). *In the name of the child: a developmental approach to understanding and helping children of conflicted and violent divorces.* New York, NY: Free Press.

Kaye, M., & Tolmie, J. (1998). Fathers' rights groups in Australia and their engagement with issues in family law. *Australian Journal of Family Law*, 12, 19-31.

Kelly, L. (1994). The interconnectedness of domestic violence and child abuse: challenges for research, policy and practice. In A. Mullender & R. Morley (Eds.), *Children living with domestic violence: putting men's abuse of women on the child care agenda* (pp. 43-56). London, England: Whiting & Birch Ltd.

Kernic, M. A., Monary-Ernsdorff, D. J., Koepsell, J. K., & Holt, V. L. (2005). Children in the crossfire: child custody determinations among couples with a history of intimate partner violence. *Violence Against Women*, 11, 991-1021.

- Kidder, L. H., & Fine, M. (1997). Qualitative inquiry psychology: A radical tradition. In D. Fox & I Prilleltensky (Eds.), *Critical psychology* (pp. 34-50). London, England: Sage.
- Larkin, M. (2015). Phenomenological psychology. In P. Rohleder & A. C. Lyons (Eds.), *Qualitative research in clinical and health psychology* (pp. 155-174). Hampshire, England: Palgrave Macmillan.
- Larkin, M., & Thompson, A. R. (2012). Interpretative phenomenological analysis in mental health and psychotherapy research. In D. Harper & A. R. Thompson (Eds.), *Qualitative research methods in mental health and psychotherapy: a guide for students and practitioners* (pp. 101-116). Chichester, United Kingdom: John Wiley & Sons, Ltd.
- Larkin, M., Watts, S., & Clifton, E. (2006). Giving voice and making sense in interpretative phenomenological analysis. *Qualitative Research in Psychology*, 3(2), 102-120.
- Marie, D., Fergusson, D. M., & Boden, J. M. (2008). Ethnic identity and intimate partner violence in a New Zealand birth cohort. *Social Policy Journal of New Zealand*, 33, 126-145.
- Mayhew, P., & Reilly, J. (2007). *The New Zealand crime and safety survey 2006: key findings*. Wellington, New Zealand: Ministry of Justice.
- McLeod, J. (2011). *Qualitative research in counselling and psychotherapy* (2<sup>nd</sup> ed.). London, England: Sage Publications.
- Ministry of Justice. (n.d.a). *Exemptions from pre-court programmes*. Retrieved from <http://www.justice.govt.nz/family-justice/about-children/making-decisions->

about-children/using-the-family-court/when-we-cant-agree/exemptions-from-pre-court-programmes

Ministry of Justice. (n.d.b). *Common types of orders in relation to care of children matters*. Retrieved from <http://www.justice.govt.nz/family-justice/about-children/making-decisions-about-children/using-the-family-court/what-the-court-can-do/common-types-of-orders-in-relation-to-child-matters>

Ministry of Justice. (n.d.c). *Family Dispute Resolution mediation*. Retrieved from <http://www.justice.govt.nz/family-justice/about-children/making-decisions-about-children/getting-help-outside-the-court/family-dispute-resolution-mediation>

Ministry of Justice. (n.d.d). *Other costs in the Family Court*. Retrieved from <http://www.justice.govt.nz/family-justice/about-us/fees-and-costs/costs>

Ministry of Justice. (n.d.e). *Overview of mediation*. Retrieved from <http://www.justice.govt.nz/family-justice/about-children/making-decisions-about-children/getting-help-outside-the-court/family-dispute-resolution-mediation/overview>

Ministry of Justice. (n.d.f). *Reducing family violence*. Retrieved from <http://www.justice.govt.nz/policy/supporting-victims/reducing-family-violence>

Ministry of Justice. (n.d.g). *Resolving care of children disputes that began before 31 March 2014*. Retrieved from <http://www.justice.govt.nz/family-justice/about-children/making-decisions-about-children/pre-31-march-2014>

- Ministry of Justice. (n.d.h). *Responding to protection and other orders*. Retrieved from <http://www.justice.govt.nz/family-justice/domestic-violence/protection-order/responding-to-orders>
- Ministry of Justice. (n.d.i). *Settling a dispute between guardians*. Retrieved from <http://www.justice.govt.nz/family-justice/about-children/guardians-and-guardianship/settling-a-dispute-between-guardians>
- Ministry of Justice. (n.d.j). *When a child may not be returned*. Retrieved from <http://www.justice.govt.nz/family-justice/about-children/getting-a-child-back-from-overseas/reasons-why-a-child-may-not-be-returned>
- Ministry of Justice. (n.d.k). *When you can ask for a child to be returned*. Retrieved from <http://www.justice.govt.nz/family-justice/about-children/getting-a-child-back-from-overseas/requirements-to-have-a-child-returned>
- Ministry of Justice. (2015). *Better family violence law*. Retrieved from <https://consultations.justice.govt.nz/policy/family-violence-law>
- Morill, A. C., Dai, J., Dunn, S., Sung, I., & Smith, K. (2005). Child custody and visitation decisions when the father has perpetuated violence against the mother. *Violence Against Women, 19*, 617-633.
- Neilson, L. (2001). *Spousal abuse, children, and the legal system*. Fredericton, Canada: Muriel McQueen Fergusson Centre for Family Violence Research.
- New Zealand Family Violence Clearinghouse. (2007). *Family violence statistics* [fact sheet]. Christchurch, New Zealand: University of Canterbury.

- New Zealand Family Violence Clearinghouse. (2014). *Children and Youth affected by Family Violence* [fact sheet]. Retrieved from <https://nzfvc.org.nz/sites/nzfvc.org.nz/files/DS3-Children-and-Youth-2014-00.pdf>
- New Zealand Law Commission. (2003). *Dispute resolution in the Family Court* (Report No. 82). Wellington, New Zealand: Author.
- New Zealand Now. (2014). Choose New Zealand. Retrieved from <https://www.newzealandnow.govt.nz/why-choose-nz>
- New Zealand Police. (n.d.). *Protection Orders*. Retrieved from <http://www.police.govt.nz/advice/family-violence/protection-orders>
- O'Campo, P., Caughy, M. O., & Nettles, S. M. (2010). Childhood emotional abuse and attachment processes in the dyadic adjustment of dating couples. *Journal of Counselling Psychology, 58*(1), 126-138.
- Pickett, B. (2015, September 14). Domestic violence victims need more support. *Stuff*. Retrieved from <http://www.stuff.co.nz/national/crime/72026601/Domestic-violence-victims-need-more-support>
- Pond, R., & Morgan, M. (2008). Protection, manipulation or interference with relationships? Discourse Analysis of New Zealand Lawyers' talk about supervised access and partner violence. *Journal of Community & Applied Social Psychology, 8*(5), 458-473.
- Rivera, E. A., Sullivan, C. M., & Zeoli, A. M. (2012). Secondary victimisation of abused mothers by family court mediators. *Feminist Criminology, 7*(3), 234-252.

- Saunders, D. G., Faller, K. C., & Tolman, R. M. (2013). Factors associated with child custody evaluators' recommendations in cases of intimate partner violence. *Journal of Family Psychology, 27*(3), 473-483.
- Scott, K. L., Crooks, C. V., Francis, K. J., & Kelly, T. (2002). *Caring dads: program description and directions*. Portsmouth, NH: Victimization of child and youth conference.
- Shadwell, T. (2013, November 28). Murder victim had protection order. *Stuff*. Retrieved from <http://www.stuff.co.nz/national/crime/9450496/Murder-victim-had-protection-order>
- Shaffer, M., & Bala, N. (2003). Wife abuse, child custody and access in Canada. *Journal of Emotional Abuse, 3*, 253-275.
- Sinclair, D. (2000). *In the centre of the storm: Durham speaks out: a community response to custody and access issues affecting woman abuse survivors and their children*. Ontario, Canada: Violence Prevention Coordinating Council.
- Smith, J. A. (1999). Identity development during the transition to motherhood: an interpretative phenomenological analysis. *Journal of Reproductive and Infant Psychology, 17*, 281-299.
- Smith, J. A., & Osborn, M. (2003). Interpretative phenomenological analysis. In J. A. Smith (Eds.), *Qualitative psychology: a practical guide to research methods* (pp. 51-80). London, England: Sage.
- Stahl, P. M. (2011). *Conducting child custody evaluations: from basic to complex issues*. Thousand Oaks, CA: Sage Publications.

- Stark, E. (2002). *Coercive control: how men entrap women in personal life*. New York, NY: Oxford University Press.
- Stark, E. (2009). Rethinking custody evaluation in cases involving domestic violence. *Journal of Child Custody*, 6(3), 287-321.
- Statistics Canada. (2001). *Family violence in Canada: A statistical profile 2001*. Ottawa, Canada: Minister of Industry.
- Stewart, R. (2015, October 2). New Zealand has reached the pinnacle of world number one in domestic violence. *Stuff*. Retrieved from <http://www.stuff.co.nz/taranaki-daily-news/opinion/73339236/new-zealand-has-reached-the-pinnacle-of-world-number-one-in-domestic-violence>
- Stith, S. M., Rosen, K. H., Middleton, K. A., Busch, A. L., Lundeberg, K., & Carlton, R. P. (2000). The intergenerational transmission of spouse abuse: a meta-analysis. *Journal of Marriage & The Family*, 62, 640-654.
- Tait, M. (2015, October 2). Cruelty in home escalating: agency. *New Zealand Herald*. Retrieved from [http://www.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=11522307](http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11522307)
- Tamahori, L. (Director). (1994). *Once were warriors* [Motion picture]. New Zealand: Communicado Productions.
- Taylor, N., Gollop, M., & Henaghan, M. (2010). *Relocation following parental separation: the welfare and best interests of children: research report*. Dunedin, New Zealand: University of Otago.

The National Council to Reduce Violence against Women and their Children. (2009).

*Domestic violence laws in Australia*. Canberra, ACT: Attorney-General's Department.

Varcoe, C., & Irwin, L. (2004). "If I killed you, I'd get the kids": women's survival and protection work with child custody and access in the context of woman abuse.

*Qualitative Sociology*, 27(1), 77-99.

Willig, C. (2013). *Introducing qualitative research in psychology* (3<sup>rd</sup> ed.). Berkshire, England: Open University Press.

Wilson, D., & Webber, M. (2014). *The people's report: the people's inquiry into addressing child abuse and domestic violence*. Retrieved from

<https://s3.amazonaws.com/s3.documentcloud.org/documents/1372330/the-peoples-blueprint.pdf>

Women's Refuge. (n.d.a). *Family court review submission*. Retrieved from

<https://womensrefuge.org.nz/users/Image/Downloads/PDFs/Microsoft%20Word%20-%20Family%20Court%20Review.pdf>

Women's Refuge. (n.d.b). *Local Refuges*. Retrieved from

<https://womensrefuge.org.nz/WR/About-Us/Local-refuges.htm>

Women's Refuge. (n.d.c). *New Zealand domestic violence statistics*. Retrieved from

<https://womensrefuge.org.nz/WR/Domestic%20violence/Statistics.htm>

Women's Refuge. (n.d.e). *Our story*. Retrieved from

<https://womensrefuge.org.nz/WR/About-Us/Our-story.htm>

Women's Refuge. (n.d.f). *Our values*. Retrieved from

<https://womensrefuge.org.nz/WR/About-Us/Our-values.htm>

Women's Refuge. (n.d.g). *The forms abuse can take*. Retrieved from

<https://womensrefuge.org.nz/WR/Domestic-violence/Types-of-abuse.htm>

Women's Refuge. (n.d.h). *Treaty of Waitangi*. Retrieved from

<https://womensrefuge.org.nz/WR/About-Us/Treaty-of-Waitangi.htm>

Women's Refuge. (n.d.j). *Women's Refuge*. Retrieved from

<https://www.womensrefuge.org.nz/>

Yardley, L. (2000). Dilemmas in qualitative health research. *Psychology & Health, 15*, 215-228.

Zorza, J. (1995). How abused women can use the law to help protect their children. In E. Peled, P. G. Jaffe, & J. L. Edleson (Eds.), *Ending the cycle of violence: community responses to children of battered women* (pp. 147-169). Thousand Oaks, CA: Sage.

Zorza, J. (2007). The "friendly parent" concept: another gender biased legacy from Richard Gardner. *Domestic Violence Report, 12*(5), 65-78.

***Intimate partner violence, family court, and assessment:  
a qualitative study of the experiences of women's  
advocates***

**INFORMATION SHEET**

**Researchers Introduction**

My name is Krystal Culver and I am a postgraduate student at Massey University. This project will be completed as part of my thesis, in partial requirement for the Master of Arts (Psychology) degree, and under the supervision of Dr Ruth Gammon, Sr Lecturer at Massey University. This project will provide a greater understanding of the issues of intimate partner violence (IPV), family court, and assessment in New Zealand. It will help form the basis of continued research into this area, with the aim of gaining a better understanding of the key issues that arise for women who have experienced IPV and have had to go to family court.

**Project Description and Invitation**

Intimate Partner Violence (IPV) is a pervasive problem throughout New Zealand. There have been concerns about family court decisions and assessment, and the focus on shared parenting, putting women and children's safety at risk. This research will be an exploratory qualitative study into Women's Refuge advocates' experiences of intimate partner violence, family court, and assessment. It will involve semi-structured interviews, which will take place at Women's Refuge in Wellington, and will be voice-recorded and transcribed by me (Krystal Culver). An interpretive phenomenological analysis will then be conducted to investigate the themes among advocate's experiences and concerns of their clients' experiences with the family court process.

We would like to invite you to participate in this research, and tell us about your experiences of intimate partner violence, family court and assessment, as a women's advocate. Your participation would be greatly appreciated.

**Participant Identification and Recruitment**

- Participants will be approached at Women's Refuge in Wellington by the researcher and supervisor, and be given this information sheet, detailing the nature of the study.
- Participants must be a women's advocate or supervisor of advocates, and, in that role, have experiences with intimate partner violence, family court, and assessment.
- Due to the in depth detail, and time required for interviews, three to five participants will be involved in this research
- Each participant will be offered a \$20 cafe voucher, in appreciation of their time and participation.
- Due to the nature of the research's topic, participants may feel discomfort in recalling their experiences, and may discontinue the interview at any time.

**Project Procedures**

- You will be asked to take part in an interview with myself, and my supervisor, Dr Ruth Gammon (Sr Lecturer – Massey University), involving general, open questions related to your experiences of intimate partner violence, family court and assessment, as a women’s advocate.
- Each interview may take up to approximately two hours
- Support will be provided by the research supervisor, Dr Ruth Gammon, who is a Registered Clinical Psychologist with experience in IPV, and any appropriate referrals will be assessed and made.

#### **Data Management**

- Recordings will be transcribed and analysed using interpretive phenomenological analysis, to find general themes related to your experiences of intimate partner violence, family court and assessment, as a women’s advocate
- This data will be stored securely by the student researcher, with the research supervisor also securely storing a copy of the data. Data will be kept for 10 years, after which time it will be securely destroyed.
- A summary of the project findings can be provided to you
- Pseudonyms will be used to preserve confidentiality of identity, and any other identifying information removed

#### **Participant’s Rights**

You are under no obligation to accept this invitation and your decision to participate or not will in no way effect your employment. If you decide to participate, you have the right to:

- Decline to answer any particular question.
- Withdraw from the study at any point.
- Ask any questions about the study at any time during participation.
- Provide information on the understanding that your name will not be used unless you give permission to the researcher.
- Be given access to a summary of the project findings when it is concluded.
- Ask for the recorder to be turned off at any time during the interview.

#### **Project Contacts**

Please feel free to contact the researcher and/or supervisor at any time if you have any questions about the project.

- Student researcher:  
Krystal Culver  
Cell: 027 765 7640  
Email: krystal.culver@hotmail.com
- Research Supervisor:  
Dr Ruth Gammon  
Sr Lecturer / Clinic Director  
School of Psychology – Massey University, Wellington Campus  
PO Box 756 | Wellington | 6140  
Phone: (04) 801 5799 ext. 63607  
Email: R.Gammon@massey.ac.nz

This project has been evaluated by peer review and judged to be low risk. Consequently, it has not been reviewed by one of the University’s Human Ethics Committees. The researcher(s) named above are responsible for the ethical conduct of this research.

If you have any concerns about the conduct of this research that you wish to raise with someone other than the researcher(s), please contact Professor John O’Neill, Director, Research Ethics, telephone 06 350 5249, email humanethics@massey.ac.nz.

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***Intimate partner violence, family court, and assessment:  
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advocates***

**PARTICIPANT CONSENT FORM - INDIVIDUAL**

I have read the Information Sheet and have had the details of the study explained to me. My questions have been answered to my satisfaction, and I understand that I may ask further questions at any time.

I agree/  Do not agree to the interview being sound recorded.

I wish/  Do not wish to have my recordings returned to me.

I wish/  Do not wish to receive a summary of the research findings.

I agree to participate in this study under the conditions set out in the Information Sheet.

**Signature:**

**Date:**

.....

**Full Name – printed:**

***Intimate partner violence, family court, and  
assessment: a qualitative study of the experiences  
of women's advocates***

**Semi-structured interview schedule**

What has your experience with family court been?

How do your clients experience family court?

What are the issues that arise from family court?

What are some of the positive outcomes you have seen in family court?

What are some of your concerns about the outcomes from family court?

What are some of the negative outcomes of family court?

Have you had any experience with psychologists' reports done by court appointed  
psychologist?

What changes need to occur in family court to protect women who have experienced IPV

What are your thoughts regarding pre-court services, such as mediation?

Further interview prompts

- Visitation and continued abuse
- Responses when allegations of IPV are raised
- Notion of the hostile mother
- Psychologist expertise
- Supports in place for women
- Effects on children