

Child Welfare: The Need for Education and Advocacy

Battered women's advocates have observed that many battered mothers maintain their silence in face of healthcare providers, child protection teams, or juvenile court proceedings because their lives and the lives of their children are threatened if they speak up. Mothers who are abused face enormous pressures to protect themselves and their children, and to maintain their families even under terrible and constrained circumstances. It is difficult to determine the contours of maternal responsibility in a culture that blames mothers for all problems relating to children, gives mothers so little material and social support, and absolves fathers of all responsibility.

Elizabeth M. Schneider in *Battered Women and Feminist Lawmaking*¹

In Canada, some of the most intrusive interactions between government and women occur in the context of provincial and territorial child welfare systems. For many Immigrant and Refugee mothers, Canada's child protection regime has no parallel in their home countries where the state only becomes involved if a child is orphaned or abandoned. This makes it difficult for Immigrant and Refugee women to understand the state's power to intrude in the personal affairs of the family and even to remove children from the home. This can be especially difficult when a mother has not abandoned or intentionally harmed her children, and likely have made substantial sacrifices to ensure their long-term safety and well-being.

Two of the most important roles that front-line settlement workers and anti-violence workers can play in helping mothers to cope with the child protection system are to provide education and advocacy. Women need to be educated about the mandate of the child protection system and the roles of the various players. When child protection workers become involved with an Immigrant or Refugee mother, advocacy can take the form of soliciting a clear and specific list of concerns from the child protection worker, educating child welfare social workers about the intricacies of women's lives and the dynamics of abusive relationships and identifying alternatives to foster care that will keep the child safe.

¹ Elizabeth M. Schneider (2000) *Battered Women and Feminist Lawmaking* New Haven and London: Yale University Press, p. 178

The culture of fear

Like police services and immigration authorities, the child welfare system can be a source of fear for Immigrant and Refugee women. Women who have experienced violence are in particularly vulnerable positions. Abusive partners sometimes threaten to call child protection authorities with false reports. Some Immigrant and Refugee mothers may not know anything about the child protection system. Others may have heard stories from friends and family who have ongoing or previous involvement with the child welfare system.

Coming under the scrutiny of the child protection system

There are different ways that child protection authorities can become involved with a family. Reports that prompt investigations can come from individuals in the community, including neighbours, partners, family members or friends. Professionals involved with the family can also make reports, including doctors and teachers. While some Immigrant and Refugee mothers are very isolated from community resources, others rely heavily on government programs and community agencies to meet their family's needs. In general, the problems faced by poor families tend to be more visible – they take public transit, make use of a range of public services and often live in overcrowded conditions (Bennett & Sadrehashemi, 2008).

In intimate partner violence situations, interactions with police are a common way that the child welfare system becomes aware of situations where there is violence in a home. A substantially higher rate of female victims whose children have witnessed a violent incident will call the police, as compared to women whose children did not witness the incident or to women who do not have children (Statistics Canada, 2006).

Being exposed to intimate partner violence can be form of abuse or neglect

The exposure of children to intimate partner violence may be considered a form of abuse or neglect by child welfare authorities. Exposure to intimate partner violence can include: seeing a mother being assaulted or demeaned, hearing yelling and sounds of objects being thrown, seeing injuries after an assault, or overhearing a conversation about the abuse (Baker and Cunningham, 2005).

In general, child protection authorities have two concerns where a child is being exposed to violence against their mother. First, the child welfare worker may believe that the mother would be unable to protect her child from the abuse of her partner or ex-partner. The second concern is about the impact of exposure to intimate partner violence on the emotional well-being of a child. There are multiple studies that have documented the harm to children who have witnessed violence. While the impact of witnessing violence on each child will vary, in general, it is believed that children exposed to intimate partner violence will exhibit serious emotional and behavioral problems, including depression, aggression and withdrawal from activities.

The involvement of child welfare authorities in cases where children have been exposed to intimate partner violence is not unusual. In 2003, children witnessing intimate partner violence accounted for 28 percent of child welfare investigations where a social worker believed there was evidence that child abuse or neglect had taken place. The exposure of children to woman abuse is the second most commonly cited form of abuse or neglect across Canada (Trocme, et al., 2003).

Educating and advocating for Non-Status, Refugee and Immigrant mothers involved with the child welfare system

Myths about violence against mothers and their children

Educating child welfare workers on the complexities involved in the life of a mother who is trying to leave an abusive partner is a very important step. Anti-violence workers and settlement workers can act as resources in dispelling myths about violence against mothers and their children.

One prevalent myth is that mothers who love their children would leave an abusive relationship if they really cared about protecting their children. The reality, which needs to be understood by those in the child welfare field, is that some women do not leave their partners because they fear for the safety of their children. Women are most vulnerable to partner violence in the period following the end of a relationship. A mother may also fear losing custody of her child if she leaves the relationship. Women need support in order to be able to leave a violent relationship in a safe way. Some women do not leave because they do not believe in separation.

Another common myth is that if the abusive man is out of the home, the problems for the woman and her children will be resolved. The reality, which many anti-violence and settlement workers know, is that the period after ending the relationship can be one of extreme instability for a mother and her children. The financial position of the family will likely drop; children will likely have to move from the neighbourhood in which they have grown up; the children's school may change; the immigration status of the mother and children may be jeopardized if a sponsorship is pending; and safe, affordable housing may be impossible to find resulting in temporary stays at shelters. Again, support for mothers in this situation is crucial – the need for support does not end once a woman leaves the relationship. Child welfare social workers may become too focused on the act of leaving the relationship without providing the necessary supports for a mother who leaves the violence but is then left with a series of crises (Baker & Cunningham, 2005).

Women are most vulnerable to partner violence in the period following the end of a relationship.

As service providers for women who have experienced violence, recognize your own expertise in the barriers a woman may face in leaving a violent relationship and the types of supports a mother needs to provide more stability to her family once she has gotten out of a violent relationship. Sharing your expertise with child welfare social workers is a critical advocacy tool.

Case Examples

Explaining the different players involved in the child protection system

Goli came to Canada two years ago on a six month visitor visa to attend a conference in Vancouver. She overstayed her visa and has no status in Canada. Goli is living with a Canadian citizen who is physically, emotionally, and sexually abusive towards her. He is the father of her six month old baby. Goli has made a few friends, but they do not know much about her past or about her relationship with her partner. She occasionally works as a babysitter. Goli's partner has told her that he will tell immigration authorities that she has overstayed her visa if she attempts to leave him. Goli is afraid to return to her home country and wants her baby to grow up in Canada. Goli does not know how she will support herself and her baby if she were to leave her partner. The police have come to their apartment several times after neighbours called complaining about the noise. Goli denied that there was abuse when the police came. Last week, a young woman came to their apartment and asked to speak to Goli privately. She told Goli that she was a social worker with a government agency that wants to make sure that her child is safe.

In this case, a first step that is sometimes forgotten by anti-violence workers and settlement workers is a detailed explanation of the child protection system and the roles of all the individuals involved. Goli does not understand who this woman is that has come to her home and how a stranger has found out about the violence she has experienced. Goli may not understand this worker's power to make a decision that her child is unsafe and remove her from her home. Sometimes, as service providers, we take for granted that newcomers to Canada have an understanding of terms we think of as basic and use on a daily basis. In the child protection context, you should be making sure that a woman like Goli has a thorough understanding of the following terms:

The social worker

The social worker or child protection worker is someone who works for the government Ministry that is in charge of making sure that children are safe with their families. A social worker interacts with families to find out what their needs are and investigates families to determine whether a child is safe. Social workers are sometimes put in the position of being both a support person for the parent and an investigator, gathering information about the parent to find out if the child is at risk in their care. Social workers often have many cases and cannot spend that much time with individual families. Social workers are responsible for many decisions relating to families, including:

- deciding if and when to remove a child
- responding to calls alleging child protection concerns
- investigating² whether there is a child protection concern
- conducting a formal risk assessment with a family
- arranging a visitation schedule with parents once a child has been removed
- deciding whether access should be supervised or unsupervised
- deciding when to return a child home

The team leader

A social worker will often say that they need to check with their “team leader” before making a decision. Social workers must check with their team leader before making any final decision in a case. Sometimes it is useful to make sure that the team leader will be at meetings to discuss the case, to ensure that a decision can be made as quickly as possible.

The mother’s child protection lawyer

You should inform a woman like Goli that she may be entitled to legal aid which would cover the cost of a lawyer. While many mothers only seek a lawyer when their child has been removed and a court date has been set, legal help may also be useful before that happens. In B.C., financially eligible parents who are involved with the child protection system are entitled to representation where: their child has been removed by the Ministry, when the Ministry has threatened to remove their child, or when the parent is dealing with custody and access to a child who is in care of the Ministry. In this example, if the social worker is discussing the possibility of removing the child from Goli’s care, she should contact legal aid immediately. It is best practice for a social worker, to inform mothers that they can obtain legal counsel prior to the removal of their child.

It should be explained to Goli that even though the government is paying for her lawyer, the lawyer acts completely independently and obtains instructions from her on what she would like him or her to do. Everything that is said to the lawyer is confidential and is protected by solicitor-client privilege – which means that a lawyer will never be obliged to disclose the information the mother has shared with them to anyone else.

Your role as an advocate

It is important to explain that you do not work for the government Ministry that is investigating whether her child is at risk. Your role is to assist the mother in communicating with the Ministry. You should also explain your obligation to disclose information to the Ministry if you believe that the child is at risk in the mother’s care.

² Investigations in the child protection context are not always called an “investigation.” As a general rule, any time a social worker has received information about a concern and needs to meet with you to talk, you are likely under investigation by the Ministry and there may be a threat of apprehension.

Don't ignore a mother's immigration status. A woman in Goli's situation – with no status in Canada – needs to consult with a lawyer immediately about regularizing her status in Canada. She may be able to apply for permanent residence based upon humanitarian and compassionate grounds, and/or she may be eligible to make a claim for refugee protection if she is afraid to return. Legal aid may cover the costs of a lawyer. She could also obtain legal advice from a lawyer at a summary advice clinic or by calling the lawyer referral service (see resource contact list).

Demystifying the court process

Karin is a citizen of Canada. She came with her husband eight years ago to Canada as a dependent on his skilled worker application. They have two children, aged eight and ten. Karin's husband is physically and emotionally abusive. He has never hit her children until last week. When he was yelling at Karin, he threw their eight year old across the room. Karin was in a state of shock. The police were called and a social worker came to their home for the first time. The children were both removed immediately from the home. Karin was told that she had to appear at Provincial Court three days later. She has been able to get a lawyer to represent her through legal aid. Her lawyer told her that he would meet her at the courthouse five minutes before the scheduled time for the hearing.

Going to court can be a terrifying experience for many people. For a mother like Karin who has never had any encounters with the child protection system or the court system in general, the first appearance at court can be very shocking. Quite naturally, she is likely to believe that she can tell her side of the story on her first appearance at court. Many mothers believe that the judge will be in a position of deciding to return the child once they have heard from them on the first appearance day.

Mothers should be explained what to expect on that first appearance at court: the courtroom is normally packed with parents and families; you will not get any special time with the judge; and no really substantive decisions will be made on your case. If you are disputing the removal, your lawyer will have to set another date so that you can argue your case before a judge that has time to listen to the evidence. There can be long delays in scheduling these hearings.

It may be useful for some mothers to insist on meeting with their lawyers at their offices or to set up an actual appointment time with their lawyer at the court. It can feel intimidating to be asked to make decisions on the spot in the courthouse.

Karin should also be explained that her husband will have been served with the court documents by the Ministry as well and may appear in court.

Supervised visits

Pearl is a citizen of Canada. Her last partner was extremely violent. The police were often called and the Ministry of Children and Family Development

intervened and required that Pearl find her own place with her children and have no contact with her partner or her children would be put into foster care. Pearl agreed to a six-month supervision order. Four months later, a social worker at the Ministry received a report from the community alleging that Pearl was allowing her children to have contact with her ex-partner. The children were removed and Pearl was granted reasonable supervised access to her children. Pearl has been told that she is not permitted to speak Vietnamese, her native language, to her children during the visits.

Having visits supervised can be an extremely difficult experience for parents. In this case, Pearl is being stopped from speaking to her children in the language they speak together at home. As an advocate, it is important to remind the social worker or team leader that in prohibiting the mother from speaking Vietnamese, they are failing to provide services “sensitive to the needs and the cultural, racial and religious heritage of those receiving the services” as required by B.C.’s child protection legislation.

You could insist that the Ministry provide an interpreter if they deem it necessary to know what Pearl is saying to her children during visits. This is likely to result in fewer visits with her children depending on the schedule and cost of available interpreters. Another option is to request that visits be supervised by a friend or a family member who can understand Vietnamese. The Ministry will normally have to do some type of background check on the person suggested.

If none of these solutions work and Pearl’s visits are substantially cut by the need for an interpreter at visits, it may be possible to challenge the Ministry’s decision to require an interpreter or its failure to provide an interpreter as discriminatory and a breach of B.C.’s Human Rights Code. You will have to talk to a lawyer that specializes in these types of cases. The following organizations may be able to help – Pivot Legal Society, BC Public Interest Advocacy Centre (BC PIAC) or Community Legal Assistance Society (CLAS) (see resource contact list below).

Making a complaint about the care a child is receiving in foster care

Kendra’s children have been in foster care for the past six months. She is worried about their safety in the home. The Ministry has told her that she cannot talk to her children about the foster placement on their visits. But Kendra can sometimes hear the foster father yelling in the background when she speaks to her children on the phone to say goodnight. She also doesn’t think that they are being fed properly. They have both lost weight when they have been in care and sometimes when she meets for them for a visit in the afternoon they have only eaten a banana all day.

Social workers at the Ministry are in charge of following up on all concerns about a child’s well-being in care. Kendra has to tell the social worker her concerns and insist that she be provided with a response when the social worker has done her investigation. Ask the social worker for a response in writing so it is documented. An advocate can play a critical role in following up with the social worker about Kendra’s concerns about the foster care placement.

If the mother does not feel satisfied with the type of investigation that the social worker has done, she can call the Representative for Children and Youth, and report her concerns (see resource contact list below). The Representative for Children and Youth is an independent office that acts as a watchdog on the Ministry to ensure agencies serving children and youth between the ages of birth and 19 are meeting their needs.

Maintaining housing when children are in care

Maria has two children. They were removed three weeks ago from her care due to the violence of her ex-partner. Maria was receiving social assistance for herself and her two children. As soon as her children were removed, her financial assistance worker at welfare knew that they were no longer living with her and decided to cut her shelter allowance portion – the welfare money she can use for her housing costs – to that of a single person. With only \$325 a month available for rent, Maria can no longer afford to live in her two-bedroom apartment. There are not many places she can live and is likely to have to move into a building in the downtown eastside that her Ministry social worker has said her kids cannot visit as it is unsafe.

This is a critical moment in Maria’s story – an advocate’s attention has to be focused on ensuring that she does not lose her housing. If Maria loses her housing now, it will become more difficult for her children to be returned to her care as quickly as possible.

You can ask the Ministry social worker to advocate on Maria’s behalf with her financial assistance worker. The Ministry social worker can write a letter explaining that Maria’s children were removed on a temporary basis and the goal is to have them returned. She can explain that a change in Maria’s housing situation at this point will only delay the return of her children and keep her children in foster care for longer.

You can ask to speak to the supervisor of Maria’s financial assistance worker and explain the impact of the drop of Maria’s shelter allowance. You can write a letter explaining the conflict between welfare’s policy of cutting Maria’s shelter allowance and the goal of the Ministry of Children and Family Development in reunifying this family as quickly as possible.

If none of these options work for Maria, you may want to contact a lawyer or an organization, such as Pivot Legal Society, BC Public Interest Advocacy Centre (BC PIAC), or the Community Legal Assistance Society (CLAS), that has experience challenging decisions made by welfare (see resource contact list below).

Resources to educate and advocate for mothers involved in BC’s child welfare system

In providing education and advocacy services for women who have experienced violence, the following are some resource tools that may come in handy in your advocacy work.

Child protection legislation

In British Columbia, the legislation that governs the protection of children is the Child, Family and Community Service Act (“the Act”). The legislation provides a strong set of guiding and service delivery principles that are supposed to set out the framework for the actions taken by the Ministry of Children and Family Development (“the Ministry”).

The guiding principles and service delivery principles set out in sections 2 and 3 of the Act delineate the guidelines Ministry workers should follow when working with families where there may be concerns for a child’s safety. Many of these principles are not being followed in individual child protection cases. While a breach of a principle does not necessarily mean that a law has been broken – it may be useful to point to principles that are not being followed as a way to suggest considerations that have been ignored and should be taken into account by the social worker.

The principles may also be useful as a guide to framing a mother’s complaints about the Ministry’s handling of her case.

The Child, Family and Community Services Act can be found online at http://www.qp.gov.bc.ca/statreg/stat/C/96046_01.htm

Sections 2 of 3 of the Act read as follows:

Guiding principles

2 This Act must be interpreted and administered so that the safety and well-being of children are the paramount considerations and in accordance with the following principles:

- (a) children are entitled to be protected from abuse, neglect and harm or threat of harm;
- (b) a family is the preferred environment for the care and upbringing of children and the responsibility for the protection of children rests primarily with the parents;
- (c) if, with available support services, a family can provide a safe and nurturing environment for a child, support services should be provided;
- (d) the child’s views should be taken into account when decisions relating to a child are made;
- (e) kinship ties and a child’s attachment to the extended family should be preserved if possible;
- (f) the cultural identity of aboriginal children should be preserved;
- (g) decisions relating to children should be made and implemented in a timely manner.

Service delivery principles

3 The following principles apply to the provision of services under this Act:

- (a) families and children should be informed of the services available to them and encouraged to participate in decisions that affect them;
- (b) aboriginal people should be involved in the planning and delivery of services to aboriginal families and their children;
- (c) services should be planned and provided in ways that are sensitive to the needs and the cultural, racial and religious heritage of those receiving the services;
- (d) services should be integrated, wherever possible and appropriate, with services provided by government ministries, community agencies and Community Living British Columbia established under the Community Living Authority Act;
- (e) the community should be involved, wherever possible and appropriate, in the planning and delivery of services, including preventive and support services to families and children (1996).

Best Practices Approaches: Child Protection and Violence Against Women

The Ministry of Children and Family Development developed a set of best practices guidelines for family violence cases in 2004. . .

The Ministry of Children and Family Development developed a set of best practices guidelines for family violence cases in 2004, following a paper written by a partnership of community agencies and health providers. The best practices guidelines address the dynamics involved in abusive relationships; the importance of providing women leaving relationships a set of integrated consistent support services; and a commitment to providing necessary supports to ensure that a mother can keep her child in her own care.

The best practices approach to violence against women cases can be a very useful tool in advocacy. Social workers may not be aware of the document or may not use it in their everyday practice. In every case where violence against a mother is a concern, it is important to remind social workers that the best practices document contains the approach the Ministry has decided to follow in cases where intimate partner violence is a concern. It is an approach that was developed in partnership with service providers and professionals working with women who had experienced violence.

The best practices document can be found online at
http://www.mcf.gov.bc.ca/child_protection/publications.htm

Legal Services Society guide to child protection law in BC

Legal Services Society has published a guide on child protection law in BC. It is aimed at parents who are going through the process. It is an effective resource to use in explaining the different steps involved in the child protection process. There is an excellent chart in the booklet that sets out the different stages of the court process.

It is available online at <http://www.lss.bc.ca/assets/pubs/parentsRightsKidsRights.pdf> or it can be ordered at 604-601-6075.

People's Law School guide on child protection law in Canada

The People's Law School has prepared a public information guide on legal rules of caring for children in Canada. It is brief summary of the expectations on parents for caring for children in Canada. It is available in a number of different languages. The guide is available online at

http://www.publiclegaled.bc.ca/snapfiles/2005_Caring_for_Children.pdf

It can be ordered with an on-line order form by visiting www.publiclegaled.bc.ca and clicking on "Publications." You can also contact them to make an order at 604-331-5400.

Resource Contact List

Legal Services Society of BC (Legal Aid)

The Legal Services Society (LSS) provides Legal Aid through offices across BC.

You can contact the Vancouver office at:

Vancouver Regional Centre

Suite 425 (intake); Suite 400 (administration)

510 Burrard Street

Vancouver BC

Phone 604-601-6206 (intake)

Fax 604-681-2719 ; 604-681-6942

Staff will be able to refer you to the office nearest you. If you have to call long distance to reach a legal aid office, call **Enquiry BC** and ask for a transfer to the office number you want (you will not have to pay for the call):

Outside Victoria and Vancouver: 1-800-663-7867

In Victoria: 250-387-6121

In Vancouver: 604-660-2421

A complete list of offices is available on the LSS website www.lss.bc.ca. This website will also provide you with a list of LSS resources, legal information and educational publications.

BC Ombudsman

By mail: PO Box 9039 STN PROV GOVERNMENT

Victoria BC V8W 9A5

In person: Second Floor, 756 Fort Street, Victoria

Phone: 1-800-567-3247

Fax: 250-387-0198

www.ombud.gov.bc.ca

Representative for Children and Youth

M12-4277 Kingsway

Burnaby, V5H 3Z2

Toll-Free: 1-800-476-3933

Telephone: 604-775-3213

Fax: 604-775-3205

E-mail: rcy@rcybc.ca

www.rcybc.ca

Access Justice (The Western Canada Society to Access Justice)

1440 West 12th Ave.

Vancouver, BC.

Canada V6H 1M8

Phone: 604.482.3195

Fax: 604.324.1515

E-mail: help@accessjustice.ca

Legal clinic phone line: 604-878-7400 or 1-877-762-6664

www.accessjustice.ca

Lawyer Referral Service

Phone: 604-687-3221 or 1-800-663-1919

8:30am - 4:30pm, Monday - Friday

Pivot Legal Society

678 East Hastings Street

Vancouver, B.C. V6A 1R1

Phone: 604-255-9700

www.pivotlegal.org

BC PIAC (B.C. Public Interest Advocacy Centre)

Suite 208-1090 W Pender St

Vancouver, BC

V6E 2N7

Phone: 604-687-3063

Fax: 604-682-7896

E-mail: bcpiac@bcpiac.com

www.bcpiac.com

C.L.A.S. (Community Legal Assistance Society)

Suite 300 - 1140 West Pender Street

Vancouver, BC V6E 4G1

Telephone: (604) 685-3425 Fax: (604) 685-7611

Toll Free: 1-888-685-6222

www2.povnet.org/clas

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