

How the Cuts to Legal Aid have Effected Single Mother's Pursuit of Child Custody.

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The objective of this research project was to discover how the process of pursuing child custody, for single mothers has been affected by the provincial cuts to legal aid. I had hoped to interview women of the Nelson area, who had pursued child custody before and after the provincial cut backs to legal aid and compare how the cuts had effected these women's ability to do so. Two events occurred which altered the course of this paper. The first event involved the lack of response to the posters I had placed throughout the Nelson and Castlegar area advertising my research topic and requesting single mother's participation. The other event was my shock upon realizing the impact the provincial cuts have had and will continue to have on, the existence of single mothers and their children. I have, therefore attempted to illustrate how the provincial cuts to legal aid have affected women's ability to gain sole custody of their children in B.C., while acknowledging the effect the reduction to other essential services will have for women attaining such goals.

not uncommon  
good opening

The racial discrimination that exists concerning First Nations women, women of colour and women of immigrant status in B.C. has also been highlighted with in the provincial cuts to social services. However, because there exists inadequate information of the experiences of these women, I have chosen to focus on single mothers who are not of color for the subject of this paper. I have also provided a brief description of the history of the Legal Services Society in B.C. and its present condition and to what extent it has continued to be an active legal form of representation for the few citizens of B.C. who are eligible to receive it.

The research surrounding the pursuit of child custody by single mothers at a local level, involved an interview I had with Tish Lake from the Advocacy Centre. She addressed poverty issues women are facing due to the cut backs and how this is a direct challenge to single mothers pursuing child custody. I also spoke with Richard J. Strahl, the legal aid lawyer for the East and West Kootenay offices, as well as a Donna, the intake assistant for legal aid applications, at the Cranbrook office. I also carried out telephone interviews with the Special Victims Assistance Program administrator, Marsha Early at the Advocacy Centre; Thea Trussler, the volunteer co-coordinator of the Nelson and District Women's Centre, Wrenne Deane from the Transition House and Janet Sawyer who had been employed as a para legal at the Legal Aid office, when it existed in Nelson. I had hoped to speak to Pat McDonnel from the Family Justice office in Castlegar however, her office was in the middle of closing and re-locating to Nelson.

A general overview of the loss of key social services offered to women in B.C., demonstrates the success the provincial government's actions have had in reducing many women in this province to a state of powerless and extreme poverty. One of the first significant cuts the liberal party made when it got into office at the provincial level of government, was to eliminate of the Ministry of Women's Equality. Abolishing the Human Right's Commission, drastic funding cuts to Women's Centres, the closure of the court houses, the changes in the prosecution of domestic violence, dramatic changes to eligibility requirements to social assistance benefits and legal aid, as well as the closure of child care facilities soon followed.

As a member of the United Nations Convention on the Elimination of All Forms of Discrimination against Women, CEDAW, the B.C. government has come under international scrutiny, specifically in regards the cuts to legal aid and welfare assistance (Povnet). The UN Committee identifies discrimination existing in any country or province that is responsible for eliminating "civil, family, and poverty law", as is the case in B.C. The fact that the province has not complied to the Convention, which holds the advancement of women as its over all goal, has encouraged the UN Committee to urge the province of B.C. to take a serious look at the devastating situation it has placed women and children in and make the improvements needed (Ponte). The B.C. CEDAW attachment, which consists of 12 B.C. women's organizations, have also demanded the provincial government, "reverse recent policy changes and cuts to social programs that specifically harm women and girls"(Povnet).

The Canadian Bar Association has also publicly acknowledged and supported the UN Committee's criticism of the federal governments inadequacy to protect "real access to justice through adequately funded civil legal aid"(ProBonoNetBC). President Simon Potter of the of the CBA, illustrated the situation in Canada very clearly, when he asked."What is the point of having laws that protect people if the public can't access them?"(ProBonoNetBC). The number of single mothers, Aboriginal women, and women of colour who are suffering an existence below the poverty line stunned the UN Committee (Povnet).

Victorian criminal lawyer, Michael Mulligan, responsible for instigating the B.C. Law Society's vote of non-confidence motion against the Attorney General, which was passed by a 70% difference, identified the impact of the cuts as "a denial of justice for thousands of people in B.C." (Sorenson 21).

Also Devastating to women's lives in B.C. has been the government's rapid elimination of the Ministry of Women's Equality. A junior Minister of State for Women's Services came under a joint Ministry of Community, Aboriginal and Women's Services. One of the most significant responsibilities of the Ministry of Women's Equality had been "to ensure women of their human rights and freedoms on a basis of equality with men"(Report 21). Therefore, the elimination of the Ministry of Women's Equality goes against B.C.'s specific "obligation to refrain from any act or practice of discrimination against women and to take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise"(Report 21).

The Ministry of Community, Aboriginal and Women's Services' new mandate makes absolute no mention of advocating for or educating women concerning social and economic policies. Eliminating violence against women, improving women's health or social justice. The acknowledgement of women's diversity through policies, programs and services that can be accessible and responsible to the needs of all women has become non-existent within this new Ministry(Report 21).

The Minister of the Ministry of Community, Aboriginal and Women's Services, Lynn Stevens, displays her lack of knowledge and understanding of the systemic discrimination existing for women in this province on a regular basis and as a result has increased the discrimination of B.C. women. Stephens has clearly stated women in B.C. are to blame for the extreme poverty they must endure. In the face of the massive attacks on social services and program cuts to women and women with children, Stephens was proud to offer a web-based directory for women in B.C. as a form of support (News Release). Each individual I interviewed for this project confirmed that computer access cannot take the place of the social programs and policies that

*Advice regarding  
assistance with  
preparation*

have been cut and cannot provide safety or legal representation when there no longer exists accessible legal aid lawyers to assist in filing a restraining order or a court house to file the order in(Appendixes 1-7).

Janet Sawyer made it very clear that the web links to the Legal Service Society may be helpful to women as far as delivering general information, but cannot provide the preparation women need to walk into a court hearing and represent themselves to win custody of their children. Janet also discussed how women would fail to be versed on the legal climate that exists at the time by simply relying on the Internet (Appendix 7).

In reference to the new women's web-site, which was up and running for International Women's day, Stephens identified the event as "particularly meaningful" due to this year's Canadian theme for the day being, "World Wide Women; Surfing the Digital Divide"(News Release). However, how particularly meaningful can such a web site be for women who are suffering extreme forms of violence and poverty in their communities? Further analysis of how effective and assessable the web site is to women must be undertaken. ✓

The situation women and children are experiencing in B.C., cannot be remedied with new web-based directories for women. The situation in the Nelson area is that the computers that can be accessed publicly require phoning in advance to make an appointment, waiting or having to pay two dollars for half an hour. Tish, made the disadvantages to the Internet access of information very clear when she mentioned the element of embarrassment and dependency that women often experience asking librarians or office administrators who are often busy and impatient with people. The issue of privacy was also raised by Tish as a significant barrier to women who may not pursue research concerning legal aid in a public place where strangers can peer into women's intimate and emotionally ridden affairs(Appendix 1). ✓

The extent to which women and children are being unfairly targeted by the provincial cuts is also highlighted by the fact that there no longer exists a Human Rights Commission to stand up for the rights of the people that need legal representation the most (Report 7). The liberal

government has actually contested in court the interpretation of the Charter of Human Rights and Freedom and its very responsibility to acknowledge gender inequality. Women make up the greatest number of the discriminated population in B.C., along with people with disabilities, Aboriginal people and visible minorities.

A Human Rights Tribunal has been established to address complaints, but according to public feed back the process is a complex and difficult to carry out on one's own(Report 8). However, the worst aspect of these make shift changes to women's basic human rights, is the Tribunal's ability to ignore complaints with out a hearing. The result is there no longer exists a public body with a mandate or legal responsibility to provide social justice in the form of legal representation in this province. The dismantling of the human rights system can be easily interpreted, as eliminating the means in which an already disadvantaged portion of the population will be unable to contest cuts to other services (Report 9).

A specific set back for women has been the Tribunal's enforcement of mediation during spousal disputes, as opposed to actual legal representation. Often the power imbalances, which already exists between the couples influences the mediation process. Marsha, emphasized the importance of a feminist analysis pertaining to enforced mediation and identified feminist scholars, as the force responsible for criticizing discriminatory policies concerning gender(Appendix 3). If there already exists abuse in a relationship, mediation cannot be considered a fair process. Women are often further intimidated and exposed to high-risk situations through mediation and often the outcomes of these negotiations are unfair to the women (Report 8). ✓

Changes to the prosecution of domestic violence and the elimination of programs for survivors of domestic violence have also had a detrimental effect on the lives of women and children (Report 23). The changes the provincial government has made in respect to spousal assault policies have resulted in crown counsel prosecuting far less cases of violence against women by their spouses (Report 23). The Vancouver Rape Relief Society has confirmed the

fears of many that, “wife assault cases will only be heard in rare cases and we fear they will be heard only after serious injury or death”(Report 23). Women and children who are the biggest victims of domestic violence, will only face increased violence with the decriminalizing of “violence when it takes place in the domestic /private sphere”(Report 23).

The government’s alterations to the policies concerning the prosecution of domestic violence are therefore directly linked to the new legal aid requirements for eligibility. Due to the decrease in the number of prosecutions of spousal assault the required documentation of violence will be increasingly challenging to access and result in women’s increased difficulty being qualified for legal aid funding and therefore legal representation.

The attack on social justice for women was further affected by the decreased funding to women centres in B.C. By 2004 all provincial core funding for the 38 remaining centres will be totally eliminated. The B.C Coalition of Women Centres reports demonstrated that in 2001, more than 16% of women in the province had gone to Women Centres concerning violence and poverty issues. The most detrimental effect of the federal and now provincial funding cuts to Women Centres in B.C. will be women’s ability to “associate and organize in order to have a voice on the decision making process that affect their lives...the withdrawal of the core funding to women’s centres will silence B.C. women (Report 23).

The provincial government has cut 38.8 % of legal aid funding and drastically eliminated legal representation for a major section of society who require it (Report 9). Cut backs to legal aid have redefined the concept of legal aid to make it no longer a recognizable public service or right. Previous to the provincial cuts, an individual was eligible for legal aid if “a legal problem or situation that threatens the individual’s family’s physical or mental safety or health, the individual’s ability to feed, clothe and provide shelter for herself or himself and the individual’s dependents, of the individual’s livelihood”(Report 9). Another significant change to the laws negatively affecting women in B.C. was the termination of poverty law assistance, which directly

affects women's opportunity to financially cover the costs of food and shelter for themselves and their children.

The closure of twenty-four courthouses leaving 44 opened with in B.C., has had a dramatic effect on women living in rural areas(Appendixes 5 and 7). Specific issues of child apprehension, restraining orders, applications for peace bonds, domestic violence cases all demand accommodation within a rigid period of time within the Court and Registry. Therefore, greater distances, increased cost in transportation and child care and longer waiting period are all the added stresses women must endure in order to obtain court orders to protect themselves and their children from violence in the home (Report 12). Another repercussion of the closure of the court houses in B.C. is women who have been charged with breaking the law are "held in holding cells further away form their own communities, for longer periods and in harsher conditions"(Report 12). Making the vital links between the cuts and how women are reacting and creating forms of resistance is essential to understanding the entire effect of the provincial cutbacks.

The cuts to welfare benefits have affected single mothers profoundly. Single mothers who receive child support have the entire sum deducted from their income assistance benefits. Previously they were able to keep 100. \$ per month. Single mothers before the cuts were able to earn 200\$ to help supplement their survival; however, since the cuts the Earnings Exemption Act has been eliminated for employable recipients. As a result of the 40% reduction to income assistance to single mothers of one child and single mothers of more than one child. 33.6% only 60% of the actual cost of living are being covered by welfare benefits since September 2002(Report 14). The drop equates to 351\$ per month. Current legal opinions of the effects of the welfare cuts to women and children have claimed "low-income single mothers are being punished through welfare cuts for a failure to conform to social norms and the further punished of they try to meet their basic needs and those of their children by engaging in 'survival fraud'"(Report 18).

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Aware of the reduction of child care resources within the local community, I had originally intended on questioning women as to whether they were "putting off" child custody pursuits, in order to maintain some form of compatibility if the possibility existed with the father in an attempt to preserve child care options. (Reference to the word, "child care" here is used to describe the function of care. Although, the parent providing child care may understand this as "parenting", as opposed to providing child care, if contact is not pursued by this parent and contact between the child and this parent only takes place when requested by the other principle parent, I use the term "child care", rather than parenting).

Although I was unable to verify this theory through interviews with local single mothers my conversation with Wren Dean from the Transition House confirmed this theory. Wren identified a significant drop in the number of women with children who were accessing the Transitional House and suspected cuts to welfare, child care and legal aid services have forced women to remain in unhealthy situations (Appendix 6). However, a deeper analysis of the kind of emotional and economical support a single parent has within her community in relation to how long she stays in an unhappy and or unhealthy relationship must also be considered.

Over a period of thirty years, B.C.'s Legal Services Society had developed legal aid services to help meet legal needs of those individuals who could not afford regular legal fees. At the end of August of 2002, over 75% of Legal Service Society lawyers and staff were forced to leave their jobs due to the provincial cuts to the Legal Services Society (Sorenson 17). The direct result of the cut backs has been the lack of legal representation for women and therefore women being forced to representation them selves and creating immeasurable delays during judicial hearings within the court system.

During January of 2002, the Attorney General, Geoff Plant informed the LSS, of budget cuts to specific areas of the law which would no longer be financially supported through the province (Sorenson 17). Due to the fact that the board of directors of the LSS would not implement the severely diminished budget, Plant fired them from their appointed positions and chose a single lawyer, as trustee of the Legal Services Society. Plant's argument to justify cuts to LSS included a new three year funding program to maintain services, improved efficiency strategies and possessing the third highest level per capita, of legal aid in Canada (Sorenson17).

The three year plan involves a decline in funding of up to 38%, 88.3 million in 2001-2002 to 54 million in 2004-2005. Specific services affected by the cuts to the LSS have included poverty law, appeals to worker's compensation boards, land lord/lady and tenants disputes, provincial social benefits claims, unemployment claims, and if violence is not involved family law services will not be accessible through legal aid. Each one of these areas can affect women seeking custody and maintenance orders and her ability to fall under the conditions needed to qualify for legal aid.

Those individuals who are ineligible for referrals for summary advice will no longer receive the legal information they are pursuing (Sorenson 18). This exact situation was highlighted in a discussion I had with Janet Sawyer, a paralegal employed at the Legal Aid office in Nelson, before the cuts took place (Appendix 7). As part of her job, Janet had been able to offer 45 minutes to an hour of legal advice and information to women coming in to see her about custody issues. Following the cuts she was not one of in the lucky few of the 136 individuals to retain full-time employment. Over half of the individual services originally offered were cut by the liberal government and 74% of the 480 full-time staff positions within the Legal Services Society lost. Lawyers employed through LSS deal primarily with poverty and family law cases; those individuals who fall into those two categories are those the most severely restricted in qualifying for legal aid. By April 1, 2003 an estimated 40,000 cases will be affected by provincial cut backs to LSS (Sorenson 18).

Through changes to provincial tariffs on lawyer fees, implemented by the Attorney General, less and less of the 1,300 private lawyers who have taken on legal aid referral cases are doing so. LSS lawyers fall under the classification of public servants with a severance package providing for a month for each year of employment. If LSS lawyers wish to continue legal aid work they are unable to apply for a LSS billing number until their severance period is over (Sorenson 19). However, those LSS lawyers who choose to return to private practice can work cases pro bono and bill for disbursements. Such legislation underlines the province's drastic shift to privatization of the legal system. A simple indication of the severity of the province's cut backs to legal aid are evident here in Nelson, with the difficulty the Advocacy center is having finding lawyers to provide two hours Pro Bono time once a month. Despite the Advocacy Centre's responsibility to schedule and organize the appointments, lawyers in Nelson are not donating their time for free in this community (Appendix 7).

Mary from North Kootenay Lake Community Services, communicated a situation that took place last summer, when there was absolutely nothing put in place since the cuts had occurred. She described how she had literally had to strong-arm a lawyer in Nelson to help a woman from the Kaslo area, who had no other means of legal assistance. This example illustrates how women who have managed to retain their jobs within small communities have; despite the intense workload, been able to prevent the almost inevitable damage the cuts are having on women and children.

Lawyers are also being requested by judges to meet with unrepresentative individuals who are not meeting the new qualifications for legal aid. With the intent of gaining a deeper appreciation of the issue, one particular lawyer mentions how he was unable to provide any insight into a particular situation concerning a mother who had had her children apprehended, because she had wasted most of the time taking out her frustration out on the lawyer. The lawyer, as a result, complained of being "abused", by the women and not particularly enthusiastic about assisting desperate and upset women at the judge's bidding.

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At the same time .5% in legal service taxes has been redirected into general revenue, where originally the money had been channeled into legal aid fees, which had been an act of social justice on the part of the NDP provincial government. The service tax for 2000 amounted to 91.6 million with an addition 9 million paid by the federal government for criminal matters, yet the 20% cut in legal services budget is going ahead. The independence and autonomy of the LSS is also under threat through changes to the LSS Act amendments of Bill 45. The board members of the LSS have had 15 original members fired. Five of the nine remaining members, have been appointed by the Attorney General and "what ever criteria for legal aid they want" can be taken (Sorenson 21).

In the wake of the cut backs, the B.C. branch of CEDAW has included in the summary comments of their report on the discrimination of women and children that due to the economic crisis women are facing with the reduced eligibility to social assistance women are being forced into situations of prostitution, where affordable health care will be inaccessible. (Report 40). Based on my research within the Nelson area, I have realized the importance of a small and caring community is to the challenge women now face gaining child custody. However, women are being forced out of this form of security in order to pursue employment opportunities, which are minima in this area. Options for women who wish to remain in this area include the often-lucrative underground economy existing in Nelson.

In conclusion I must honor the individuals who are already over-worked within their job positions, who are attempting to prevent the effects of violence and poverty that is so prevent in the lives of single mothers and their children.

*Excellent work; a well-organized & well-argued paper!*

*19/20 95% A+*

**Appendix 1**  
Interview with Tish Lake  
Advocacy Centre, Nelson B.C.  
March 11, 2003

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During the discussion I had with Tish, I gained a fuller understanding of the limited mandate since the cutbacks she is forced to work within as an anti poverty co-ordinator at the Advocacy Centre. The cut backs to all the public services impacts the effectiveness of each one, including the new eligibility requirements for legal aid. Legal aid at a provincial level, includes three main areas; custody, access and child support. No property issues are included in this area. Therefore, there is nothing stopping women from giving up their rightful half or more in assets or property, in order to avoid confrontation and court proceedings through intimidation and misinformation.

Before the current barrage of on-line legal information was assessable to the public, Tish told me the library was the major resource base to research legal information. The concern Tish has surrounding access to on line legal information, applications for legal aid and child custody orders is the lack of privacy that women experience. A situation of inadequacy and dependency was also discussed as a possibility many women may experience not having had previous computer experience. Having to rely on often busy librarians or people around them to help explain how to access the information they are searching for could be both humiliating and overwhelming for women attempting to gain something as important as sole custody of their children. Tish also mentioned the sentiments of embarrassment and the fear of judgment, in relation to child custody pursuits.

Many sites seem effectively set up to cover the most commonly asked questions, cover more complex issues concerning eligibility requirements and how to appeal decisions where eligibility for legal aid has been refused. This form of public education concerning legal representation seems well thought out and helpful. However, such information is helpful to those who can access it, mean while the government is successfully off loading its social responsibilities to the people of this province on to the bureaucracy of computer technology.

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Welsh describes "bureaucracies, as written rules {which} provide guidelines for handling routine situations"(310). A result to <sup>of</sup> on-line legal information is the drop in the quality of service an individual will receive through the Internet. A possible suggestion to city council in Nelson could be the waiving of the two-dollar charge for the thirty minutes access to their computers, if legal aid applications and representation are the subjects of research. I would think there would be more than enough grounds to act on such a suggestion.

On a community level, with the closure of the Legal Aid office in Nelson, one is able to see what Tish describes, as an increased demand to semi-related services and in the end less services to the public actually being carried out. Another example of the effects of the cuts to funding for legal aid lawyers has been pressure to tighten up what time they have available to assist in legal aid cases. According to Tish, the issue of the lack of legal representation has become a significant national concern. Tish informed me that at the last convention of the National Law Society, lawyers were being encouraged, as a direct result of the cut backs, to offer a certain percentage of their time to Pro Bono Clinics for free. Lawyers are encouraged to address individual legal issues and offer legal advice. However, supporting such actions could be understood as detrimental to the fight to gain the services back that have been cut to legal aid. ✓

The Family Law component has also reduced eligibility for legal aid to recipients who have had criminal charges and served jail time. Previous to provincial cuts, the ex-spouse would finance his own lawyer and the mother would be eligible for legal representation. However, since the cuts major legal imbalance has been created where women are representing themselves due to their ineligibility to legal aid and men are being represented by lawyers because they can afford to pay for their services. Men, as a result are anticipated to start gaining increased custody of their children over women, whether they actually want the responsibility or just the victory in court remains to be seen.

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A significant change affecting the Nelson area is the termination of the Poverty Law Component, which involved volunteer hours from paralegal Janet Sawyer, summary advice, information concerning land lord tenet acts and WCB claims.

**Appendix 2A**

Interview with Richard J. Strahl, Legal aid lawyer.

Career Development Services, Nelson B.C.

March 14, 2003.

The interview with Richard J. Strahl was extremely informative concerning the extent the cuts to legal aid have had on women and children. The information he shared with me was based on his experience as a legal aid lawyer in Creston and Nelson, covering the East and West Kooteny areas. Perhaps, the worst misconception the provincial cuts to legal aid have caused has been the notion that there no longer exists a Legal Service Society, which can grant financial support for the cost of a legal aid lawyer. The impact has been a severe drop in the number of applications being made for legal aid. Despite the fact that funding had been drastically limited, there does still exist legal aid for the few who qualify, yet women are failing to even apply.

According to Strahl, the draw back to the belief that there is no longer legal aid is, women are not accessing the free legal advice and information, which is being offered by legal aid lawyers more frequently during the preliminary phone call and appointment, since the cut backs. Despite the overwhelming probability that women are not qualifying for assistance, they could still depending on the particular lawyer and the conversation, receive the basic tools on how to file for custody and maintenance orders on their own. Based on my conversations with Strahl and the court clerk here in Nelson, the process can in an ideal situation, where neither party is contesting the evidence, involve simply signing the appropriate papers. Lawyers can charge a minimum 250\$ to thousands of dollars in fees for filing a maintenance and custody order.

Due to the crisis of legal representation available to women in B.C., Strahl has done his best to not to turn away individuals applying for legal aid, however the intention seems

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unrealistic. He charges regular clients 150-250\$ in his private practise per hour and considered the cost of a day trial cheap.

Of the four basic areas that Strahl is able to grant financial assistance to women seeking legal aid, acts of violence must pre-exist within the relationship. He indicated the category of violence can be loosely defined to include, verbal threats to physical battering of the mother, children and animal pets. (However, information I received from Wrenne Deane seemed to imply physical violence was mandatory for funding-Appendix 6) The women applying for legal aid, must write and sign an affidavit stating she has experienced violence in the relationship, in order to file for and receive a retaining order through the court. By registering and filing her provincial application forms with the court, the other side is served their papers and has thirty days to reply. If the accused is to contest the order a hearing in court follows. Women can do file for restraining orders on their own, but are often under the misconception that they must pay a lawyer to carry out the procedure. Therefore, women are going through this often costly process, in order to legally validate they have in fact experienced violence in their relationships.

Of all the cases Strahl has carried out in the Kootenay area, he has never had a man contest the validity or deny charges of violence once they have been filed through the court system. Based on the information I gained from Strahl, much of the cycle of abuse and violence, which is perpetuated in an unhealthy partnership, seems to center on the male's emotional and psychological dominance over the women. If and when the women is able to break this form of manipulation and have the courage to tell her story to a lawyer, immediately the male loses a part of that control.

When answering the question of whether he thought more women were choosing to lie about the violence existing within their relationships, in order to qualify for legal aid, Strahl did not think there were many cases in which this was occurring. He explained that so many of the women he has interviewed for legal aid are so ashamed of the violence that they have endured and have been involved in, that he has had to draw the information out of women in order to



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verify the violent circumstances. If a woman is fabricating evidence against the father of her children, then the man can legally contest the charges in court. Stahl commented on the level of manipulation and domination he witnesses so many of the women applying for legal aid. Offering the lack of community as a viable cause, he seemed to think the problem was more rooted at the center of the relationship of patriarchy playing out within the isolation of the nuclear family.

Although, violence within the home is an overriding prerequisite to receiving financial assistance, since the cuts legal aid lawyers are still able to offer mothers eligibility if the father verbally threatens to take the children from the area. Another area women are able to qualify for legal assistance is if they <sup>is</sup> mentally or psychologically incapable of caring for herself and her children and is unable to go through the legal process on <sup>her</sup> her own. This would translate into a woman's inability to file maintenance and custody orders through the courts herself. If the situation were such that she would have to represent herself, she would be considered eligible for legal aid. In regards to women accessing web sites like povnet, Strahl felt that most often women were just not in the emotional or mental state to use such information effectively. The final area women applying for legal aid qualify, is if the father is not trust worthy with the children and supervised access is required.

Another area to legal aid that Strahl mentioned has been affected by the cuts was the amount of time allotted to child custody cases. In the past if the father was to fight for custody, additional hours were easily added on to the legal aid lawyer's eleven hours permitted. Since the cut backs a dramatic number of lawyers are refusing to support such restrictions to the amount of financially recognized time it takes to do a thorough and adequate job of legal representation. A host of unhappy results can and do ensue when they do take a case for a mother applying for custody of her children. Most of the time despite an ideal situation the lawyer is unable to finish the case within 11 hours and has to quit the case and fire his/her client and all the work that was done is literally wasted if the women cannot afford to pay for the additional hours required. She is devastated or in many cases the lawyer ends up being pressured to do the rest of the work on

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the case for free. Typically many lawyers are turning away from any such situations. I was not able to discover the number of women who carry on the case representing themselves, but only aware due to the result that more women are representing themselves either from the beginning of their legal pursuits or following the designated hours they were eligible to receive from a legal aid lawyer.

When asked what he thought would bring a change and improve the situation concerning the restrictions placed on women pursuing custody of their children, Strahl mentioned the vote of non-confidence the Attorney General, Jeff Plant received from outraged lawyers in B.C. filed in May 2002. He pointed out that lawyers as a group, rarely rally together as a unified political entity, as they did in this particular circumstance.

Strahl made the relationship between the welfare cuts and the fact more women and children are less inclined to leave an unhealthy relationship in fear of complete poverty and destitution. No woman wants this for herself or her children and will end up enduring situations of humiliation and degradation to avoid it. In situations where women have already received custody of their children, the cut backs have also effected the amount of time and money which is being placed towards the family maintenance enforcement program, which has always been understaffed. The applicant must register with the program and the results often take time in which often the possibility exists the man has disappeared and quit his job in order to avoid paying custody. There is little doubt effects of poverty are directly linked to a parent's ability to parent Strahl claimed.

Lawyers are significantly incensed that the financial amount gained in lawyer tariffs, which had previously been directed to a legal aid funding is now being channeled into the general revenue. Strahl also mentioned that previous to cuts, the LSS had nearly been in an ideal situation in meet the majority of the demands as they existed at the time.

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**Appendix 2B**

Telephone interview with Donna, legal aid office intake worker  
Legal aid office, Cranbrook.  
March 19, 2003

Based on the hurried and initially impatient nature of this woman, I ended up being grateful for the information and insight I received. I had phoned Mr. Strahl's office to verify some details I had concerning the interview we had had the week before. According to Donna, when the cuts were first implemented individuals were trained as in her situation, in Vancouver as office intake assistants in order to be able to carry out and assess applications for legal aid. Therefore, when Strahl is busy with a client, Donna is able to follow the specific new guidelines to those women seeking legal aid and Donna is able to assess for eligibility. Mr. Strahl serves two legal aid positions in Nelson and Cranbrook, as well as a private practice. Donna informed me that they often work a 7am to 6pm day.

I had an impression that she was far stricter about the screening process for eligibility, then Strahl was. She did inform me that very few women were accessing the computer within their office kiosk and she seemed irritated by this fact. She also mentioned that any situation involving cases of child apprehension, automatically qualifies an individual for legal aid. She seemed very much like a government worker, simply over worked, under paid and inconvenienced by the people she worked for. Although this was a personal impression based on one telephone call the experience reminded me how I would have been effected by the call if I had been pursuing legal aid in order to win custody of my children. She also helped me to realize that not all

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individuals left delivering the limited social services, which remain are going to be entirely compassionate and be educated on the effects of systemic oppression.

**Appendix 3**

Telephone interview with Marsha Early, Special Victims Program Advisor  
Advocacy Centre, Nelson B.C.  
March 19, 2003

In Marsha Early's position as an administrator of the Specialized Victim Assistance Program, she has a certain amount of flexibility as far as what she can offer to her clients. Her mandate can include free consultations and support in court with custody cases. Custody applicants who phone in at the Advocacy Centre can range from those individuals requesting information on mediation around the issue of custody to women who are in danger of bodily harm if their partners knew they were inquiring about child custody information.

Marsha's employment began at the Advocacy Centre when the provincial cutbacks started to take place. The women Marsha meets with, have very few resources, living below the poverty line and possessing little to no information of how the court system works. These women are also very fearful of how much more power their spouses or ex-spouses have entering the legal process and with due reason. Often the women have no income and no legal representation, where as her spouse or ex-spouse has written and signed affidavits and a lawyer.

The biggest difficulty facing Marsha is the lack of time she has to help these women during her 35 hours a week. Many of the women need specific orientation regarding the custody and maintenance forms. Often they are overwhelmed, confused stressed, inexperienced in a court setting and not sure about what exactly they should write about within their affidavits. Marsha is able to support these women and encourage

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the inclusion of the most relevant information for the judge to make the best-informed decision.

When asking Marsha what she thought would make a difference and improve women's current situation, she immediately mentioned the reinstatement of legal aid for all women who required it. She also had some faith that the Law Society and lawyers themselves, would to a certain extent try to resolve the humiliating experiences women are having in B.C concerning legal representation and custody pursuits. Marsha also mentioned the web sites as an option for women to educate themselves on legal issues before their personal circumstances got to a critical point in their lives. She was frustrated with the fact that she did not have a way of gathering the statistics of women who have been seriously affected by the cut backs.

At a supreme court level the number of women applying for divorce is more likely to be identifiably affected by the cuts they are lacking legal representation. Issues of dividing property are also dealt with at this level. So again a comparison was made between the income test being the only requirement to receiving legal aid previous to the cuts and the necessity to have at least a peace bond signed by the police concerning a situation of violence before women qualify for legal aid. Marsha felt this was a very unfair and difficult barrier for some women to have to go through in order to access legal representation.

When I asked Marsha what she thought most affected women pursuing child custody and she felt cuts to childcare, welfare, the requirement to seek employment and dropping the age of children of mothers who are no longer eligible for welfare funding. The combination of the effects of these cut backs have contributed to women's increased sense of fear and a sense that their spouses are going to be favored by the judge as a result.

Marsha also confirmed the unfair provincial pressure for women to settle issues out of court, with out legal representation through simple mediation processes. She discussed how those individuals who carry a feminist analysis on this particular issue, believe in situations of power

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imbalances and actual physical abuse mediation is not a reliable or safe alternative to legal representation. Gender analysis is crucial during these times of provincial discrimination and must be included in an holistic view of how the cuts are effecting women in B.C.

The only free counseling that Marsha can refer women to is through Candice Holt or Cathy Swanson, at the Human Resources Canada offices, here in Nelson. Unfortunately both women were away on two-week holidays and were unavailable to talk with. Jim Farley was available, but in general Marsha indicated women preferred to talk to women about custody and abuse issues. I think being able to contact these women would have provided this report with more of a sense of what women are actually going through on the physical and emotional levels. I would have liked to have also discovered how aware women were to the actual level of discrimination they were experiencing directly from the province and how women were internalizing the very dishonorable way they were are being treated by B.C politicians.

When addressing the issue of the courthouse closures and the affects on women in rural communities, Marsha mentioned that despite cuts to Kaslo's municipality as a whole it still retained women's counselor. Salmo had very limited services previous to the cuts and now has a toll free numberto call in regards to legal assistance. With the closure of the courthouse in Castlegar, Marsha felt more women were coming to Nelson. However, not only inconvient with children and the lack of child care, the commute is costly and very little public transit exists for women to schedule around.

Appendix 4  
Telephone Interview with Thea Trussler,  
Volunteer Co-ordinator of the Nelson and District Women's Centre, Nelson B.C.  
March 21, 2003.

During my previous interview with Richard J. Strahl, he had referred several times to the local Women's Centre as a resource for women experiencing difficulties since the cut backs. The assumption that the Centre would be picking up much of the

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responsibility of providing many of the social services eliminated by the provincial government is a common occurrence, but not an accurate one. The Nelson and District Women's Centre has a strict mandate that it upholds, in which acting as a referral service is one of its primary responsibilities to the community; not actually providing counseling services, much to the public's and legal aid lawyers' misconceptions. I believe a cause of such wide spread inaccuracy about what services the Women's Centre provides is based on a patriarchal society, in which much of women's work and service is taken for granted, undervalued financially and assumed to be present in times of crisis. Times like the ones women are facing in B.C. at the moment.

The fact remains that the women who work at the Centre have contracts that they follow like any other form of employment. Offering band-aid solutions as a reaction to the systemic gender injustices will not promote the change that is needed. However, the provincial government is not even provisioning this as the public may assume. Six months from now funding will be cut to the volunteer co-ordinate's position, which will eliminate the drop in hours at the Centre opened from Tuesday to Friday noon to 4pm., crisis counseling volunteer training programs, as well as minimal crisis counselling. Within the year core funding will be halted, and the remaining two paid positions at the Centre gone. Since the cuts, Thea quoted a 64% increase of women coming through the door of the Women's Centre in greater need and experiencing violence in their lives and those of their children.

Appendix 5

Telephone interview with Mary Devan, Women's Counselor  
North Kootenay Lake Community Services Society, Kaslo B.C.  
March 24, 2003.

In my discussion with Mary concerning the pursuit of child custody, she felt that the battle for these women has started just that much earlier, since the cutbacks were made. Mary spoke about the emotional impact leaving a relationship can have on a woman and her children

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and that the actual pursuit of custody is often too daunting to consider upon separation. Mary also reconfirmed, based on her experience as a women's counselor in a rural area, that women are completely intimidated and afraid of the process involved in attaining child custody and often feel defeated before they enter the process of qualifying for it. I felt from the discussion Mary and I had, that women are not informed about the legal process and equate the experience with the cost of a lawyer, the fear of having to attend a hearing in court and the possibility of losing the case. Mary also mentioned that the court and the judges are not always sympathetic to the realities single mothers experience.

Since the shock of the cutbaacks, new make shift infrastructure are forming, although not nearly as adequate in the quality of service women were receiving previously. Mary spoke of an incident a year ago when there was virtually nothing in place for women as far as legal representation and she had to "strong arm" a local lawyer to take a case concerning an urgent child custody incident. Mary discussed how very few lawyers take pro bono legal aid cases, as they are not being financially compensated for their services. She refers women to Strahl on Friday's in Nelson for his Pro Bono clinic in Nelson. Mary's hours of employment are Mondays, Tuesdays and Wednesdays form 8am to 5pm. She addressed the amount of time she has had to spend addressing issues effecting women now, that before the cuts had not existed. As far as referral services North Kootenay Lake Community Services have not been able to offer computer on line access, however as of next week through long hours of grant proposal writing, money has been received for the purchase of computer and confidential space is being made for women to work on the computer. Mary is unsure how effective this will prove in serving the needs of women, but she made it very clear the importance of face to face counseling when all the emotional issues are able to surface. She also made a special point of letting me know how quickly things can change and what we discussed this week could very well be different next week



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**Appendix 6**  
Telephone Interview with Wrenne Deane,  
Women's Transition House, Nelson B.C.  
March 24, 2003

In my discussion with Wrenne, I realized most of the women that enter the transition house are eligible under the new legal aid requirements due to the violence they have experienced in their homes, which has led them to the transition house for legal aid. However, many women who have experienced prolonged emotional and mental abuse who enter the transition house are left legally unrepresented. Wren has noticed a serious drop in the number of women with children who are entering the transition house. She and her co-workers have directly related the cuts to social assistance benefits, childcare and the increased difficulty in finding childcare to fewer mothers leaving unhealthy relationships with their children.

Wren refers women with children seeking child custody to the Advocacy Centre, which she acknowledged was already swamped with individuals seeking legal assistance. Wren commented on the waiting period that now exists in order to even apply for legal aid and the difficulty women are having accessing legal representation. Wren felt the provincial government was unwilling to address the issue of discrimination against women and their children. She also mentioned how she observed women in Nelson having far less disposable income and as a result not fighting for child custody. Wren described a situation where an ex-spouse upon realizing the 8-11 hour limit legal aid lawyers are allotted to each case, dragged his ex-spouse back and fourth into court on minor issues until her legal aid time had been exhausted. Once a client of legal aid has utilized their limit of 11 hours of legal assistance, most often the client can no longer pay for the legal fees for a lawyer and is either forced to end pursuing the case or attempts to represent themselves in court, which decreases their chances in winning the case.

**Appendix 7**  
Telephone interview with Janet Sawyer, unemployed para legal lawyer.  
Advocacy Centre, Nelson B.C.

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March 24, 2003

Previous to the closure of the legal aid office in Nelson, Janet was employed full time as a para legal lawyer. She was able to offer individual summary advice and 45 minute to an hour information sessions concerning legal matters. Janet discussed the concern she had had last summer in regards to the future effects of the cuts on women and the eventuality of remaining in unsafe homes. Members from the Transitions House and the Victims Assistance Program which is co-ordinated through the Nelson city police, present at this meeting confirmed her worries by stating that their were already seeing indications that less women with children were accessing their services.

Another, result of the cuts on a local level, that Janet discussed was the difficulty involved in attaining two hours of free legal assistance from local lawyers. Despite the fact that the Advocacy Centre has taken the time out of their all ready burdened work day, to schedule appointments for the two hours a month, lawyers are either refusing on political grounds against government pressure to offer free services or simply not caring about the legal discriminations existing against women and children.

As far as Internet access, Janet felt they're just existed too may variables concerning child custody to be adequately addressed through computerized information web sites. She addressed the reality of accessing legal information over the net is one thing, but actually walking into a court hearing legal unrepresentative with the pressure of winning custodial rights over ones children is another. Janet also mentioned how Internet access is also unable to gage the modern court tactics, which involve how the law is leaning depending on the current social and political situation.

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