

## **Legal Information Workshop: Improving Access to Justice for Aboriginal Women**

### **CASE SCENARIO #1: Mary & John**

Mary and John met each other in a bar in Sudbury about five years ago and started dating. Two months later, John asked Mary to move in with him. John was renting a two bedroom apartment from Northern Property. In the beginning, John was very caring and showered Mary with gifts and flowers at every occasion. John told Mary that he had a good job at Vale and she wouldn't have to work or want for anything. Mary agreed and moved in with John. John wanted Mary to spend all of her time with him and didn't want her to have an outside job. Approximately one year later, Mary became pregnant.

As the months go by, John complains that Mary's friends are bothersome and forbids Mary to see them anymore. As Mary's pregnancy moves along, John tells Mary over and over how lucky she is to have him. John tells her that he loves her unconditionally, even though she is fat, and that she is lucky to have John, because no other man would want her.

When Mary is about 7 months pregnant, she and John are having an argument over Mary asking John for a few dollars to buy a baby basket. As the conversation heats up, John hits Mary for the first time and orders her to sleep on the couch until after she delivers the baby as he cannot stand to be sleeping next to a fat woman. After the birth of their baby boy, John yells at Mary all the time, saying that she can't do anything right and she is an unfit mother because she can't get the baby to stop crying. John hits Mary for the second time and leaves the house.

The next morning when Mary gets up, John is back with flowers and chocolates and promises on his mother's grave never to lift a hand to Mary for the rest of his life. Mary embraces him and says she forgives him and that it wasn't his fault because he is a hard working man. Then she starts apologizing to him and promises that she will be a better spouse in the future. For about a month, Mary and John are on the honeymoon they never had. Life is good...they hold hands in public and kiss with passion.

After a particularly difficult rotation at the Mines, John comes home. Mary thinks to herself that John looks different. John starts accusing Mary of infidelity with the butcher down the street. Mary denies this story as preposterous, after all, they are vegetarian and she has no reason to go to the butcher shop, but she did say hello to the Butcher yesterday on her way to the fish market as he was putting out the garbage. John is furious and forces Mary to have sex with him despite her protest.

As usual, the next day, John comes crawling in with flowers and chocolates, promising that it will never happen again. As usual, Mary forgives him and she promises to be a better spouse.

At the beginning, these episodes were very rare, but within a few weeks, the yelling and the hitting happens every day. Mary decides to talk to her brother about it. Her brother tells her that

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John is a good man, provider and good father. Mary's brother advises her that John must be stressed and that she should be more understanding and things will calm down. He also cautions Mary that it's best not to talk about this as it would be bad for John's career if all of Sudbury knew that John and Mary were dealing with a few issues.

Mary agrees and tries to be more patient and to be a good spouse but the violent behaviour escalates and continues. John always has something to say about the house, the baby or about Mary. One evening, Mary receives a call that her mother is sick. Mary asks John whether she could go be with her. John is furious and forbids her to leave. Mary goes anyway. When she returns, John has obviously been drinking and tells Mary that he has put down 'Juno', Mary's precious golden retriever. In a fit of rage, John starts kicking and beating Mary. Although Mary is shielding herself, she is hit in the eye and cheek. Other punches hit her arms which she is holding up to her face to protect herself. Their toddler is watching and crying in fear. Mary is able to escape John's blows and runs to the bedroom and locks herself in. She is able to call the police. The police attend the residence and after seeing the state of the house and John's mental state, they arrest John and take him to the cells for him to sober up. The female Officer in attendance convinces Mary to come out of the bedroom. Mary is bruised and shaking and she has her toddler wrapped in her arms. The female officer asks Mary if she would like to go to YWCA Genevra House, just for the night. Mary is reluctant but eventually agrees to go just for tonight.

### **What happens to Mary?**

#### **Mary goes to YWCA GENEVRA House**

The police officer brings Mary and the child to Genevra House. You are the intake worker and you greet Mary on arrival and then proceed with her admission to the shelter. During the interview, Mary tells you that she is terrified of John and that just before the police got there, he threatened to kill her and that as the police were taking John away, he was yelling: 'you'll pay for this...I'm not done with you yet!!' Mary is shaking and crying and says that she believes that her life is in danger because she heard that John's brother, Fred (also known in local circles, as 'Kujo'), was also a jealous and controlling boyfriend. Two of Kujo's girlfriends have mysteriously disappeared. No one has seen them in two weeks, but because these women are from Eastern Europe, there has been no missing person's report filed by family. Yesterday, when John was mad at her, he threatened her by saying that if she didn't have sex with him, she would suffer the same fate as Gretel and Gerda. He didn't say anything more according to Mary and they could just have been deported for all she knows.

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### **EMERGENCY PROTECTION ORDERS : TUESDAY, FEBRUARY 19, 2013**

#### **CASE SCENARIO #1: MARY & JOHN**

Based on Mary's statements, you give her information about restraining orders and she agrees to take this step.

#### **Discussion Questions:**

- What legal information does Mary need about Restraining Orders?
- What kinds of relief can she ask for?

#### **Role Play Exercises:**

- (1) Role play applying for a restraining order for Mary. You are the shelter worker. Describe Mary's injuries and the risk of harm.

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### **CRIMINAL LAW: WEDNESDAY, FEBRUARY 20, 2013**

#### **CASE SCENARIO #1: MARY & JOHN**

As Mary is getting in the taxi, the police are taking John away into custody and he's yelling: 'you'll pay for this...I'm not done with you yet!!' He kicks and screams as the paranoia caused by his state of intoxication and drugs is agitating him. It takes four police officers to control him and get him into the cruiser. He is taken to cells to sober up and will be read his rights and charged as soon as he is sober. It's 2 a.m.

At 8 a.m., John is charged. He is brought before a JP at 9 a.m. He is released on Bail with conditions, including that he have no direct or indirect contact with Mary and that any visitation with the child only be in accordance with an order from the Supreme Court –Family Division. At 9:30 a.m., as John leaves the court house, a police officer is waiting to serve him with the restraining order that was granted at 3 a.m.

Mary is settled into Genevra House and she has trouble opening her left eye, it's swollen shut. The worker calls her supervisor to make arrangements to take Mary to Emergency. As Mary is prepping the toddler to take with her, she tells you (the worker) that she feels guilty about John being charged and she confesses that she doesn't want him to be prosecuted. She says she doesn't want to testify against him. She wishes the charges would be dropped. She sends a text to John telling him that she's sorry. John sends a text back asking her to get the bail conditions changed so that he can see her and Mikey.

#### **Questions:**

- What criminal offences do you think John might be charged with?
- What information would you give Mary about the criminal justice process?
- What particular risk factor(s) for escalated violence are present in this case? What other concerns would you raise with Mary?
- Who would you refer Mary to, for further information and /or advice?

#### **Mary has been subpoenaed as a witness against John -- Questions:**

- How can you help Mary prepare?
- Who can you refer her to?

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### **CHILD WELFARE: WEDNESDAY, FEBURARY 20, 2013**

#### **CASE SCENARIO #1: Mary & John**

##### **Mary goes to the hospital**

Mary is brought to the Emergency department with her son. As Mary is processed through triage, the nurse on duty opens a chart for Mary and the toddler, Miky, is playing on the floor with some stuffed toys. As the doctor examines Mary, the nurse is entertaining Miky and she notices some old bruises on his back when he lifts his shirt. She examines him closer. She asks the Doctor to check Miky. Mary was just getting her prescription for eye drops when she is confronted by the nurse about the marks on Miky's back. Mary bursts into tears and confesses that John did this one week ago and she is so afraid of John that she feared for her safety and that of Miky if she said anything.

The nurse and doctor tell Mary that protocol requires them to call the police and Child Welfare because of these injuries on Mikey and because of the history of Mary coming to ER at least 5 times in the last month for unexplained injuries. Mary had not brought Miky with her on the other visits. Mary pleads with the Doctor to let her take Miky back to Geneva House with her as they will be safe there and she will contact a lawyer right away and get a divorce (John and Mary are not married but Mary is panicking and says anything that she thinks might avoid Child Welfare intervention). Mary is allowed to keep Miky on the condition that she is escorted back to Geneva House.

When she arrives, she is sobbing. You (the worker) ask Mary what is troubling her? Mary says that she fears that the social workers will take Miky away. You are the on-call worker and while Mary is still explaining what happened at the hospital, you pick up the emergency line and the caller is a Child Protection Worker from CAS, who asks whether Mary has made it back with Miky. You say yes. The Child Protection Worker indicates that they should not have let her leave the hospital without a visit from them first, and once you confirmed that Mary and Miky are safe, the Child Protection Worker indicates that she and her supervisor will be visiting in 45 minutes. (for the sake of argument, it was a hectic day at ER, 3 accidents with multiple victims and injuries, new intern for ER, had been on double shift, protocol was modified). Mary is terrified, she clings to Miky.

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### **Questions:**

- What do you explain to Mary about the visit from CAS?
- What information would you give Mary about the child protection investigation?
- Who would you refer Mary to?
- How can you help Mary prepare herself?

### **Child Protection investigation**

Exactly 45 minutes later, two social workers arrive at Genevra House, they ask to speak with Mary and to see Miky. Mary asks you to stay as a support person. The interview starts. CAS is concerned because of the reports from the hospital, the injuries to her and to Miky and the 10 reports that they received in the last 2 months from anonymous callers regarding this family.

### **Possibility 1- apprehension because Miky is need of protection**

Mary indicates that the injuries on Miky were caused by him playing outside with other children. She is worried about John. She asks the social worker if he will be arrested again once the police are informed of Miky's situation. She loves John so much, he is a good father, he doesn't mean to do what he does. Mary is panicky and contradicts the social workers on the statements she made at the hospital, she denies what happened. Mary is asked if she plans on going back to John. She says no, then she says yes, then she says no, then she says maybe. The Social worker informs Mary that the social workers are going to take Miky back to the hospital as they want the doctor to thoroughly examine Miky because of the reported observations. Mary refuses to let the child go, she says no. The supervisor makes the decision that Miky is in need of protection because Mary cannot see that Miky needs medical attention and Miky is forcibly removed from Mary, placed under apprehension status and taken to the hospital. On leaving, the social worker pulls out an apprehension package and hands it to Mary. The social worker indicates that they will contact Mary in a few days as the investigation will continue and she will have to go to court. Mary is devastated and in shock.

### **Questions:**

- What do you do for Mary right now?
- What can you explain to Mary about the child protection process?
- Who would you refer Mary to for further information or advice?

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### **Possibility 2 – no apprehension**

Mary indicates that she's had it with John, she is not going back. She will take him to court to get sole custody of Miky and a restraining order. She says that she will temporarily go on income support so that she can access housing. She asks the social worker for help. The social workers leave and say that they are satisfied that the child is safe and that Mary can keep him safe. They will come back once they finish their investigation tomorrow. They will be speaking to the hospital and the police and they will speak to her about the results of the investigation.

#### **Questions:**

- How can you help Mary prepare her safety plan and her meetings with child welfare representatives?
- What steps does she need to take?

### **Mary's safety Plan – with Miky**

Mary is relieved when she finds out that John has been arrested again and charged with child abuse. She is even more relieved when she finds out that the social worker has completed the investigation and because Mary is willing to be helped and can keep Miky safe, they will not apprehend Miky. They will be coming back to see her to work on a plan of care agreement. Mary asks you if you can help her prepare for the interview with CAS.

#### **Questions:**

- How can you help Mary?
- What are Mary and Miky's immediate needs?
- Who can support/assist Mary? Who can you refer her to?
- What can you tell Mary about the implications of signing a Plan of care agreement?

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### **FAMILY LAW: THURSDAY, FEBRUARY 21, 2013**

#### **CASE SCENARIO #1: MARY & JOHN**

#### **Mary goes to family court**

Mary decides that she is leaving John. She makes an appointment to speak with the court worker about applying for legal aid to get a family lawyer.

#### **Questions:**

- What information can you provide to Mary about the family court process?
- What family law orders might Mary be seeking?
- What information might you give Mary about presenting evidence of abuse in family court?
- Who can you refer Mary to for more information or advice?
- How do you help Mary prepare for her meeting with her family lawyer?