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RESEARCH REPORT

**FAMILY JUSTICE SERVICES
WESTERN FINAL EVALUATION**

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Canada

Family Justice Services Western Final Evaluation

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IHRD

Presented to:
Family, Children and Youth Section
Department of Justice Canada

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EXECUTIVE SUMMARY

Purpose of the Project

This document reports on the evaluation of Family Justice Services Western (FJSW). FJSW is a pilot project funded by the Department of Justice Canada, Child-Centred Family Justice Fund-Incentives for Special Projects and sponsored by the Department of Justice, Government of Newfoundland and Labrador. Managed by a community-based steering committee, FJSW became operational in early 2001, with a pilot period to March 2003. The program serves persons living in the Western Region of the province, with offices in Corner Brook and Stephenville. The evaluation's Statement of Work describes its purpose as, "... To monitor and evaluate, and produce a high-quality research report on, the Family Justice Services Western project in Newfoundland and Labrador with a particular emphasis on and interest in the new administrative child support recalculation service."

The Government of Canada shares responsibility for policy development in a number of family law areas, including child support, and is interested in new approaches to addressing family law issues generally, with a particular interest in the administrative recalculation of child support. The Government of Newfoundland and Labrador is interested in determining the effectiveness of family law services, such as FJSW, as it develops alternatives to a generally adversarial, court-based approach.

Research Approach

The evaluation process consisted of four elements:

- Design phase—this involved a site visit, a review of materials, refinement of research questions and information sources, development of research tools (survey questionnaires, interview protocols) and design of the report.
- Administrative / document review—this included the review of relevant provincial and national program materials and general literature on family law.
- Key informant interviews— Thirty persons were interviewed, several more than once, including judges, lawyers, program staff, members of the steering committee, government officials and community advocates/ service providers.
- Participant surveys—this included a general participant survey of 86 users of FJSW and a second survey was of 72 clients of the recalculation service.

The strength of the findings of the two participant surveys was limited to some degree by low numbers and some skewing of the participant sample (by gender and custodial situation), though not more so than for other pilot projects of this nature.

Highlights

- 1. FJSW services (mediation, counselling and information sessions) are well received by judges, lawyers, clients and the community.** The general approach followed by the project was highly regarded by all informants as being a cost-effective, responsive and more humane way of resolving issues related to separation and divorce. About 70 % of all persons referred to the project are settling their issues of custody, access and support through mediation conducted by a lawyer. Information and counselling are seen to contribute to more informed and sensitive approaches by parties to resolving legal issues, even if the dispute is not resolved by the project staff and proceeds to court.
- 2. Administrative recalculation of child support is supported as an innovative, efficient and responsive option to addressing changes in payor circumstances in child support matters.** Judges rated recalculation positively in terms of outcomes and its significant potential to save court time. Participants in the survey had high satisfaction levels, with most seeing recalculation as fair, an improvement over previous adversarial approaches, and not negatively influencing their relationship with the other parent.
- 3. The management approach and the staffing team contribute significantly to the success of FJSW.** A steering committee, which includes a Supreme Court judge, a Provincial Court judge, government officials and community group representatives, has guided program development and ensured program utilization. Although situated in a community agency, the model could be best described as court-annexed in nature. FJSW staff has considerable experience and expertise and has successfully adopted a team approach. Lawyer-mediators work in tandem with counsellors, social workers and administrative personnel to provide a wide range of integrated services.
- 4. There are indications that waiting time to get to court as well as time spent in court is being saved, because of the success of the project in resolving matters in about 70% of all cases.** In addition to savings in court time, which are estimated by the judges involved as being 30 to 40% or more, lawyers report that their clients are better educated because of their exposure to FJSW. Legal Aid lawyers note a reduction in their workload in family law matters.
- 5. The majority of clients using FJSW are unrepresented by lawyers.** At least 60 % of project clients are unrepresented by lawyers. These clients generally require significant administrative and court time because they are not aware of their rights and obligations. Often they have not completed the necessary forms, causing delays.

Implications

Family Justice Services Western (FJSW) has been effective in the delivery of family law services in the western region of Newfoundland and Labrador, and in many ways provides a model for implementation of these services in other regions of the province, as well as in other provinces. It has substantially achieved its goals and objectives, demonstrating the value of alternatives to court in resolving family law matters and building substantial community support and credibility.

Administrative recalculation of child support has had a promising introduction in the region, with positive feedback from clients, lawyers, judges and community groups. Variations on the existing approach are planned in other provinces (e.g. P.E.I.). These will help assess key

components, such as refining assessment processes and determining the appropriate role of the court.

From a policy perspective, FJSW highlights important considerations. These include:

- Administration—a number of options for delivery of services such as FJSW exist, including court-attached, government-operated and community-operated models. The researchers are sceptical about the feasibility of the community-operated option, given the complexity of services provided and the reliance upon courts for referrals.
- Coercive approaches—FJSW, and latterly the rules of court in the province, support an approach wherein clients are directed to non-legal services before they can access court in family law matters. However, there are no procedures in place to coordinate FJSW-type services with other key components, such as Legal Aid. Therefore, persons with fewer resources, who have trouble accessing Legal Aid in a timely manner, may be involved in family law services with no legal representation. How this policy issue is ultimately addressed will have considerable impact on how people in the province access family law services. It should also be considered from a national perspective in terms of access to justice concerns.
- Comprehensive Service Approach / Mediator Qualifications—this project used a flexible range of alternative dispute resolution (ADR) approaches, including aspects of mediation, conciliation and negotiation. The mediator role in this project, distinct from national standards and trends, is restricted to lawyers. Further research may need to be conducted to weigh the respective benefits of a multi-disciplinary approach wherein lawyers are the mediators, versus a non-legal focus with access to independent legal advice as required. A key variable at this point in the development of ADR in family law in the province of Newfoundland and Labrador is that other legal professionals prefer to deal with a lawyer in the mediator role.
- There is an ongoing need to ensure that safety in provision of family law services such as FJSW is enhanced through training and sensitivity to issues of power imbalances (as has occurred latterly in FJSW) and the active involvement of representatives of women's advocacy groups.

1.0 INTRODUCTION

This document represents the final evaluation report on the pilot project known as Family Justice Services Western. The project is funded by the Department of Justice Canada, Child-Centered Family Justice Fund—Incentive for Special Projects. It is sponsored by the Department of Justice, Government of Newfoundland and Labrador and managed by a community-based steering committee. This report was prepared by IHRD, in association with Goss Gilroy Incorporated and the Institute for the Advancement of Public Policy.

1.1 DEVELOPMENT OF FAMILY LAW SERVICES IN CANADA / NEWFOUNDLAND AND LABRADOR

The Federal-Provincial-Territorial Report on Custody and Access and Child Support (2002) demonstrated there is general acceptance of the need for supportive services in family law matters.¹ The report identified five major service delivery themes for consideration:

- Public and professional education / information—the FPT Report recommended governments support education for service providers and recipients as core services.
- Dispute resolution—the FPT Report recommended provision of broad and voluntary dispute resolution services, with informed participants and effective screening for power imbalances.
- Enforcement of child support.
- Family legal aid-services—Family legal aid services in Canada are generally restricted to the very poor and often do not cover all family law matters. Some 40 to 80 % of all family law litigants are not represented by lawyers. There is a strong consensus that Legal Aid services are not appropriately available in family law matters.
- Completion of family court models—the FPT Report recommended the establishment of family courts, with specialized staff that have in-depth training in relevant areas.

The trend emerging across the country is to streamline the court process in family law and make it more accessible. According to the FPT Inventory, 2000,² “... All provincial and territorial governments are working to implement effective, out-of-court, dispute resolution mechanisms, and are strongly encouraging separating or divorcing couples to use them.” These services are focusing on two primary areas: mediation and parent education.

In Newfoundland and Labrador, publicly funded alternative family law services have been available through the Unified Family Court (UFC) in St. John’s since 1978. These services have

¹ The Federal-Provincial-Territorial Report on Custody and Access and Child Support: Putting Children First, 2002.

² Federal-Territorial Family Law Committee, “Inventory of Government-Based Services that Support the Making and Enforcement of Custody and Access Decisions,” Department of Justice Canada, 2000. This document contains a national overview of services, as well as individual provincial descriptions. For this project, the consultants reviewed the national findings, as well as those for the other Atlantic Provinces, Ontario and Saskatchewan.

variably included counselling, education and mediation. However, despite some advocacy for expansion, there has been no extension of these services into other regions of the province prior to this pilot program in the Western Region. Cost would appear to have been the primary obstacle in establishing such services, along with the lower population density outside of St. John's. The UFC delivery catchment area was expanded to include a larger segment of the province, but geographical realities have limited the feasibility of this approach. Travel distances can exceed two hours within the current jurisdiction. Many of the UFC services (e.g. mediation) are located only in St. John's.

Since the inception of FJSW, a second program has been introduced by the federal and provincial governments, again on a pilot basis, to implement family justice services in the Central Region of the province. This program is known as Family Justice Services Central (FJSC). The two levels of government have also recently undertaken a needs analysis for the potential introduction of family law services in the Eastern Region of the province.

The services currently provided by the three programs in place differ significantly in several respects, as the table below illustrates. Several unresolved issues related to the administration and delivery of family law services in the province are also being addressed. These, include:

- Referrals—all referrals to FJSW come from the Provincial and Supreme Courts, which make automatic referrals prior to court appearances. In FJSC (upon court application) and UFC (at any point), persons can access services through self-referral and other third party means, including, but not limited to, the court.
- Administration of services—three administrative options appear to be possible: court-based, community or court-annexed, and with Legal Aid (though this option is not being tested at present).
- Intake—intake was initially a stand-alone service in FJSC, but it is now incorporated into the mediator or counsellor roles in all three programs.
- Education—both UFC and FJSW offer group education sessions, facilitated by lawyers, mediators and Support Application Social Workers (and the counsellor in the case of FJSW). FJSC is contemplating offering such sessions, but at present is offering only individual sessions with a social worker.
- Mediation—FJSC and UFC provide mediation services utilizing social workers (UFC) and a person with a business degree (FJSC) with specialized mediation training. FJSC initially provided a mediator who was also a lawyer, but this changed when the original lawyer left the program. Currently the service is restricted to custody and access matters and to formal mediation approaches. In FJSW, the mediators are lawyers and the practice is broader in scope, incorporating a variety of approaches that include, but are not limited to, formal mediation.

Services	Unified Family Court	FJSW	FJSC
Referral	Court, lawyers, general public	Court only	Court, lawyers, general public
Administration	Court-based	Community-based (Court-annexed)	Community-based
Intake	Provided by mediators	Provided by lawyer / mediator	Provided by counsellor
Education	Voluntary group sessions, multi-disciplinary delivery	Court-referred group sessions, multi-disciplinary delivery	Individual sessions—counsellor
Mediation	Provided by social workers with approved training from Family Mediation Canada	Provided by lawyer / mediators with mediation training	Provided by mediator with mediation training
Counselling	Not provided	Provided by certified counsellor	Provided by social worker
Child Support	Support Application Social Workers	Support Application Social Workers	Support Application Social Workers
Recalculation	Not provided	Recalculation clerk provides service	Not provided

There is widespread acceptance of the need for alternatives to the existing family law services available in the province, as demonstrated in consultations undertaken in 2001, as part of a national process relating to proposed changes to the *Divorce Act*.³ Judges, lawyers, justice officials and community advocates agree that families experience negative consequences in the absence of these services (e.g. higher costs, poorer outcomes, increased stress on parents and children).

1.2 FAMILY JUSTICE SERVICES WESTERN

The idea for Family Justice Services Western (FJSW) arose in the late 1990s from a small group of individuals associated with a community-based mental health service for children—Community Mental Health Initiatives (CMHI). At the time, there were no public mediation or counselling services specifically for families experiencing separation and divorce in that region of the province. This group became aware of funds available under the Department of Justice Canada's Incentive Fund and, in association with the provincial government, successfully applied to pilot a program of family law services, beginning in 2000-2001 and continuing to March 2003.

The program began providing client services in February 2001, under the direction of a steering committee. This committee is chaired by an official from the provincial Department of Justice and is composed of representatives from the judiciary, Community Mental Health Initiatives and the provincial Department of Human Resources and Employment. Family Justice Services Western (FJSW) provides education, information, mediation of custody / access and support, counselling, and recalculation services for persons engaged in family law matters in the Western Region of Newfoundland and Labrador. Its staff includes a lawyer / mediator, a counsellor, a Support Applications Social Worker and a recalculation clerk.

³ IHRD, Department of Justice, Newfoundland and Labrador, Provincial Consultation on Custody and Access, IHRD, 2001.

Both the Department of Justice Canada and the provincial Department of Justice are interested in FJSW as a possible model for the provision of family law / family justice services. The Department of Justice Canada has an interest in the administrative recalculation of child support component, as this is a new and relatively untested approach. FJSW is an operational representation of the Department of Justice Canada's particular interest in child support reforms, which dates back to 1997, when the federal government included Section 25.1 in the *Divorce Act* and encouraged provinces and territories to set up recalculation mechanisms. In November 2002, Newfoundland and Labrador became the first province to obtain a designation for a child support service.

1.3 EVALUATION OBJECTIVES / APPROACH

This evaluation, as stated in the research contract, has as its objective to "... Monitor and evaluate, and produce a high-quality research report on, the Family Services Western project in Newfoundland with a particular emphasis on and interest in the new administrative child support recalculation service." The evaluation analyzes the project's program design and delivery, staffing, organizational structure, service scope and effectiveness, resources and client satisfaction. The program includes an emphasis on administrative recalculation, as a new and innovative service, and the reader will note a particular focus on this service in the report.

The evaluation used multiple lines of evidence about FJSW, from utilization data to perspectives of community / government stakeholders and direct client input. The evaluation process included a design phase, a review of administrative data, a literature / document review, key informant interviews with stakeholders, a client survey and an interim report. The evaluation findings with respect to the service generally, and recalculation specifically, provide an analysis of this approach and how it may guide the future development of similar services.

1.4 METHODOLOGY

The methodology used in the evaluation incorporates a range of approaches and activities. These are described below. In conducting a review of a pilot program of this nature, qualitative and quantitative information need to be combined in order to comprehensively assess the program. The key outcomes to be measured, namely the impact of family law / family justice services on client families and the court system, do not lend themselves to a purely statistical approach. In programs such as FJSW, where provision of innovative services is such a key aspect, the opinions and experiences of key informants and clients are essential components of an evaluation.

Design

This evaluation included a design phase, wherein the following tasks were completed:

- Site visits—the consultants visited the service site in Corner Brook on two occasions, conducting most of the personal interviews with staff and steering committee members in person. The staff provided a presentation / overview of services. Forms and utilization information were also submitted.

- Review of written materials (policies, program descriptions, statistics)—the consultants reviewed a comprehensive array of written materials relating to FJSW, including: a rationale and vision, mission, beliefs and goals; a description of its organizational structure; a brief description of its program development; a detailed education program; a domestic violence policy; information for clients and staff on the mediation process and a code of conduct; a public family law guide; detailed information on recalculation; and comprehensive statistics on program utilization.
- Review and refinement of research questions, information sources and success indicators—research questions were developed for use in evaluating FJSW and another program being implemented in Central Newfoundland (Family Justice Services Central). When these projects were separated, the list of questions for FJSW was redone, with substantial input from FJSW.
- Development of tools (survey instrument and key informant guides)—the consultants developed a survey instrument to be used with clients, in consultation with the staff of FJSW and federal and provincial justice officials.
- Design report—a design report was completed, with the refined research questions, instruments, tools and information sources identified.

Administrative Data / Document Review

The consultants received and reviewed several documents from the FJSW program, including:

- An information pamphlet.
- Policy documents, including a domestic violence policy.
- Materials used in client information sessions.
- Descriptive materials about mediation services.
- Written program descriptions.
- Organizational charts.
- Program statistics.

No formal literature review was called for in the design of this evaluation. It was anticipated that key documents and programs would be identified for the consultants. Relevant documents were reviewed on the suggestion of FJSW and government officials involved in the evaluation. These included:

- Prior evaluation of Unified Family Court.⁴
- Provincial rules and legislation with respect to recalculation.⁵
- A national inventory of government-based services that support the making and enforcement of custody and access decisions.
- A draft review of Legal Aid services in family law cases in Canada⁶.

Key Informant Interviews

Key informants were selected based upon their direct involvement with and knowledge of FJSW, and / or their general position in the government or community. The selection process was conducted in consultation with FJSW and government officials, with efforts made to be inclusive of diverse stakeholders. All those approached agreed to participate and interviews were completed either by phone or in person. Attempts were made to complete all interviews with program staff and steering committee members prior to the client survey, so as to inform its design and to better understand responses. A total of 30 interviews were completed for the evaluation. These included:

- Provincial government officials (2).
- Program Steering Committee (5).
- FJSW staff (4).
- Judges (4).
- Court staff (1)—direct discussions were held with Supreme Court staff, but despite numerous attempts, efforts to obtain input from Provincial Court staff were unsuccessful.
- Private and public lawyers (4).
- Community agencies (3).
- Other provincial bodies (7)—Law Society, Legal Aid, Public Legal Information Association of Newfoundland, Canadian Bar Association-Family Law Section and Chief Justices of the Provincial and Supreme Courts.

The protocols used are attached as appendices.

⁴ Ross, A. and M. Grant, Evaluation of Unified Family Court, Department of Justice Canada and Department of Justice, Government of Newfoundland and Labrador, August 1982.

⁵ The Government of Newfoundland and Labrador enacted the Western Child Support Services Regulations, Newfoundland and Labrador Regulations 9/02 on February 8, 2002 under paragraph 85(a)(iii) and (b) of the *Family Law Act*, R.S.N. 1990, chapter F-2 as amended.

⁶ Bertrand, L., Paetsch, B. and N. Bala A Profile of Legal Aid Services in Family Law Cases in Canada, Department of Justice Canada, June 2002 (Draft).

General Survey of Participants

Experienced phone interviewers with a minimum education of a bachelor's degree in the social sciences were identified to conduct the survey. A pre-test was done with the instrument (using five completed survey calls) and minor modifications made as a result. The consultants received a list of 152 clients who had received service through FJSW since its inception and had signed consent forms to be involved in research / evaluation activity. Overall, an estimated 830 clients had used the program since its inception. Using the contact information provided by clients, the research team attempted to complete telephone interviews with as many of the 152 clients as could be reached. At least five attempts were made per contact, at various times of day. A total sample of 86 persons completed the telephone survey, which took approximately one half hour to complete.

The survey sample was distinct in some ways that are important to note. Key characteristics, which may influence the direction of findings to some degree, include:

- Seventy-one percent (71%) of those interviewed were women. More women gave their consent to be interviewed in the first instance, plus the researchers found the males in the sample more difficult to contact. An analysis of survey results by gender shows that for the most part there were no significant differences based on gender. However, there were some significant differences found on specific questions, including those relating to the program facilitating referral to other services, perceived fairness and safety of the mediation approach, reducing costs and feeling helped in dealing with issues of separation and divorce. Interestingly, in all of these categories, males expressed a more positive response.
- Given that more than half of the sample obtained (53.5 %) were sole custody mothers, there is obviously some variation in the sample of 150 from the overall population served.
- There is no guarantee that the survey population is representative of the general population served in FJSW. Assuming that the survey results are consistent with the survey frame of 150 individuals who signed consents, there is 90 % confidence that results are within plus / minus 5.8 % of reported values.

Some survey findings involving a small number of clients, (i.e. those relating to start-to-finish time in various interventions such as mediation, counselling and total time) were clearly inaccurate. These did not emerge in the test of the instrument and so were not uncovered until analysis of the total sample was conducted. They likely represented an interviewer error or a participant interpretation error or both. Such concerns are restricted to these questions. Other survey findings were supported by alternative lines of evidence.

The general client survey instrument used is contained in the appendices.

Survey of Recalculation Clients

There was an attempt in the general client survey to poll recalculation clients about their experiences. However, very small numbers were obtained through this method (n=7). One of the

judges with significant involvement provided several possible explanations for these low numbers, including:

- The timing of the survey may have been prior to formal notification of recalculation outcomes to some survey participants.
- The region of coverage for recalculation is broader than that served by FJSW generally, so a high percentage of recalculated cases would not have otherwise been clients of FJSW and therefore would not have signed the consents used by the consultants to identify survey participants.

It was determined that a separate telephone survey of recalculation clients would be undertaken. A survey instrument was designed, reviewed and tested by FJSW and government officials. Interviewers, including one of those who conducted the general client survey, were identified and trained with respect to recalculation and the process followed in FJSW.

A list of 130 cases, which represent all the cases that had been recalculated as of January 2003, was forwarded to the consultants by program staff. Of this number, a total of 72 surveys were completed. Findings from this survey are incorporated into the main body of this report, as well as described separately in Appendix 1.

Strengths and Limitations

The major strength of this evaluation lies in its use of multiple lines of evidence. On most important issues, the findings of the general client survey concur with those of other information sources. This is especially important given some of the previously discussed limitations of the survey in terms of its representativeness. Further, the second survey on recalculation provides for a maximum input from clients of this service. Clear administrative data from the program in terms of activity and outputs also made for an ease of analysis.

Specific limitations in this evaluation include:

- There was no direct observation of services—this was not considered an option in this instance, owing to cost and confidentiality issues.
- The sample of completed interviews in the general client survey was somewhat smaller than hoped for and not representative of the persons using the service, both in terms of gender and custodial situation.
- There was no comparison group identified and interviewed with respect to experiences and satisfaction with the existing court-based approaches in the province. Most information on this comparison was obtained from other interviewees (e.g. judges, lawyers).
- In evaluating impacts of any pilot program, a significant limitation is the fact that the program is being developed and refined as it is being implemented. This evolution means that the service received by later clients may in fact be quite different from those of clients served earlier in the program's implementation. While this needs to be considered as a general limitation, the findings of the survey do not identify such differences to date.

1.5 READER'S GUIDE TO THE REPORT

This report is organized into the following sections: an introduction, a program description, an evaluation of results, and conclusions. Appendices include the findings of two surveys (one on recalculation and one on the service overall), as well as the instruments used for the study. The fieldwork for the study was completed in the fall of 2002, except for the survey of recalculation clients, which was completed in February 2003. Thus the report focuses largely on the period from February 2001 to August 2002, unless otherwise stated.

2.0 PROGRAM DESCRIPTION

2.1 VISION, MISSION, BELIEFS, GOALS AND OBJECTIVES

This section is drawn almost in its entirety from FJSW program literature.

FJSW has as its vision, “To address family law issues within an efficient and effective dispute resolution model, outside the traditional court setting.”

Its mission is described as follows: “Family Justice Services Western is a dedicated multi-disciplinary team committed to using a child-centered approach to support children and families where custody, access, child and / or spousal support, are issues by providing education, mediation, and counseling services.”

There are a number of belief statements associated with FJSW, namely:

- Family law issues can be resolved outside the traditional court system within a supportive environment.
- The needs and well-being of children come first.
- People have the innate ability to solve their own problems.
- Parenting is forever.

There are six explicit goals for the service, namely:

- Efficiency—to ensure a timely, just and inexpensive resolution of family law issues.
- Mediation and education—to reduce conflict and tensions amongst family members during the process of dispute resolution.
- Addressing family conflicts more humanely—to make separation and divorce less painful.
- Sustaining the agreement—to reduce ongoing conflicts for families involved in the legal system.
- Promoting alternative dispute resolution (ADR)—to increase awareness of Family Justice Services Western among families involved in the legal system.
- Evaluation—to demonstrate the effectiveness of the pilot project, Family Justice Services Western.

2.2 RATIONALE / DESIGN

Until the introduction of FJSW, the only provincial publicly funded family justice service containing alternative approaches to dispute resolution was located at the Unified Family Court

in St. John's, which had been providing such services since 1978. The lack of availability of alternate means of dispute resolution and education / counselling services resulted in a formal legal system which attempted to address the complex issues associated with separation and divorce. According to interviews with judges and other key informants, as well as prior provincial consultations (Provincial Consultation on Custody and Access, 2001), this approach was often expensive, non-responsive and not child-friendly. Processes and outcomes often did not best meet the needs of users. For clients who could not afford to pay a private lawyer and needed to rely upon Legal Aid, resources were limited and services restricted (e.g. no services for those seeking / paying support where the other party is unrepresented by legal counsel).

The Community Mental Health Initiative (CMHI), a non-profit community organization formed initially to address a lack of mental health services for children in the Western Region, identified a need for alternative family law services in the late 1990s. A sub-committee of CMHI had been working for approximately two years towards the establishment of a Unified Family Court in the region. This committee, the precursor to the FJSW Steering Committee, was comprised of judges, lawyers and representatives of community groups in the Corner Brook area. Based on the collective experiences of its members, the committee recognized the need for alternative justice services. Key issues identified included the lack of alternatives for resolving family law matters, the backlogs in court proceedings and the lack of preparedness of those appearing in court.

When the opportunity for funds to pilot innovative family law approaches became available, CMHI agreed to participate. While the original vision had been of a service built upon the Unified Family Court model, the organization embraced a community-based, multi-disciplinary, child-focused approach in keeping with the other services of CMHI. Looking back, members of the steering committee believe this model has proven superior in some respects to the UFC concept (e.g. the existence of in-house counselling, separate from court) and they are pleased they have had the opportunity to test this variation.

Many observers saw the administrative placing of a service such as FJSW within a community-based organization such as CMHI as a departure from the norm. However, the proponents had had the experience of developing other alternative services, particularly in mental health, within the community framework, and felt these services would be a comfortable fit. Provincial officials have supported this approach, though this does not necessarily suggest there is a clear determination that community-centered delivery will be a feature of any future model for the province as a whole.

FJSW is operated in an environment distinct from government or court. The service is provided in a building known as Blomidon Place on a quiet street adjacent to a main road. There is a warm and inviting atmosphere, which may reflect the nature of the other services located there (e.g. children's mental health, school guidance, youth corrections). A number of key informants made this observation, as did several clients of the service.

2.3 ADMINISTRATION / GOVERNANCE

FJSW is governed by a steering committee, formally a sub-committee of CMHI. The FJSW Steering Committee is an active group, with knowledgeable persons in family law taking leadership in identifying alternative approaches. They formally meet quarterly, though

informally are in contact on a regular, as needed basis. A key conduit from CMHI to the program is the administrative coordinator. This paid position provides an administrative link between FJSW and the broader CMHI program, and administers the budget for the program. Prior to this position being funded, the financial / administrative oversight fell to the steering committee.

The FJSW Steering Committee is chaired by a Supreme Court justice. All those interviewed observed that this person had championed the program's development, having noted the gaps in the court system at both the Provincial and Supreme Court level. A knowledgeable committee, including another judge and a provincial justice official (administrator of Unified Family Court), has set a clear vision and direction for the program's development. The composition of the committee is reasonably representative of the key stakeholder groups, but some informants suggested that court administrators, consumers and women's groups should be included as well. This committee has kept strong links to the region's Bar / Bench committee, which meets three times per year, and has positive communications and links with the staff at the courts.

2.4 SERVICE ACCESS: NATURE AND RATIONALE

Family Justice Services Western provides a range of services to assist families experiencing separation and divorce in the Western Region of the province. The general service delivery area within the region includes Bay of Islands, Corner Brook, Humber Valley and Port aux Basques. In terms of recalculation, this service area covers from St. Anthony on the Northern Peninsula to Port aux Basques in the west and White Bay in the east.

Access to services of FJSW is restricted to direct referral from the Provincial and Supreme Courts in the service delivery areas. All cases have to file a court application related to child / spousal support and / or custody and access before being referred to FJSW. Cases are generally referred by the courts prior to a court date being set for the matter in question.

The rationale provided by Steering Committee members for exclusive court referral to the program is in part related to controlling the extent and nature of workload, especially while the program is in a pilot phase. In addition they were concerned that if referrals were accepted from the broader community, then this might affect the ability to assess impacts on court-related indicators (e.g. preparedness of FJSW clients in court, savings in time, outcomes).

Some of those interviewed, including some of the program staff, questioned the access limitations, especially given the community-based philosophy of FJSW. This is particularly the case with the counselling services, where current limits preclude preventative approaches or early intervention with parents who may be contemplating separation.

2.5 STAFFING STRUCTURE: RATIONALE AND DESCRIPTION OF INCUMBENTS

The staffing structure of FJSW includes: one full-time lawyer / mediator, one counsellor, one Support Application Social Worker, and one recalculation clerk. In addition to mediation, the Steering Committee believed in the need to integrate education and counselling services from the outset. There was a vision to closely involve the Support Application Social Worker program as well. The model essentially called for an accessible service providing information, support, guidance and possible resolution of issues arising from separation and divorce, through use of an

integrated array of supportive services provided by a multi-disciplinary team of qualified professionals.

The steering committee defined a role for a lawyer / mediator to act as a key dispute resolution person for the program. The rationale for the position being a lawyer appears to have been guided by an interest in multi-disciplinary approaches, as well as to allow for easier acceptance of the approach by the local bar and judiciary.

The incumbent was selected outside of a public competition for the position, owing to her considerable experience in family law and the need to move forward with hiring in the pilot phase. She had been in a private practice in the region, in which about half of her work had been in family law, and she was well regarded as a practitioner. Since coming into the position, she has completed advanced levels of mediation training.

In the case of counselling services, key supporters indicate that because CMHI / Blomidon Place has a supportive and positive focus on the well-being of children, as well as the experiences / beliefs of committee persons, this led to a commitment that counseling be a core part of FJSW.

The person in the counsellor position at present is a highly regarded professional in the community. A certified counsellor, who recently retired from the school system, she is seen as knowledgeable, dedicated and committed to children's interests.

The Support Application Social Worker (SASW) program had been originated through and operated in close collaboration with the Provincial Court in Corner Brook. The Steering Committee envisioned a distinct role for SASWs within FJSW, addressing support issues in non-HRE originating referrals, Supreme Court referrals and variations.

To accommodate the interests of FJSW, a Support Application Social Worker (SASW) role was designed and an experienced SASW seconded to the program. This individual is a registered social worker and has completed advanced levels of mediation since coming into FJSW. This individual is seen to be an experienced and competent staff member. There was some question as to whether his skills have been under-utilized in terms of mediation, but as noted previously, there are plans to expand his role in this regard.

Recalculation arose primarily as a means to address ongoing issues relating to child support, based on the changing circumstances of payors. Current approaches to addressing this issue (e.g. variation orders through court) were seen to be unresponsive and likely to increase the acrimony between separated parties. Considerable court time was spent assessing changes in circumstances, most of which could be resolved through administrative means, using the existing Child Support Guidelines (see Appendix 1A for a more thorough discussion). Given its close links to court activity, recalculation may not seem at first to be a natural fit in a community-based service. However, proponents argue that it is a child-focused initiative that is intended to simplify support issues and is in keeping with the aims of FJSW.

Recalculation is performed by a clerk, the current incumbent being a person with extensive administrative experience. This person works closely with the lawyer / mediator on staff at FJSW who is available for consultation. The two judges who have assisted in the development of

the process also provide advice and guidance, and the four share comments via e-mail as issues arise.

2.6 SERVICE DESCRIPTION

This section is based significantly on FJSW internal program documents.⁷ FJSW staff have developed and documented processes for their various activities, which will facilitate ongoing evaluation and research / development. These include:

- Detailed client flow charts / descriptions for the service as a whole, mediation services and recalculation.
- Materials and a presentation for information sessions.
- Detailed descriptions for clients on mediation services.
- Keeping relevant statistics from the outset in a comprehensible manner.
- Tracking of developmental progress.
- Articulation of a clear vision, mission, beliefs, goals and objectives for FJSW.
- Formulation of policy and procedures.

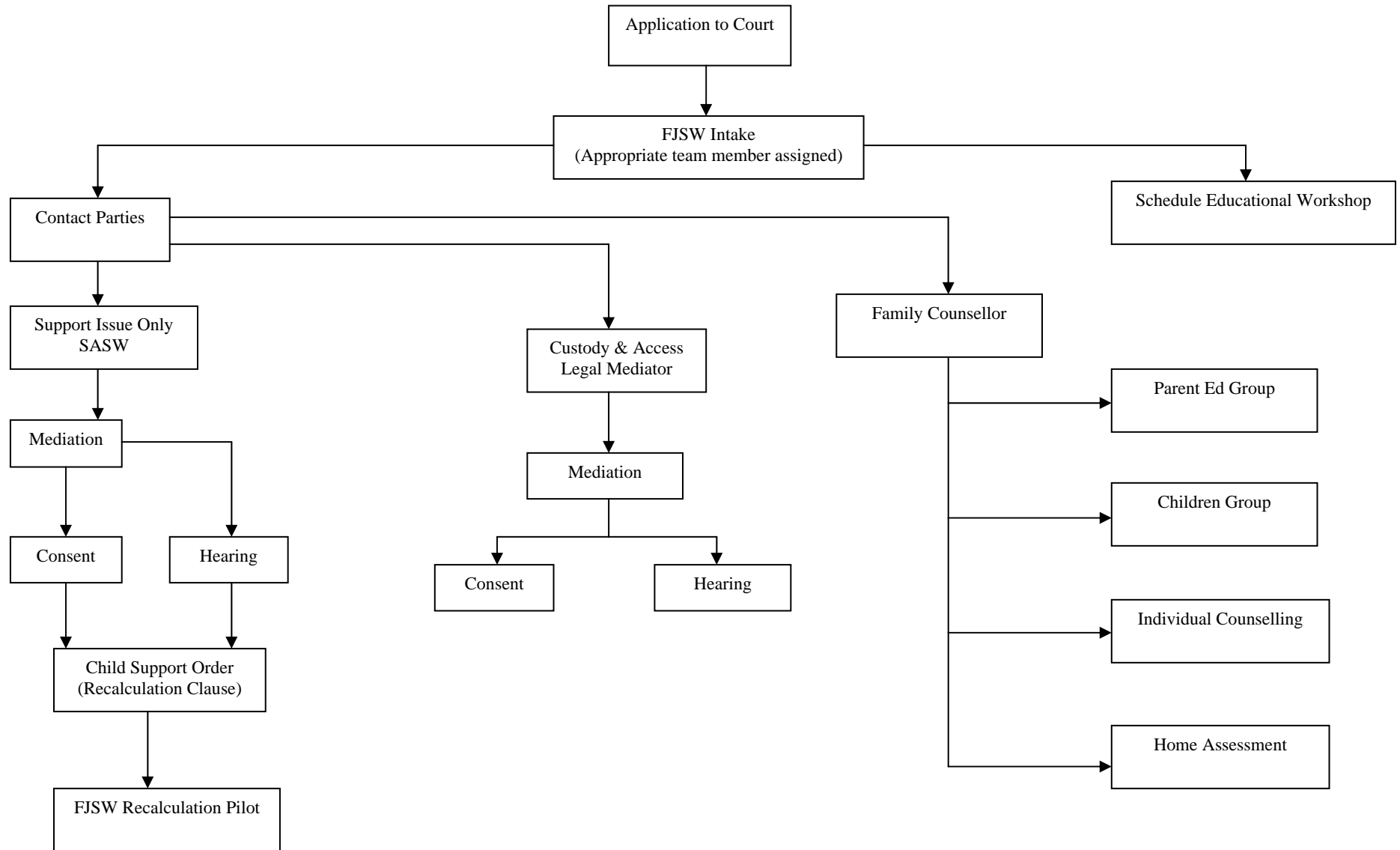
Services include:

- Intake—referrals are sent from the Provincial and Supreme Courts to FJSW. Intake interviews are held with staff via phone or in person, usually within two weeks.
- Information sessions—a three-hour session is held with each party to an application. These provide a range of legal, personal (e.g. child development, impact of separation and divorce) and service information.
- Mediation—a range of dispute resolution options are provided to parties to an application, ranging from joint mediation to shuttle mediation. These are also available for custody and access issues.
- Services on support issues only—a Support Application Social Worker assists parties in reaching agreement on support issues.
- Counselling—services are provided by a counsellor to parents and / or children in situations where court applications have been made. These services may be offered alone or in tandem with other interventions.
- Recalculation of support—court orders for support are periodically recalculated by the clerk, using updated financial information from the payors of support.

⁷ These documents include a policy manual, project description, statement of vision, mission and mandate.

Figure 1 demonstrates the flow of clients through the FJSW service delivery system. Each service is described in detail below.

Figure 1 Family Justice Services Western



2.6.1 Information Session

When clients are contacted by FJSW, in response to an application being filed, they are called and given a time to attend an information session. They are told that they are expected to attend (some exemptions are granted). This session, usually three hours in length, addresses issues of legal process, services provided by FJSW and key personal, communications, parenting (including step-parenting) and child development concerns associated with separation and divorce. Clients of the SASW program are also invited to these information sessions. Usually 10 to 15 persons attend these sessions (former partners do not attend together). The session was designed and is delivered by the counsellor, mediator / lawyer and SASW. The rationale for the information session is to provide relevant information to participants so they can separate the legal and non-legal issues associated with their situation and make more effective use of legal and court services.

2.6.2 Intake

In terms of intake process, all new referrals are received from the court. Applicants are contacted by FJSW. This was initially done by the lawyer / mediator or SASW until the administrative clerk was hired. While a beneficial opportunity to make initial contact with clients, this approach resulted in inordinate time being spent in trying to connect with potential participants. Under the current approach, appointment times with the lawyer / mediator are negotiated with the client, with an effort to be accommodating of client needs in terms of timing. Respondents are then contacted, after being served notice of an application by the court. Initial mediation interviews may take place in person or over the phone, and are usually conducted within two weeks of the referral being sent to FJSW.

2.6.3 Mediation

The program provides for what it describes as different types of mediation, namely:

- Joint session mediation—both people meeting in the same room with the mediator.
- Shuttle mediation—both people attend the offices of FJSW but are seen separately.
- Phone mediation—where one party is physically present and the other is on the phone.
- Phone mediation—where both people are contacted by phone but not simultaneously.

The term “mediation” to describe the services noted above is seen by program staff themselves to be inaccurate and perhaps misleading. There appears to be a mix of formal mediation processes with less formal approaches, which might more accurately be termed “conciliation” or “negotiation.” From an evaluative and program design perspective, the terminology is problematic in that it implies a particular form of dispute resolution, when clearly a broader range of alternatives is being employed. The importance of this distinction can be seen when one compares the broad alternative dispute resolution (ADR) approach of FJSW to the more traditional and narrower approach seen at UFC. Both approaches are referred to as mediation, but they encompass a different range of activities and philosophical perspectives.

The staff and the steering committee envisioned a service characterized by a broad ADR approach, rather than a more pure mediation model (e.g. joint, in-person sessions). There was an interest in using an approach that would be flexible, inclusive and responsive to geographical and personal considerations. There also a belief that use of formal processes would exclude more people than they would include. Thus, rather than insist on joint mediation, which was seen to be unworkable in some situations and not required in others, the program incorporated elements of what is described in Nova Scotia's model as "conciliation." This is a less formal approach where joint processes are not necessarily employed. In the view of the lawyer / mediator, the key to this approach is that all options are presented to clients and that decisions about processes are made by clients themselves.

Initially, the offering of choices resulted in more separate sessions rather than joint mediation. Over time, there has been a substantial increase in joint mediation, which is attributed to increased knowledge about the process in the community, and increased experience in providing the service. There is an intuition on the part of the staff person that those who meet jointly will do better in reaching and maintaining agreements.

Of those cases that proceed to mediation, it appears that about 10 % follow a formal joint mediation approach, another 10 % encompass joint and individual approaches and the remaining 80 % involve various forms of individual mediation. These are estimates only, as the program does not capture these statistics.

At the outset of the process, the parties sign an acknowledgment of mediation role form. This includes statements about the process, appropriateness of mediation, role of the mediator and the parties, authority to settle, disclosure, good faith, legal advice, advocacy / support, confidentiality, without prejudice, the importance of seeking independent legal and tax advice in review of any agreements, resolution, ending the process, research. Once this is completed, mediation of issues proceeds.

As described earlier, the actual process of mediation may take several forms. In joint mediation, the approach might take the form of commonly accepted mediation practice. Key elements would include issues identification, exploration of alternatives and proposed solutions, and negotiation of a formal agreement. This would be accomplished through a series of one to two hour meetings, with usually no more than eight hours in total with the parties (there have not been any cases in FJSW where parties have been seen more than four times to date). In individual mediation, where the parties work one-on-one with the mediator, the process may parallel this formal approach or may be more informal and issues-oriented. Often this requires less actual client time. About 80 % of clients surveyed reported that the mediation was completed in one to three hours of meeting time, while about 20 % said it took longer than three hours.

The start-to-finish time for mediation generally ranges from two weeks to two months. Those who resolve more quickly are described as unrepresented clients who are clear about their interests. The longest time to resolution of a successful mediation was nine months, where there were serious complications. Counselling took place in the middle of the process, and lawyers were used by both parties, including Legal Aid on one side.

The mediator carries approximately 40 to 45 cases at any one time and feels this is the maximum caseload possible in order to provide responsive and quality service. In addition to the direct client workload, this position has also been tasked with much of the development of the recalculation approach and participates in the information sessions and community presentations.

2.6.4 Counselling

Counselling services are an integral component of the FJSW approach. Clients are offered brief intervention (up to about eight sessions over a four month period). From inception, counselling services have been provided to 141 adult clients and 70 children. The counsellor has also been involved with a variety of consulting and assessment activities. She is highly regarded by all associated with the program, including clients.

- Counselling services can be accessed through a variety of means: Pre-mediation—if there is a request at intake for counselling services, a referral is made at that time, which may or may not delay the onset of mediation or other services, as the situation warrants.
- During mediation—the parties may seek counselling for themselves and / or their children, or the mediator may refer parties / children. Again this may or may not involve placing the mediation process “on hold.”
- Post-mediation—parties / children may continue or begin counselling after mediation.

Counselling services are provided directly to and for the benefit of families. This can include individuals, couples, families and groups with children. At any one time, the counsellor reports seeing about 40 client families, and indicates this is the maximum she is able to service effectively. Clients are seen on average about eight times over a four-month period, but this can vary significantly. The client survey indicated that most clients (58 %) received two to four hours of counselling. In addition to direct delivery of services to families, the counselling role has entailed:

- Designing and co-delivering the information sessions.
- Consulting with the mediator / SASW about child development, psychological issues and concerns in specific situations.
- Consulting on specific aspects of parenting plans with parents / mediator / SASW.
- Conducting home assessments (can take up to 40 hours each to complete) and custody reviews (about 10 hours per case) at the request of the court.

Common issues addressed by the counsellor include:

- Grief and other personal issues being experienced by one or both parties.
- Post-separation parenting concerns.
- Child adjustment to separation.

- Step-parenting issues.
- Re-unification of parents with children they have not seen for extended periods.
- Power imbalances / abuse—when flagged in other services, are referred to the counsellor.

The counsellor works in an increasingly collaborative manner with the lawyer /mediator, with an estimated cross-over activity in about 50 % of all cases. This may involve:

- Consulting directly with the lawyer / mediator.
- Providing information and feedback to parents in a mediation session about parenting plans.
- Supporting one of the parties by being present in a mediation session (particularly in situations of perceived power imbalances).
- Assessing children’s perspectives and sharing those with parents and the lawyer / mediator.

Further, the SASW reports referring about 10 % of cases to the counsellor for follow-up. Because the nature of the SASW work is less process-oriented and often conducted by telephone, there is less active collaboration with, or referral to, the counsellor.

Clients of counselling services showed cross involvement with other services as follows:

- Mediation / SASW—79 %.
- Intake—62.5 %.

2.6.5 Child Support Services

The Support Application Social Worker (SASW) Program has been in place for several years, providing assistance to separating persons in determining child support amounts. The program is a collaborative effort of the provincial departments of Justice and Human Resources and Employment.

Under the program, Support Application Social Workers help separated couples to resolve issues of child support, using the Child Support Guidelines. An earlier evaluation of the SASW program by the consultants found the program to have positive impacts on the separation process for families and to generate savings to the public purse. The process has often been successful in securing increased payments to custodial parents on social assistance.⁸ There are two SASWs associated with the Western Region.

When referrals are made to FJSW in cases where support only is at issue, they are directed to the Support Application Social Worker. Referrals originating from Human Resources and Employment (e.g. the custodial parent on social assistance is compelled to apply for support) are

⁸ IHRD, Evaluation of the Support Application Social Worker Program for the Department of Justice, Newfoundland and Labrador, 1999.

handled by another SASW, who is not part of FJSW. The FJSW Support Application Social Worker is responsible for the following:

- All non-HRE originating referrals for child support only.
- All applications for variation of an existing order.
- All Supreme Court support applications.
- All spousal support applications.
- Some mediation when the mediator is in a conflict on a case.
- Co-facilitation of the information sessions.
- Participation in community presentations.

The services of the SASW in some ways parallel those commonly referred to as “conciliation.” Most of the client contact is by phone and involves applying the Child Support Guidelines to the clients’ situation and working with them to achieve resolution. The total involvement is usually no more than three contacts with each party and is generally resolved within one month.

Program statistics indicate that the SASW has worked with about 200 cases to date. The SASW estimates that he has an active caseload of 30 to 35 cases at any one point, which is described as a full workload.

The SASW works closely with other staff in the program and refers about 10% of his clients to the counsellor. He provides mediation services in conflict cases for the mediator and it is anticipated that he will assume an increasing mediation role in custody and access situations as well.

Negotiated agreements through the SASW are said to occur in about half of those cases where clients agree to try to resolve them. This is estimated to have increased from a 30% success rate earlier in the program, and is attributed by the staff person involved to having more cooperative and informed clients. Spousal support situations and situations involving one party out of the province have been less likely to settle successfully.

2.6.6 Administrative Recalculation

Introduction

Family Justice Services Western has introduced, on a pilot basis, a recalculation of support orders made in the Corner Brook area courts, supported by the Western Child Support Service Regulations. The information in this section is taken from interviews with the team that developed and implemented recalculation (two judges, the lawyer / mediator and the recalculation clerk) and a review of administrative information.

Purpose and Objectives

In 1997, the federal government introduced the Child Support Guidelines, which were intended to provide a fair and consistent means of determining support payments. The introduction of the Child Support Guidelines has improved the ability to determine the child support payments required in any given situation. However, there remain challenges in establishing amounts of support in many cases. This is particularly true in Newfoundland, where the nature of employment is often seasonal and where many people are self-employed or leave the province for extended periods to work. This results in wide fluctuations of income for payors. However, support amounts are based upon the financial circumstances of the parties at the time of the order and do not generally attempt to address future changes in the circumstances of the payor.

Prior to the establishment of recalculation services, there was no formal mechanism, short of an application for variation of the order, to take into account a change in the payor's income when calculating the appropriate support amount. The result of this prior situation was seen to include:

- Increases in income not resulting in increases in support for dependent children.
- Decreases in income resulting in less payment in support for children, arrears.
- Use of a formal application for variation process as a resolution, triggering disputes and hostility between parties.
- Further court time in appearances to resolve the variation.

The purpose of recalculation is to create an alternative administrative process for resolution of child support variations based upon changes in income of the payor, with the court's role being restricted to approving orders or dealing with contentious cases.

The objectives of recalculation are described as including:

- To provide a responsive approach to the reality that payor incomes vary considerably from the time an original order is made until child support is no longer required.
- To ensure that children are not unduly denied supports in their interest.
- To ensure payors with decreasing income do not go in arrears simply because of a change in their incomes.
- To diminish the need for variation of support applications going to court, using the Child Support Guidelines to ensure an equitable administrative resolution that can then, barring objection, be made into a court order.
- To reduce court time and to promote the use of the court as being primarily for those situations where there may be complications or special circumstances.
- To improve compliance rates through a non-adversarial automatic administrative model.

Development

A committee comprised of a Supreme Court Justice, a Provincial Court Judge, the mediator for the project and a recalculation clerk worked together to develop and implement the recalculation process. There was some consultation with the local bar and some select other informants. Funding for a clerk position was secured from the Department of Justice Canada. In early 2002, the Western Child Support Service Regulations, NLR9/02 were put in place and applied to all child support orders containing a recalculation clause made under the *Family Law Act* whether in the Provincial or Supreme Court.

Supporting Legislation

At the same time as the Federal Child Support Guidelines came into force in 1997, the federal government amended the *Divorce Act*, to include section 25.1.

Pursuant to section 25.1, the Minister of Justice may, on behalf of Canada, enter into an agreement with a province authorizing a provincial child support service designated in the agreement to:

- (a) Assist courts in the province in the determination of the amount of child support.
- (b) Recalculate, at regular intervals, in accordance with the applicable guidelines, the amount of child support orders on the basis of updated income information.

As noted earlier, Newfoundland and Labrador was the first province to obtain the designation to provide recalculation of child support orders and to implement regulations governing recalculation services.

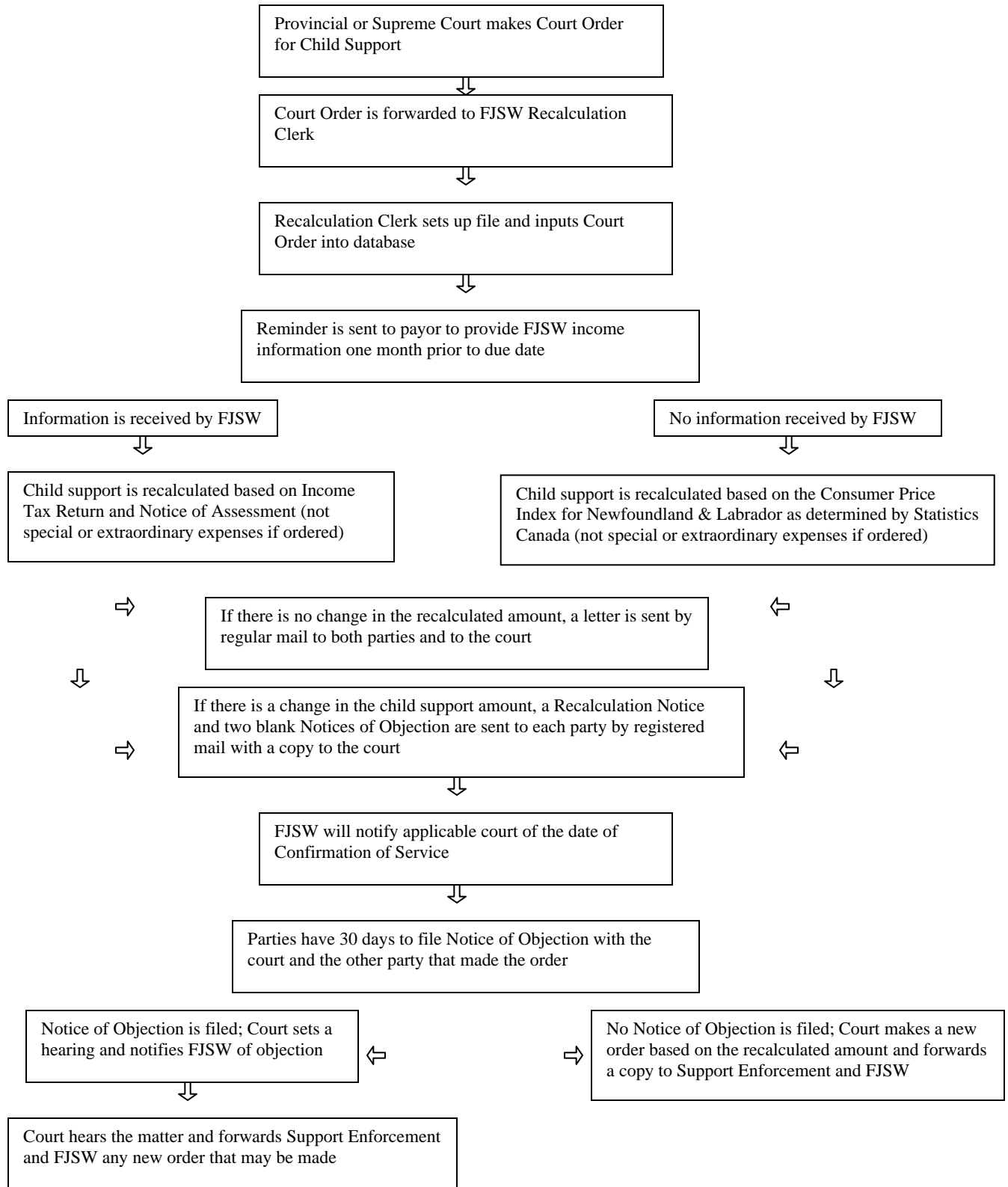
Implementation / Description of Process

- a. Most support orders in the Corner Brook Supreme and Provincial Courts between July and December 2001 contained a clause ordering a recalculation of the orders as of June 2002. These orders were forwarded to FJSW, where a recalculation clerk set up a file for future review.
- b. On May 1, 2002, all payors were sent a reminder letter from FJSW asking them for income tax information.
- c. Where income tax information was received, the clerk proceeded with the recalculation using the Child Support Guidelines, rounding the gross income to the nearest hundred dollars. He then verified the number of children and determined the amount of support required.
- d. Where income tax information was not received, the clerk used the Consumer Price Index (CPI) to proceed with the recalculation. This amount was multiplied by the payor's income as stated in the Court order and then added to the total income and rounded off to the nearest hundred dollars. Again the clerk then verified the number of children and determined the amount of support required.

- e. Once recalculation had occurred, parties were notified by registered mail of the outcome of the process if there was a change (increase / decrease), and by regular mail if there was no change (court sent a copy). Increases and decreases were triggered by a change per month of more than \$5. Parties had 30 days to file an objection.
- f. If no objection was received within 30 days, the court issued a new order and sent it to both parties, copied to Support Enforcement.
- g. If there was an objection, a court date was set to hear the matter.

Figure 2 Recalculation of Court Orders

Flow Chart



Issues Encountered to Date

As with the implementation of any new initiative, there are unforeseen issues that arise.

Some described by staff include:

- Difficulty in obtaining correct addresses of the parties (e.g. returned notices, etc.).
- Situations where parties have reconciled and have not informed the court.
- Original orders that may have included lump sum payment arrangements, which recalculation processes do not take into account.
- Orders where a payor has agreed to pay above the Child Support Guidelines amount of support, and which is now calculated to be below that amount.
- Undue hardship cases (if not exempted) that may have resulted in persons having to demonstrate the hardship each time recalculation is performed.

Staffing

Recalculation is performed by a clerk, the current incumbent being a person with extensive administrative experience. This person works closely with the lawyer on staff at FJSW who is available for consultation. The two judges who have assisted in the development of the process also provide advice and guidance, and the four share comments via e-mail as issues arise.

Utilization / Outcomes to Date

As of July 18, 2002, there had been 121 cases recalculated through FJSW. Key findings include:

- Sixty-four percent (64%) of payors did not provide income tax information as required.
- Overall, 54% of orders stayed the same, 33% increased and 13% decreased.
- Of those cases where the payor provided income tax information, about 63% resulted in an increased support payment, 23% decreased and 14% remained the same.
- Of those who did not provide income tax information, but provided other information (e.g. personal statement or estimates of income), 17 % resulted in an increase in support payments, 7% resulted in a decrease (due to loss of income) and 76% remained the same.
- The average increase of support resulting from recalculation was \$65.4 dollars / month (median \$33; range \$5 to \$460).
- The average decrease of support resulting from recalculation was \$72.7 dollars / month (median \$44 / \$54; range \$5 to \$197).
- About 10% of the orders were for an increase or decrease of \$10 or less per month.

- There were two objections filed, one where an increase was determined and one where a decrease was determined. (Note: The survey findings, which occurred after the review of administrative data, suggested that there have been at least seven objections filed. Changes occurred in two of these situations, while three are yet to be determined).

Table 1 Recalculation

Tool Used for Recalculation	No Change	Increase	Decrease	Total
Consumer Price Index	59 (76%)	13 (17%)	6 (7%)	78 (65%)
Income tax information	6 (14%)	27 (63%)	10 (23%)	43 (35%)
Total	65 (54%)	40 (33%)	16 (13%)	121 (100%)

2.7 SERVICE UTILIZATION

This section describes service utilization with respect to FJSW from its inception to the end of June 2002.

2.7.1 File / Referral Status

Table 2 indicates the number of total files referred to the program between February 1, 2001 and June 30, 2002 and the status of these files (active versus inactive). In total, 415 files were referred to the program. The year-over-year statistics suggest that the annual referral rate for the program is approximately 300 cases per year. The tables below are broken down into three time frames to allow for a separate view of annual utilization. Given the period in which the program has been operational, the only full fiscal year available to review is April 2001 to March 2002. This gives an illustration of potential program utilization on an annualized basis.

Also in this table, the reader can see that there are an equal number of referrals from both the Provincial and Supreme Courts.

Table 2 FJSW File Status Information

	Feb. 1/01 - March 31/01	Apr. 1/01 - March 31/02	Apr. 1/02 - June 30/02	Total to June 30/02
Active files	3	63	18	84
Inactive files	44	228	59	331
Total files to date	47	291	77	415
Supreme Court files	24	140	43	207
Provincial Court files	23	151	34	208

2.7.2 Services Provided

Analysis of Table 3 shows that approximately 17% of all referrals receive no service, while another 24% receive assessment only from the program. Cases may not proceed or be screened out for a variety of reasons, including:

- Lack of contact information.

- No response from client / lawyer.
- Lawyers involved and negotiations underway or completed.
- Personal issues of clients (e.g. mental health, safety/ domestic violence).

About 59% of all referred clients receive some form of mediation, with the largest form of this mediation being individual in nature (79%).

Table 3 Services Provided to Closed Files—FJSW

	Feb. 1/01 - March 31/01	Apr. 1/01 - March 31/02	Apr. 1/02 - June 30/02	Total to June 30/02
Assessment only	7	58	15	80
Assessment & individual mediation	30	107	18	155
Assessment & joint mediation	0	11	8	19
Assessment, individual mediation and joint mediation	6	13	2	21
No services provided	1	40	15	56
<i>*Clients that received counselling</i>	38	125	48	211
Total closed files	44	229	58	331

* These counts are part of the counts above.

2.7.3 Client Outcomes

As Tables 4 and 5 below show, in most situations where mediation is completed (n=149), the process results in at least partial agreement on the issues (n=102, 68%), and a full consent resolution in half the cases. This includes all cases handled by the SASW and the lawyer / mediator. As one can see in Table 4, there are a myriad of reasons for cases remaining unresolved, most of which are factors outside the control of the program.

Table 4 Results of Resolved Files—FJSW

	Feb. 1/01 - March 31/01	Apr. 1/01 - March 31/02	Apr. 1/02 - June 30/02	Total to June 30/02
Consent order	13	58	19	90
Interim consent order	0	1	0	1
Partial consent order	2	6	1	9
Divorce corollary relief previously resolved	3	8	3	14
Application withdrawn	2	4	1	7
Reconciliation	0	3	0	3
Other	2	9	1	12
Resolved by consent prior to hearing	0	1	1	2
Total resolved files	22	90	26	138

Table 5 Results of Unresolved Files—FJSW

	Feb. 1/01 - March 31/01	Apr. 1/01 - March 31/02	Apr. 1/02 - June 30/02	Total to June 30/02
Mediation unsuccessful	8	30	9	47
Applicant would not participate in service	2	2	1	5
Respondent would not participate in service	0	7	1	8
Barriers to service—transportation	0	1	0	1
Barriers to service—child care	0	0	0	0
Out of province party requests provisional hearing	1	10	1	12
One party would not accept table amount	0	1	0	1
Property tied to support	3	1	0	4
Claim for undue hardship	0	2	0	2
Claim for special expenses	0	0	0	0
Financial information incomplete—applicant	1	0	0	1
Financial information incomplete—respondent	1	4	0	5
Complicated legal issues	0	3	0	3
Staff conflict	1	1	0	2
Unable to contact—applicant	0	4	1	5
Unable to contact—respondent	2	14	3	19
Child welfare issues	0	2	1	3
Mental health issues	0	2	0	2
Safety issues/domestic violence	1	1	0	2
Provincial Court stayed, matter now with Supreme Court	0	4	1	5
Multiple reasons unresolved	0	10	3	13
Other	2	7	3	12
Total unresolved files	22	106	24	152

2.7.4 Issues Addressed

Approximately 48% (n=198) of all referrals to FJSW involve custody and access issues, including about 14% (n=60) where custody and access are the only issues. Child support cases only make up about 40% (n=166) of all FJSW referrals. About 34% (n=135) of all cases deal with custody, access and support issues, while 16% (n=66) involve spousal support. About 16% of all cases (n=64) involve parties who are divorcing (See Table 6).

Table 6 Legal Issues Covered and the Number of Resolved, Unresolved, Active and HRE Files to the end of June 2002—FJSW

Legal Issues	Active Files	Number Resolved	Number Unresolved	HRE Files	Total Files
Child support only	28	47	60	31	166
Spousal support only	5	2	14	0	21
Custody/access only	16	16	28	0	60
Child and spousal support	0	4	3	10	17
Child and spousal support, custody/access	2	2	9	0	13
Child support and custody/access	20	37	15	0	72
Spousal support and custody/access	0	0	0	0	0
Divorce only (excluding matters of custody / access and support)	1	7	1	0	9
Child support and divorce	0	0	0	0	0
Spousal support and divorce	0	0	3	0	3
Custody/access and divorce	1	1	1	0	3
Child & spousal support, divorce	0	0	0	0	0
Child support, custody/access, divorce	5	19	14	0	38
Spousal support, custody/access, divorce	0	0	0	0	0
Child and spousal support, custody/access, divorce	6	3	3	0	12
Miscellaneous files received from Court, e.g. property	0	0	1	0	1
Total	84	138	152	41	415

2.7.5 Counselling

The counselling service keeps its statistical records separate from the remainder of the program. As Table 7 indicates, the program, discounting the first two months of February and March 2001, where there may have been a flurry of referrals at the outset of the program, shows growth in the number of new cases seen per month from about 10 to 17. Because counselling is not linked to cases, it is difficult to estimate the percentage of total FJSW referrals in which the counsellor is involved. In terms of the number of cases receiving any service (n=303), counselling is offered in between 46% (n=141) and 70% (n=211) of cases, assuming all clients receiving service are from different families. This number is calculated by dividing the number of cases by two, assuming that all of the 141 adults receive counselling, except one, and that all of the 70 children are seen.

Table 7 Counselling Statistics—FJSW

	Feb. 1/01 - March 31/01	Apr. 1/01 - March 31/02	Apr. 1/02 - June 30/02	Total to June 30/02
Adults received counselling	30	88	23	141
Children received counselling	8	37	25	70
Home assessment	0	1	0	1

2.7.6 Client Characteristics

The clients referred to FJSW present an interesting profile on several issues. These include:

- Almost 74%) (n=306) of all clients referred to FJSW are not represented by lawyers, despite the fact that any referral to FJSW is contingent upon filing a court application.
- Of those individuals indicating they had lawyers, 53% are represented by private lawyers (n=105). The remaining 47% (n=93) are represented by Legal Aid attorneys.
- Some 63% of all referred clients attend the information session.
- About 8% of all referred clients reside in the province, but outside the service area of FJSW.
- About one in eight clients referred to FJSW reside outside the province.

Table 8 Client Characteristics—FJSW

	Feb. 1/01 - March 31/01	Apr. 1/01 - March 31/02	Apr. 1/02 - June 30/02	Total to June 30/02
Files originating from Blomidon Place	0	3	0	3
Clients from outside of project area	5	48	16	69
Clients from outside of Newfoundland	11	69	18	98
Applicants that attended information session	26	124	21	171
Respondents that attended information session	9	61	20	90
Clients represented by private lawyer	0	69	36	105
Clients represented by Legal Aid lawyer	0	64	29	93
Clients unrepresented	0	233	73	306
Clients that 'dropped in' seeking information	0	3	20	23

2.8 BUDGET

The total budget allocated to FJSW over its two-year pilot was \$489,460. The project funding has been lower than the “real” costs in three important respects, namely:

- The counsellor role salary has been low compared to generally available salaries for similar positions.
- In-kind costs have been borne by the provincial government (project coordinator).
- The administrative clerk position has been paid for through monies obtained for recalculation.

Some funding is in place for transportation and rent, but there is no formal professional development budget. Training has been accessed through other funds or reallocations of existing dollars.

3.0 EVALUATION RESULTS

Rationale / Design

3.1 FJSW arose from the concern of a small number of individuals interested in addressing needs of families encountering separation and divorce. It addressed a lack of alternatives in family law in the region and in the province (other than in the St. John's UFC Region).

No formal needs assessment was undertaken with respect to implementing FJSW. A small group of interested individuals had been advocating for about two years, unsuccessfully, for a UFC in the Western Region. They saw a clear need for alternatives in dealing with family law matters and sufficient numbers of potential cases to warrant a service. When funds became available to create such a service, this group responded, with the support and assistance of the provincial Department of Justice. The Administrator of the UFC in St. John's was instrumental in this regard.

Interviews with judges, lawyers, government officials and community agencies in the Western Region confirm that prior to FJSW, parties attempting to resolve family law matters had few options other than lawyers and court. A sample of comments:

"There is more litigation especially respecting parenting outside St. John's UFC. There is little conversation between parties." Canadian Bar Association, Newfoundland chapter

"Prior to FJSW, the situation was frustrating, heart-wrenching to see kids in court—average family does not have money for counselors or lawyers—court increased the animosity between parties." Provincial Court judge

"There were no mediation, information or counselling services available to court (prior to FJSW). There are an increasing number of litigants appearing before the Court who are unrepresented." Supreme Court justice

"Prior to FJSW, there was an adversarial approach, very damaging to children and families." Director, Mental Health and Addictions, HCS-Western

There is widespread acceptance of the need for alternatives to the existing family law services available in the province, as demonstrated in consultations undertaken in 2001 across the province. Judges, lawyers, justice officials and community advocates concur on this point, and in acknowledging the negative consequences for families in the absence of these services (e.g. higher costs, poorer outcomes, more stress for parents and their children).

3.2 All provinces and territories in the country are developing alternatives in family justice services. The design of family justice services varies considerably across the country. The model in FJSW is distinctive in terms of personnel (lawyer-mediators, counsellors), process (automatic referral), some components (administrative recalculation) and its base in a community agency.

There is considerable activity and interest in strengthening family law, including developing family justice alternatives across the country. These alternatives, as noted in section 1.1 of this report, focus in the main on provision of information and dispute resolution services.

A review of the FPT Family Law Committee's inventory of relevant government-based services (January 2000) highlighted the following national innovations and trends:

- Mediation—is provided in all provinces and territories. It may be mandatory / voluntary in nature, free, or fee for service. It may cover a range of issues (e.g. custody, access, child support and matrimonial property). It is generally available in court settings or through provincial justice ministries.
- Parent education—most provinces operate group information sessions for parents who are divorcing. These are often co-developed and co-facilitated by lawyers and social workers / psychologists, and cover information on emotional and legal issues. A minority of provinces and jurisdictions make attendance mandatory.

FJSW is distinct from other family justice services programs across the country in a number of ways:

- It is situated in a community agency—those interviewed view the setting as conducive to the nature of the services provided. Several interviewees questioned the assertion that FJSW is a community agency. This is discussed in detail elsewhere in the report.
- Referrals to FJSW are automatic from both the Provincial and Supreme Courts—those interviewed were supportive of this approach and of recent changes to the rules of court in the province that underline the use of automatic referral.
- Its mediators are lawyers—this is a departure not only from other provinces, but also from the UFC approach that preceded FJSW. The rationale is that the local legal community will more easily support lawyers in this new role than non-lawyers.
- It offers administrative recalculation in child support matters—there are other jurisdictions in the country pursuing this approach (e.g. P.E.I.), but FJSW is the first to legislate and implement this service.
- It offers an in-house counselling service—while there are other programs in other parts of the country where this service is provided, FJSW's separate status and links to dispute resolution services are unique.

3.3 The FJSW service as designed is well received in the Western Region

Interviews with key informants confirmed that the design of FJSW is in keeping with the perceived needs in the region for family justice services. There is particular support for the use of mediation, combined with information sessions and counselling. Almost all of those interviewed noted that this combination allows for all the issues faced by parties in separation and divorce to be addressed positively and in a non-adversarial atmosphere.

Some of those interviewed questioned the practice of restricting services at FJSW to those who had filed a court application. This included two lawyers who felt that individuals and families could benefit from the services prior to filing an application. The rationale of the FJSW Steering Committee in establishing this restriction was that it was important to control the parameters of the services while the project was in a pilot phase. Eligibility issues will be revisited in future.

Implementation

3.4 Referrals to the program are restricted to the Provincial and Supreme Courts only. Information sessions are held with most new clients of the FJSW service and are well-received. Intake sessions with clients are held with the mediator. Clients view these services positively.

Entry into FJSW services occurs only following a formal application being filed in either the Provincial Court or Supreme Court. As a matter of course, family law applications filed are forwarded by the courts to FJSW. Some informants, including some staff, questioned this practice, as FJSW cannot be accessed directly by the community. However, proponents indicate the limits imposed were intended to provide some boundaries to the program in its pilot phase, and not to preclude community initiative in seeking service or to make FJSW solely reliant in the longer term on the court for referrals. To date, equal numbers of referrals have been received from each level of court to the program.

Client response to the information sessions has been quite positive, as demonstrated in a review of the self-administered evaluations completed at each session's end (compiled but not summarized), as well as the findings from the client survey conducted for this evaluation. In the survey, most participants were satisfied with the staff presenting (96%; n=82), the approach taken (94%; n=81) and the outcome (82%; n=70). The sessions were generally described as informative, supportive and useful. It is clear from the survey comments that many parents benefited greatly from information about the separation experience as it relates to themselves and to their children. Further, these sessions introduced staff to their prospective clients. It is interesting to note that while fully one-third of the survey sample reported that they were mandatory participants in FJSW, this did not appear to adversely impact their satisfaction levels or their willingness to recommend the services of FJSW to others (90%; n=77). Nearly all of these mandatory clients (98.8%; n=85) attended the sessions. Only one informant, a private lawyer, questioned the practice of "mandatory" or coerced information sessions, suggesting this may not be appropriate and that some vulnerable clients may not be in a position to effectively process such information. Staff indicated that they do accommodate individual sessions with vulnerable clients. One informant also advocated for an information session for children to be introduced.

A small number of participants have expressed that the session is not relevant for them, particularly those who have been apart for several years and are merely filing an application for variation, or those who have no historical or anticipated relationship with a child for whom they are paying support. This issue may help explain why the satisfaction rating for the timeliness of service is lower (78%) than for other features. The position by FJSW is that the session provides useful and practical information of concern for all parents and that this warrants the strong approach taken to ensure attendance. Also, while parents are told that their presence is expected, there are exceptions made. Low-functioning parents are sometimes given similar information via individual sessions.

Most interviewees were very positive about the information sessions and their impact on clients. Staff stated “information is power” and that the sessions explain the process of separation from a legal and personal perspective, which assists many clients in approaching the issues in a healthy manner. Judges and lawyers suggested that clients who attend are better informed and less likely to bring emotional issues to bear on the legal matters.

Initial mediation intake sessions take place in person or over the phone, and are usually completed within two weeks of the referral being sent to FJSW. The majority of clients surveyed view the process as being timely (68%; n=32), performed by a qualified staff person (85%; n=41), fair and safe (83%; n=40) and as having a positive outcome (75%; n=36). The lawyer / mediator indicated that there are some benefits to in-person contact, particularly in custody and access situations, especially with respect to screening for power imbalances and violence. This is described as much more difficult to do over the phone, as non-verbal cues are absent.

About one-third of all clients referred to FJSW receive either no mediation service or intake services only. This may be due to a number of issues, including:

- Refusal of either party to participate (in about 3% of cases).
- Inability to contact 1 party (6%).
- Lawyers involved and negotiation complete or underway (estimated up to 20%).
- Personal issues of clients (e.g. mental health, child welfare, safety / domestic violence) (1.7%).

3.5 FJSW provides a range of alternative dispute resolution approaches and techniques under the general title of mediation, geared to the needs and circumstances of families dealing with custody and access issues. Informants, including clients, generally are quite positive about the skills and approach of the lawyer / mediator and the impact of the service on families and the family law system.

There is considerable information to support the view that mediation services are having a positive impact on both families and the family law system. As of the end of June 2002, the program had successfully resolved about 70% of cases where mediation had been attempted, according to both statistics and the impressions of the mediator. The findings from the client

survey also support this general impression. Seventy percent (70%) of clients reported partial or full agreement on the issues mediated. Lawyers at Legal Aid, as well as those in private practice, reported a decrease in demand upon their services, which they directly attributed to the mediation services of FJSW. Judges and court officials indicated there had been a discernible decline in the amount of court time required to resolve family law disputes and increases in consent orders. They also observed that clients are better prepared when cases proceed to court. This is most notable in cases where clients are unrepresented. Those interviewed suggested that in these cases, clients appear in court better informed about the process and better able personally to resolve the issues.

The mediator is credited with having a flexible, practical approach that obtains proven results, consistent with program goals. Clearly lawyers and judges feel comfortable with her in that role and respect her judgment and actions. In terms of agreements reached between clients, to date none have been altered by the judges interviewed.

Most clients surveyed who participated in mediation were satisfied with the timeliness of service (73%; n=39), the qualifications of the mediator (88%; n=46), the fairness and safety of approach (85%; n=45) and the outcome / resolution (72%; n=38). These clients were more likely than other users of FJSW services to indicate that they were helped in their personal dealings with separation and divorce, that the process reduced their costs and that the service compared favourably with other past resolution experiences.

Issues relating to the effective handling of power imbalances and violence issues in mediation were raised with interviewees. The program has questions within its intake form dealing specifically with power imbalances and violence. The mediator indicated that these questions are generally followed, but there is some discretion used in the context of the conversation with clients. To date, two clients have been screened out of mediation services for issues related to violence; a number which interviewees from community agencies suggest is lower than one might anticipate. Staff explained that the relatively low number of screened out cases may be explained in part by the fact that, in terms of support issues, referrals coming from HRE that involve custodial parents on income support, are not dealt with directly by FJSW. A local women's organization indicated that this is the group of women they hear from most frequently and that they have heard little feedback about FJSW. This person also indicated that they would be likely to hear if in fact the program was serving victims of violence in mediation and not applying appropriate screening tools. Two interviewees from community agencies raised the need for clear protocols and perhaps some focused staff training on this issue. The program staff did meet with women's organizations at the outset of the pilot to discuss issues of safety and how to ensure a women-friendly environment. The client survey suggests that six clients, or 11%, were dissatisfied with the fairness and safety of the process, but qualitative data suggest only one woman, whose partner was described by her as an alcoholic, felt her safety was in some jeopardy. In this case, the dissatisfaction was primarily related to perceived unfairness in the process (i.e. favouritism) rather than an unsafe environment.

There was some caution expressed by lawyers about the mediation process generally. They emphasized independent legal advice should not be bypassed in mediation and advised that parties be strongly encouraged to seek some legal advice prior to engaging in mediation. Staff noted that this is their practice.

Some interviewees (notably legal aid lawyers and some judges) advocated for an expansion of the mediation role to include matrimonial property issues. This comprehensive mediation approach is seen by some to be particularly viable given the fact that the mediator is a lawyer. Some have suggested that there may be a role for the program in mediating the issue of exclusive possession of the matrimonial home on an interim basis, as this impacts on support in many situations. (At present, the options for families are limited to more formal legal means.) However, others feel it is premature to expand the mediation role in this manner, and that this might jeopardize the positive relationship being established between FJSW and the private bar. Some informants believe the bar would be most likely to resist an expansion of the mediator's role. It should be noted that questions regarding expanded areas of practice were not put to interviewees and the comments above were unsolicited. For its part, program staff has not put comprehensive mediation forward as an area of desired expansion.

3.6 Counselling Services are an integral component of the FJSW approach and the service is highly regarded by most informants, including clients.

Counselling clients surveyed were very positive about the services they received from the counsellor. Like other survey participants, they also rated the general service highly, with some interesting differences, as follows:

- They were more likely to say FJSW facilitated referral to other services.
- They were more likely to say using FJSW reduced their costs.
- They were more likely to say they were helped with personal issues around separation and divorce.
- They were less likely to compare FJSW favourably to other legal processes (though this represents very low numbers).

Those interviewed for this report clearly supported the counselling role as a primary requirement for FJSW. The need to have accessible, responsive counselling services available to families experiencing separation and divorce was emphasized repeatedly. One private lawyer practicing in Corner Brook stated that when she refers clients to mediation services she also refers them to counselling. As to utilizing other community options, the director for community mental health services in the region estimated there is a three to six month waiting period for counselling services. Furthermore those providers available (only two in the Corner Brook area), while professionally trained, do not have specialized training in issues of separation and divorce. She also noted that, prior to FJSW, there was a "huge gap" in available services, especially for those without an ability to pay for private counselling.

For staff, there is a strong belief that the counselling services augment the dispute resolution process and impact positively on client outcomes, in terms of general parenting, in-house programs, such as mediation, and court appearances. Many informants felt the counselling service needed to be expanded so that all clients who require counselling, especially children, have access to this vital support.

3.7 Most informants are positive about the services provided by the SASW and of the skills and experience of the incumbent. Survey participants were not asked about this service, as it had been recently evaluated.

Client response to the SASW role is less clear than for other program areas. In preparing for the survey, the consultants felt there was less need to gather data on the SASW role, as this program had been recently been evaluated. As a result, they requested that these cases be under-represented in the survey sample. Given that the majority of those receiving mediation reported they did so in person, it is likely that few of those who were interviewed received assistance on support issues alone. Most of those clients were served by phone. In any event, to the degree to which the survey participants do represent SASW clients, the response to the service, in terms of timeliness, qualifications of staff and outcomes, can be seen to be positive.

3.8 Administrative recalculation is supported as an innovative, efficient and responsive option to addressing changes in payor circumstances in child support matters. Client satisfaction with the process and outcome of recalculation is bodes well for its future use.

The client survey demonstrates a positive regard for administrative recalculation. Specific findings include:

- Most clients were satisfied with the outcome of recalculation (71%; n=49), with 16% indicating they were not satisfied. Lack of satisfaction in some instances was linked to clawbacks of monies received by recipients on social assistance.
- Most clients (58%; n=40) expected the outcome in recalculation, with a smaller number (19%; n=13) indicating the outcome was not what they expected.
- Most clients indicated that recalculation was a fair means of determining child support (86%; n=60), with a lesser number stating it was unfair (10%; n=7).
- For those surveyed who had been involved in variation proceedings and had also used recalculation (22%; n=15), over half indicated recalculation was a better process (53%; n=8). A smaller number (13%; n=2) stated that court was better.
- Most clients (88%; n=60) felt recalculation had not had a negative effect on their relationship with the other party. Only a few (7%; n= 5) felt it had had a negative impact. This finding is important in that several informants had previously expressed concern that recalculation would open up old emotional wounds between the parties. These results indicate that, while this might occur, it is a concern only in a small number of cases.

The survey results, while encouraging, must be viewed with some scepticism. The sample, although close to 30% of those who have undergone recalculation, was relatively small at n=72. It was also predominantly female, with more recipients of support than payors. For a more detailed description of the survey and its findings, see the survey report in the appendices.

The interviewees in the study who were aware of recalculation expressed support for the concept. In general, the lawyers interviewed were not familiar with recalculation, which might underline a need for education. The rationale for streaming these situations out of court was generally acknowledged as positive, as long as the opportunity for cases involving special needs or undue hardship to be addressed differently is maintained.

Some specific comments from key interviewees about recalculation include:

Judge, Provincial Court

- The issue of special circumstances can be better addressed, as is being explored in P.E.I. Planning was lacking in dealing with undue hardship cases.
- There is a need to address the issue of non-compliance with tax information on the part of payors, as the results show a much higher likelihood of increases for recipients when tax information is available.
- It is too early to tell what the implications will be on court time, but logically the use of court should decrease as variations decrease.
- There are opportunities to make the process simpler, removing the need to reappear in court.
- There is a need to revisit the policy by which inter-jurisdictional orders are addressed in the jurisdiction of the payor, meaning that FJSW loses jurisdiction when payors move.

Judge, Supreme Court

- Changes in the rules of court, effective April 2003, should help obtain tax information more easily.
- Recalculation lessens the tension between the parties, lowers emotional and financial costs, and is more responsive to the needs of children.
- There are fewer variation applications evident.
- Recalculation will likely be adopted province-wide.
- Several other provinces are pursuing recalculation—Nova Scotia, P.E.I., Manitoba, Quebec, and British Columbia.
- There is a need for a more persuasive option than using the Consumer Price Index to get payors to provide tax information.

The consultants interviewed a lawyer with the Government of Prince Edward Island who is responsible for developing a recalculation model for that province and has studied the FJSW approach. The P.E.I. program will be based significantly on the FJSW experience, although it is not yet operational. Her comments on the direction being pursued include:

- The P.E.I. program will be administered by government directly.
- There will be an incentive for persons to provide tax information, as the rate used to calculate for those payors not supplying tax information will be more punitive than the Consumer Price Index, as used by FJSW.
- Orders will not return to court once recalculated unless an objection is filed.
- Some special orders will be excluded and formulas will be developed for special expense categories.
- The service will be open to parties who have made separation agreements, as well as those filing in court.
- The minimum amount to trigger recalculation will be \$1.00, as opposed to \$5.00 in FJSW.
- Recalculations will be reviewed on each anniversary date, rather than on a common date, to avoid creating peak activity times.

The interaction of administrative recalculation with support enforcement is important. The Director of Support Enforcement for Newfoundland and Labrador expressed general support for recalculation, but noted the following:

- The current process appears to favour the payor, as there is no penalty for non-submission of income tax information.
- Although only a minority of people submit information, in those cases almost half had a decrease in the amounts they had to pay. This suggests that perhaps people who would have to pay more are not submitting the information.
- There have been 348 orders sent to Support Enforcement for adjustment and enforcement, requiring increased staff time and straining existing resources.
- It may be that all orders should be indexed, placing the onus on the payor to bring the issue forward to the court. It may also be necessary to implement some penalties for non-submission.
- There have been some procedural issues related to how to discontinue recalculation in the event of reconciliation or other circumstances, but these are being worked on.

Organizational Structure

3.9 The Steering Committee of FJSW provides strong leadership to the program. The use of a community-based organization to operate this service represents a unique approach to delivering family justice services. Its applicability in other regions is questioned. One informant described the model as “court-annexed” in nature.

There is some discussion about the extent to which FJSW operates as a community organization. As noted previously, it accepts referrals only through the courts in the area. It accepts mandatory or “coerced” referrals for its services. It is strongly associated with the judges involved. One senior justice official noted that FJSW operates as a “court-annexed” service. The optimal nature and extent of the relationship between FJSW and the courts is an important question to be resolved. Staff indicated a discomfort with the fact that there are no supporting legislation or rules of court to direct their delivery, describing a corresponding feeling of vulnerability as a result. (Note: Rules of court have been enacted in April 2003 clarifying the role of FJSW and automatic referral from the courts).

Interviewees were asked about the degree to which the FJSW approach could be utilized in other regions. Most informants are highly supportive of the efforts of the Community Mental Health Initiative (CMHI) to nurture the development of FJSW in its pilot phase, but general support for community-based models delivering family justice services is less evident. Informants expressed concerns about capacity, accountability and quality expressed in the event a community-based approach is implemented at the present time in the province. It needs to be stated that none of these issues were raised about FJSW itself. In fact, some felt that FJSW’s success might lead decision makers to conclude, in error, that the community capacity and preparedness to assume responsibility for such services is generally available in all regions. Several informants questioned whether or not the FJSW experience could be effectively replicated in other regions, or if it is a unique situation, which will not be easily transferred to other regions. For their part, staff members disagree with this perspective, suggesting that the success of FJSW is strong evidence of the positive value of a community-based approach.

3.10 The staffing model of FJSW includes a lawyer / mediator, a counsellor, a Support Application Social Worker and an administrative recalculation clerk. This group works effectively within a non-hierarchical structure.

The staff of FJSW does not have a traditional management structure and functions as a team. The roles of the employees are fairly distinct and they operate autonomously. The administrative coordinator of CMHI is the organizational link between staff and the steering committee and handles administrative matters

Several informants noted the positive working relationship among the staff, including the staff members themselves. They tend to work independently and collaborate as needed. Most informants seem to attribute the collaborative spirit evident at FJSW to the people involved, rather than to the organizational structure. For their part, staff members assert the working relationships are a basic and necessary feature of approach in FJSW, and are present by design not accident.

The informants generally support the staffing model. Most felt that a multi-disciplinary approach, with lawyers, social workers and psychologists, supported by an administrative person, is important to the program's success. Alternatives discussed by some informants include:

- Not restricting the mediator role to lawyers, but having access, perhaps through Legal Aid, to legal advice and input.
- Enhancing the counselling role.
- Involving the SASW more in the broader mediation roles.

Outcomes

3.11 The project appears to be utilized to its capacity in the Western Region. Staffing is described as adequate in relation to current service demand, but there is no apparent excess capacity.

The program statistics described earlier in this report suggest that there is a regular and sustained workload for the existing staff of FJSW. Workload measurement is a sophisticated endeavour and no formal process was undertaken in this instance. However, relevant information has been captured, and some key workload indicators include:

- The mediator has a caseload of 40 to 45 persons at any one time, all of which generate activity in intake and information services, in addition to the mediation sessions and associated administrative duties (e.g. writing agreements, consulting with lawyers / court staff).
- The counsellor carries a caseload of approximately 40 persons at any one time, which again generate some administrative duties (e.g. recording). The counsellor also plays a key role in designing and implementing information sessions, consulting with colleagues, and latterly, conducting home assessments.
- The Support Application Social Worker carries about 30 to 35 cases at any one time, with considerable pressure to resolve these issues in a timely manner. Latterly, in addition to addressing child support issues, this role has assumed some responsibility for mediating custody and access situations, which take more time per case to resolve.

Should the project continue, factors which need to be monitored in terms of their impact on workload for staff, include:

- All staff will likely see an increased workload if the program is opened up to referrals from the general public.
- Expansion of mediation services to Stephenville may increase workload for the other staff at the Corner Brook office that would be providing support to the mediator.

- Other expansion to cover the entire region would add workload and be difficult to service adequately due to travel requirements (use of distance technology may ameliorate this concern).
- As more cases are recalculated, the workload of the administrative recalculation clerk will increase, leaving less time to provide administrative supports to other staff.
- The mediator's workload per case may increase if the trend continues toward more people selecting the joint mediation option, which is described as more time-consuming.
- As the SASW position assumes greater responsibility for mediation of custody and access matters, this person's workload will likely increase (though this also allows for some workload management between this position and the mediator to occur).
- Workload issues for the counselling role may arise if there is any increase in home assessments or custody reviews completed by this position.

3.12 Surveyed clients of FJSW are generally satisfied with the services they have received and the associated outcomes, reporting significant benefits to themselves and their families.

As noted in previous sections, a majority of clients surveyed expressed satisfaction with the intake, information sessions, mediation and counselling aspects of the service. Key findings are noted below.

Overall Satisfaction

Clients are largely satisfied with services overall. Specific findings include:

- Timeliness—80% (n=60) of clients were satisfied with the timeliness of services overall, with 5% (n=4) reporting being dissatisfied, Some of those expressing dissatisfaction indicated the outcome was still not assured (e.g. still trying to obtain child support).
- Qualifications of staff—93% (n=70) of clients reported satisfaction with the overall qualifications of staff.
- Fairness and safety—88% (n=66) of clients were satisfied with the fairness and approach taken by staff.
- Outcome—75% (n=56) of clients were satisfied with the overall outcome of services.
- Barriers—only 7% of clients reported any barriers to service access, the chief of these being child care and transportation.

The findings are generally positive in terms of impacts of services on surveyed clients. Key findings include:

- Knowledge—80% (n=68) of clients reported an increase in awareness of legal processes and options. While some clients said they had had prior knowledge about the legal process, others felt FJSW was very helpful in expanding their understanding of options.
- Fostered resolution—74% (n=64) of clients felt the program facilitated mediation as opposed to a court settlement. Some said they had to go to court anyways, while others said that mediation was promoted.
- Parenting—73% (n=63) of clients said the program improved their parenting. The counselling component was highlighted by participants in this regard. Sub-group analysis showed that older participants (35 years of age and older) were less likely than younger participants to state that FJSW had helped their parenting, and that those participants who had been apart for more than one year were less likely to say they were helped by FJSW in their parenting.
- Costs—47.7% (n=41) of clients said the program reduced their legal costs. For those respondents whose costs were not reduced there were two main reasons described: they had to go to court anyway, or they were in receipt of legal aid and were not paying for services either way. Sub-group analysis showed that sole custody mothers were less likely than other participants to indicate that the program had reduced costs to them, and that participants who described themselves as mandatory clients were more likely to say FJSW had reduced their costs than others.
- Personal issues—52% (n=45) of clients said they were helped in dealing with the issues of separation and divorce. For those who felt they did receive help, key comments were related to information and parenting. About half of those who did not feel they were helped in dealing with the divorce / separation indicated their situations did not warrant such assistance (e.g. some had been separated for several years and there were no personal issues remaining to be resolved). Others had a range of concerns. Sub-group analysis showed that sole custody mothers were less likely than others to state that FJSW had helped them with personal issues, and that those participants who were apart for less than one year were more likely than those apart for longer periods to say that FJSW had helped them with their personal issues.
- Comparisons to court—of those who used other family justice services (i.e. court), 50% (n=11) said FJSW was a better experience, while 18% (n=4) said it was worse. For those with favourable experiences under FJSW, key differences noted included staying out of court, attitude, approach and greater information sharing. Those favouring court, cited issues of process (one said unfair, one said they didn't get the help they wanted) and outcome (one said worse in FJSW, one said their ex would not cooperate and FJSW couldn't make him).

- Would use FJSW again—91% (n=78) of respondents said they would use FJSW again if needed. Key reasons given included that FJSW was better than court, provided helpful and understanding service, saved clients money and made counselling available. For the few persons who would not use the services again, their stated reasons included that FJSW has no power, gave them incorrect information and that the process resulted in a worsening of a parent-child relationship.
- Would recommend services to others—90% (n=77) of clients said they would recommend these services to others. The top reasons for recommending the service included good information / very informative, helpful / understanding, better than going to court, information sessions helpful, saves time and money, and assists in dealing with children. For the few who would not recommend the services, stated reasons focused on client perceptions of poor treatment (n=4). One felt they were forced to attend and one did not like the outcome.

One interesting finding appeared in response to the request that clients rate their ability to resolve issues with their spouse at the time of separation and at present. At the time of separation, 79% (n=66) of clients reported a very poor or poor ability to resolve issues with their ex-spouse, while 13% (n=11) reported a good or very good ability to do so. At the time of the survey, 38% (n=33) of clients rated their ability to resolve issues with their ex-spouse as poor or very poor, and 36% (n=31) rated this ability as good or very good, a marked improvement.

Participants were also asked to suggest areas for improvement in the service. Key suggestions include:

- More counselling services.
- Improve the screening process to separate groups according to need.
- Advertise services more widely.
- Treat cases differently (e.g. keep in touch, treat cases as unique, don't take sides).
- Shorten information sessions.

Full survey findings are reported in the appendices.

3.13 There are anecdotal reports of significant savings in court time for family law matters directly attributable to FJSW. Clients appear to be better educated and focused on the legal issues when they appear in court. Legal Aid reports workload reductions as a result of FJSW.

There are encouraging signs of the desired impacts of FJSW on court time and on workload for Legal Aid attorneys. Although no statistics are kept to track time in court for family law, Supreme Court officials indicate a reduction in court time of between 30 to 40%, as well as in the amount of time cases take to get to court. They attribute these changes directly to FJSW. Officials also report that lawyers are happy about the process and express disappointment in situations where cases do not fall into the geographical area served by the program. One judge in

Provincial Court estimated that as a result of FJSW, court time spent dealing with custody and access issues may be reduced by as much as 75%, with a reduction of about 50% in support matters. This is enabling the court to hear more cases without having a significant backlog. All judges involved reported that participants were generally better educated and more focused when appearing in court, thus saving court time. Administrative court staff indicated some increased and new activity for them as a result of FJSW (forwarding applications, receiving and processing consent orders, consultation with FJSW staff).

Legal Aid attorneys positively note a discernible reduction in their workload with respect to family law matters as a result of FJSW. They indicate their role is more appropriately confined to legal issues and to reviewing agreements negotiated by the parties with a mediator's assistance.

3.14 A majority of persons using the mediation services of FJSW are resolving their issues of child custody and support. The integration of services, especially information sessions and counselling, is seen to impact positively on these outcomes.

As noted earlier, the success rate in finding agreement for those issues where mediation services are initiated is about 70%. This is an impressive outcome, especially when one considers the possibility for resistance inherent in the automatic referral procedure from the courts. If the traditional views about the enhanced durability of agreements made in mediation are accurate, there should also be future reductions in variation requests.

Several informants link the positive outcomes to the full array of services being offered by FJSW. There is a consensus opinion among informants that information and counselling are not peripheral supports, but vital, core services.

3.15 The majority of clients using FJSW are unrepresented by lawyers. Several informants noted the importance of having a service that provides general legal information and promotes obtaining independent legal advice and guidance, particularly as it relates to issues of custody and access.

The program statistics suggest that in about 60% of all cases using FJSW clients are unrepresented by lawyers. This statistic is supported by the anecdotal information obtained from lawyers, judges and court officials. In fact it may be under-reported. In the client survey, 90% of respondents reported no legal representation.

Judges and other informants spoke of their concerns regarding unrepresented clients. These include:

- Often they do not understand legal processes or their rights and obligations.
- Significant court time may need to be spent with them in addressing the pertinent issues and separating these from peripheral or non-legal issues.
- Often they have not completed the necessary documentation or other actions, causing delays.

The sense is that FJSW serves to provide legal information to unrepresented clients, as well as intervention services, and as a result, clients are better informed when they do appear in court.

3.16 The budget for the service provides minimally for the staffing requirements. Administrative supports are obtained through funding for the recalculation clerk. The withdrawal of this support would hinder efficiency considerably.

Several interviewees noted that existing resources are minimal. While the basic staff salaries are covered (not all to market levels), there is a decided lack of funding for professional development. As the services provided by FJSW are sophisticated in nature, and require specific training, this is seen as an area of needed improvement. An additional investment, to shore up salaries and to ensure adequate training, is indicated.

4.0 CONCLUSIONS

4.1 Family Justice Services Western has assisted many families in addressing separation and divorce issues. It has also raised the overall level of quality of family justice services available to residents in its delivery area.

FJSW can be seen to have substantially achieved its goals and objectives to date. It provides a humane, efficient alternative to traditional family law services. It prepares people to address legal and non-legal issues associated with separation, divorce and child support and empowers them to make their own agreements, while working to ensure that their legal rights are protected and enhanced. The program results in more favourable outcomes for clients and better use of court and Legal Aid services. It also appears to do so within an environment which promotes children's interests as paramount.

As a pilot project, FJSW has endeared itself to key groups (e.g. judges, private bar, Legal Aid, community agencies, courts), and has developed substantial credibility, especially when one considers its brief life span. It has contributed to a better range of options in resolving family disputes than were in place prior to its inception.

The program would benefit from more efforts on the part of FJSW to obtain information from corollary agencies, tracking their activities in relation to FJSW. Courts could track time spent on family matters, consent orders filed and time elapsed between application and resolution. Legal Aid could document and more clearly track the change in workload as a result of FJSW.

4.2 The program has been utilized at or near its capacity, given current resources. This has implications for service expansion across the region.

The program's capacity to serve the demand in its current service area is sufficient at present, but with little or no flexibility. Increased demand, through either expansion or increased interest and utilization within the current area, will tax the existing resources and may impact on service quality.

4.3 The integration of mediation, SASW, education and counselling has resulted in an effective model for service delivery.

The range of services provided by FJSW allow for a holistic, person-centred approach to be taken in service delivery. The combination of resolution services with education and counselling appears quite potent in addressing client concerns. Clearly, the whole is greater than the sum of the parts in this program.

In moving forward, the counselling and dispute resolution staff have been exploring the collaborative possibilities of their roles. They have more recently been examining boundaries as well. It will be important to capture this dialogue and learning, as the relationship is both invaluable and potentially vulnerable to blurring on both sides. The need to keep counselling distinct as a support to, but not primarily in service of, dispute resolution, will be important to monitor.

4.4 Family Justice Services Western has benefited from a strong champion and steering committee and a dedicated and competent staff.

As with many new services, it is difficult to separate out the success that can be attributed to a model from that owing to the people involved. This is especially the case with respect to FJSW. The program has blossomed through strong vision and leadership, and competent and dedicated staff who are highly engaged in their work. The community environment of delivery has been a positive factor in this instance, but it is not clear that it is essential, or easily replicable.

The composition of the FJSW Steering Committee should be expanded to include other key players (e.g. court officials, support enforcement officials, consumers, women's groups). This will enhance the breadth of the existing group.

The staff of the program has demonstrated an individual and collective capacity to develop, refine and implement the FJSW model, in collaboration with the steering committee. Much of the success of the program is directly attributable to having the "right people" in these positions.

4.5 Some reflection is needed regarding the "branding" of services and positions under FJSW.

The range of dispute resolution techniques utilized under FJSW (including both the mediator and the SASW) is effective. The service needs to re-evaluate its use of the term "mediation" to describe this activity, which is broader in scope and involves a range of alternative dispute resolution (ADR) approaches. The term generally implies a certain form of ADR, and much, if not most, of the ADR activity under FJSW is not mediation in its formal sense. Similarly, the terms lawyer-mediator and Support Applications Social Worker need to be reconsidered. While the program may continue to hire lawyers as mediators, the term implies they are providing legal services, which clearly is not the case. The SASW for the program is assuming more of a dispute resolution role in custody and access matters, so this title is also not accurate.

4.6 The Family Justice Service Western project presents a number of interesting policy considerations. These will need to be addressed from a provincial perspective as future delivery is contemplated.

As the province contemplates its future approach to family law services, the experiences of FJSW are important to consider. Some of the policy issues surfacing through the project include:

- Administration—FJSW has been administered by a community entity, under a "court-annexed" arrangement. There is a question as to whether services such as FJSW should be placed within courts, government structures (e.g. Legal Aid) or remain in the community. The consultants have doubts about the effective transferability of the community administration aspect of the FJSW approach.

- “Mandatory” or “coercive” service delivery—FJSW has utilized a directive approach in its service delivery, through the nature of its eligibility /referrals. This represents an approach to offering services to the public in which people are generally directed to non-legal services before they can access court. Whether or not this is to be the approach taken on a provincial level may in large measure influence the nature of access to and the delivery of services. There is a need to contemplate legislation and rules of court, which effectively capture these issues. (Note: New rules of court, enacted in April 2003, support the approach taken under FJSW).
- Range of alternative dispute resolution services—the project has used a flexible range of ADR techniques to date, and has restricted services to custody and access and support. This is significantly distinct from the approaches taken at Unified Family Court and at FJSC to date. There is expressed interest outside of the project staff in expanding their role to include matrimonial property, at least in terms of matrimonial homes on an interim agreement basis. The province will need to reflect upon the breadth of services to be provided.
- Mediator qualifications—this project has defined the mediator role as being restricted to a lawyer. This is not in keeping with the standards as set out by Family Mediation Canada,⁹ nor reflective of the history of development of these services in this province or in the country as a whole. Most family law mediators in this country are not lawyers. There is a need to reflect upon the desired role for dispute resolution professionals and to commit to developing clearly defined standards.
- Recalculation of support—the findings of this report, while preliminary in nature, support the value of recalculation. However, this review process needs to be applied more broadly than just within the pilot region. Considerable interest exists in using a model of recalculation to deal with ongoing child support issues. FJSW has made an important contribution to this development. The recalculation program now under development in P.E.I. will build upon the FJSW pilot’s experience and will likely yield new information, especially about dealing with special circumstances and the impact of moving away from formal court sanction.

4.7 Despite its success, the sustainability of FJSW is very much in question. The provincial government does not have a fixed vision of future service delivery in family law services and faces economic challenges.

FJSW is being implemented at an early stage in the province’s current consideration of the family law system. While it provides a useful service template for consideration provincially, there is no clear pathway at present for this to occur and no clear signal that such a provincial system will emerge. In fairness, the provincial government has become engaged in this issue and

⁹ Family Mediation Canada, in its Practice, Certification and Training Standards publication, July 2002, indicates that mediators generally require a prerequisite university degree, supplemented by at least: 80 hours of basic conflict resolution training ; another 100 hours of training (35 hours in the dynamics of family breakdown, 14 hours related to the specifics of family and child law, 21 hours of training on abuse and control issues, 7 hours on financial issues, 7 hours on ethical issues and 3 hours on drafting memoranda of understandings); completion of an approved practicum; and, 20 hours of continual mediation each year. The FMC guidelines clearly state that provinces or territories are free to establish their own guidelines.

there is some activity in the direction of exploring future service delivery. It is quite uncertain at present what the implications are for FJSW. The pilot is due to be completed in March 2003.

4.8 The issue of power imbalances and violence against women needs to be examined closely in the current model being implemented in Western Region, in terms of beliefs, policy and practice. While the survey is reassuring in its findings about the safety of the FJSW mediation process, the program needs to ensure that its staff has undergone formal training on power imbalances and violence issues in separation and divorce. The program also needs to make certain its policies and practices are in keeping with current knowledge.

Family Mediation Canada, the national association for family mediators promotes a standard for training in understanding and assessing power imbalances and family violence. This standard calls for 21 hours of training for mediators of the 180 hours required for certification.¹⁰

- In 2000, the Provincial Association Against Family Violence published “Making it Safe: Women, Restorative Justice, and alternative dispute resolution.” This text emphasizes evaluation of ADR programs based upon the following questions: Is referral to the program mandatory?
- What overt and subtle pressures “encourage” participation in the process?
- Do women have ready access to legal information?
- Does the program make it safe for women to participate?
- How and when are power imbalances identified? Addressed?
- Is the community involved in program design? Is program material communicated effectively to the community?
- Are mediators trained and are the screening tools adequate?

There is evidence that FJSW provides a safe environment for its clients, in terms of its policies and screening tools. However, it is clear that FJSW is a mandatory service, in terms of the education component, and there is some evidence in the survey that significant numbers of clients believe the service, as a whole, is mandatory. There has not been formal training provided within the project to mediators and other FJSW staff in these issues to date.

¹⁰ Family Mediation Canada’s Practice, Certification and Training Standards states this training needs to include instruction on power imbalances, the dynamics and effects of abuse on family members, indicators of danger in abuse cases, child protection matters related to family abuse and violence, safety issues, use of tools to detect and assess family abuse before and during mediation, use and application of screening tools, referral techniques and information about sources of help for abused family members.

Training as prescribed by Family Mediation Canada needs to be made available to all staff at FJSW. This might be done in cooperation with Family Justice Services Central, as well as Legal Aid, the private bar, justice officials developing Family Law services and perhaps judges. This recommendation is not intended to suggest that FJSW is lax in its sensitivity or responses with respect to power imbalances and violence against women. However, as history of service development in the area of family mediation in other regions suggests, significant attention to this issue will help ensure safety for all parties. (Note: This training did occur subsequent to the writing of this report.)

APPENDIX 1:
RECALCULATION OF SUPPORT ORDERS SURVEY REPORT

FAMILY JUSTICE SERVICES WESTERN RECALCULATION RESULTS

Introduction

This document reports on the survey conducted with a portion of the parties who were involved in recalculation since June 2002. According to the FJSW staff, as of the end of January 2003, administrative recalculation had been conducted in a total of 130 cases. The consultants received the names of 240 of the clients involved. Thus out of 240 parties, this survey included 72 persons, or 30% of all impacted clients.

The survey took place in March 2003, by telephone. Contact information for the cases was forwarded to the consultants. The table below illustrates the status of cases surveyed.

Total number of contacts provided	240
No telephone number	26
Wrong telephone number / not at this number / moved	35
Unable to reach after repeated attempts or in the timeframe	100
Refused	4
Not recalculated	3
Interview completed	72

Demographics

Gender

The survey sample contains more females than males. While a more equal number of male and female participants would have been preferable, an analysis of the findings showed no significant differences based upon gender.

Response	Frequency	Percent
Male	27	37.5%
Female	45	62.5%
Total	72	100%

Age

The age distribution suggests the survey sample is concentrated in the 30-40 year range, with declining participation as one moves either younger or older from that range.

Response	Frequency	Percent
25 and under	6	9%
26-30	12	17%
31-35	17	25%
36-40	17	25%
41-45	11	16%
Over 45	6	9%
Total	69	100%

Community Area

Most participants in the survey resided in the Western Region where the order allowing for recalculation was made. It is not clear whether the percentage who resided in other regions / areas since the time of the order represent respondents already moved to other areas.

Response	Frequency	Percent
Western	63	87.5%
Central	2	3%
Avalon	4	5.5%
Labrador	1	1%
Other	2	3%
Total	72	100%

Status and profile of survey participant as payor / recipient of child support

As the tables below indicate, the sample contains more recipients of child support than payors. However, some 10% of the participants neither pay nor receive. These appear to represent situations where circumstances mean there is no support being paid at this time (e.g. in arrears, custodial situation changed, children no longer dependent). About 75% of the situations involved payment of support each month.

Do you currently pay child support?

Response	Frequency	Percent
Yes	28	40%
No	42	60%
Total	70	100%

Do you currently receive child support?

Response	Frequency	Percent
Yes	37	52%
No	34	48%
Total	71	100%

Agreement or decided through court?

Response	Frequency	Percent
Agreement	10	22%
Court decided	36	78%
Total	46	100%

In how many of the past 12 months have you paid / received child support?

Response	Frequency	Percent
2 months	1	2%
3 months	1	2%
4 months	2	3%
5 months	3	5%
6 months	1	2%
7 months	2	3%
8 months	1	2%
9 months	3	5%
10 months	2	3%
12 months	44	73%
Don't know	5	8%
Total	65	100%

Recalculation

Although in all but nine of the cases to date the recalculation administrative activities were undertaken in the summer of 2002, the actual court orders, or at least the survey participants' perception of them, occurred several months afterward.

The survey findings suggest that at least 2/3 of the parties interviewed believed their recalculation was based upon Revenue Canada information. This is clearly not representative of the actual numbers in the larger sample, where less than 50% provided tax information. This finding likely suggests reluctance on the part of payors to acknowledge they did not supply Revenue Canada information as ordered and / or a mistaken belief on the part of recipients that the payor provided this information.

In almost 50% of the cases, recalculation resulted in an increase in the monthly child support amount. Twenty-five (25%) of cases were reduced. Only 16% of cases stayed the same (10% reported not knowing whether it had increased or not).

In almost half of the cases involving changes to support payments, the amount per month was \$25 or less (44%). About 72% of all support payment changes were of \$100 / month or less. Objections were filed in 10% of the cases involving the survey participants, with a range of outcomes.

When was your order recalculated?

Response	Frequency	Percent
Date (below)	53	76%
Don't know	17	24%
Total	70	100%

Date order was recalculated for those stating a date:

Response	Frequency	Percent
June 2002	12	23%
July 2002	6	12%
August 2002	2	4%
September 2002	5	10%
October 2002	3	6%
November 2002	2	4%
December 2002	5	10%
January 2003	4	8%
February 2003	2	4%
Other	10	20%
Total	51	100%

What was your recalculation based on?

Response	Frequency	Percent
Revenue Canada information	46	67%
Consumer Price Index	4	6%
Don't know	19	27%
Total	69	100%

What was the outcome of recalculation in terms of the amount of support to be paid? Did it...

Response	Frequency	Percent
Stay the same	11	16%
Increase	34	50%
Decrease	17	25%
Don't know	7	10%
Total	69	100.0%

By how much per month did the amount of support increase/decrease?

Response	Frequency	Percent
Less than \$25	22	44%
\$25 - \$50	8	16%
\$51 - \$100	8	16%
\$101 - \$200	8	16%
More than \$200	4	8%
Total	50	100%

Have you/your ex filed an objection concerning the recalculated amount?

Response	Frequency	Percent
Yes	7	10%
No	56	81%
Don't know	6	9%
Total	69	100%

If yes, did this change the outcome?

Response	Frequency	Percent
Yes	2	29%
No	2	29%
Too early to tell - process not complete	3	43%
Total	7	100%

Opinions about Recalculation

For most survey participants, the amount of support determined in recalculation was what they expected, with less than 20% saying it was not what they expected. Seventy-one percent (71%) of survey respondents were satisfied with the outcome of recalculation, with 16% reporting not being satisfied. A key factor for some of the recipients not being satisfied was that they were on social assistance and so they did not see any direct benefit to increased payments, as support payments reduce social assistance on a dollar to dollar basis.

A significant majority (88%) of those surveyed did not believe recalculation had any impact on their relationship with the other party, with about 7% indicating it did have a negative impact.

A high percentage of survey participants (85%) felt the process was fair, with 10% indicating it was not fair. Of those who did not believe it was fair, at least some of the reasons given were not directly about recalculation, but related to other issues (e.g. the payor's willingness to pay, the lack of direct benefit to a recipient on social assistance). For those who had used court processes to vary child support in the past, most felt recalculation was a better approach.

Was the amount of support as determined by recalculation what you expected?

Response	Frequency	Percent
Yes	40	58%
No	13	19%
Don't know	16	23%
Total	69	100%

Are you satisfied with the outcome of recalculation?

Response	Frequency	Percent
Yes	49	71%
No	11	16%
Don't know	9	13%
Total	69	100%

Why / Why not?

Response	Yes, satisfied		No, not satisfied	
Amount too low			3	30%
No benefit—on Social Assistance (SA)			1	10%
Not fair—he isn't paying for special expenses			1	10%
It increased my payment			1	10%
Was paid too much, then they took it back			1	10%
Other	24	53%	3	30%
Based on income	8	18%		
Easier and easier than court	4	9%		
Doesn't matter—on Income support / SA	4	9%		
Satisfied because it increased or stayed the same	5	11%		
Total	45	100%	10	100%

Has the outcome of recalculation had any impact on your relationship with the person you pay support to/receive support from?

Response	Frequency	Percent
Yes	5	7%
No	60	88%
Don't know	3	4%
Total	68	100%

What type of impact did it have?

Response	Frequency	Percent
Affected negatively, anger at having to pay more money	1	20%
No change	1	20%
The payor thinks the money from child support, family allowance and social assistance is benefiting me	1	20%
He doesn't pay consistently	1	20%
Harder, it put a strain on it	1	20%
Total	5	100%

Do you feel administrative recalculation is a fair means of determining child support to be paid?

Response	Frequency	Percent
Yes	60	86%
No	7	10%
Don't know	3	4%
Total	70	100%

Why do you think it is fair?

Response	Frequency	Percent
Don't have to go back to court / convenient	13	24.5%
Based on income	9	17%
Fair process	9	17%
Don't mind paying	4	7.5%
Don't have to fight / deal with ex	2	4%
Other	16	30%
Total	53	100%

Why don't you think it is fair?

Response	Frequency	Percent
Need to look at additional costs of raising a child—e.g. child care	1	17%
Wasn't done correctly—waste of time	1	17%
Based on income—he is on income support so now pays nothing	1	17%
Other	3	50%
Total	6	100%

Have you ever been involved in a court procedure for a variation in support amounts paid by you/to you?

Response	Frequency	Percent
Yes	15	22%
No	50	73.5%
Don't know	3	4%
Total	68	100%

How does your experience with recalculation compare with your court experience in having your amount recalculated?

Response	Frequency	Percent
Recalculation better	8	53%
Legal process better	2	13%
Don't know	5	33%
Total	15	100%

Why do you feel this way?

Response	Recalculation better		Legal process better	
Legal process best right now but neither are perfect			1	50%
Recalculation reduced his payment but he is still paying same amount because nobody seems to know its changed and/or he hasn't challenged it			1	50%
Easier / No court	7	87.5%		
I can afford it now	1	12.5%		
Total	8	100%	2	100%

Other comments

Response	Frequency	Percent
Recalculation better—no court, easier, faster	27	54%
Recalculation and legal process about the same	2	4%
FJSW excellent	2	4%
Other	19	38%
Total	50	100%

Analysis

The survey provides a general endorsement of the administrative recalculation approach used by Family Justice Services Western. Most participants found the process fair, were satisfied with the outcome and reported no adverse impacts on their relationship with the other party as a result of recalculation.

The survey demonstrates the importance to clients of alternatives to appearing in court over variations in child support and their general willingness to accept outcomes of administrative recalculation. As this was the initial implementation of recalculation, one might have expected more confusion perhaps resulting in low satisfaction levels. This clearly was not the case, and the general sense from interviewers was that the process was seen as fair and as better than having to appear in court. The findings are encouraging in terms of the willingness of payors and recipients to accept annual changes in support, which are calculated using the Child Support Guidelines.

In a small percentage of cases, participants had a negative experience with recalculation and these need to be examined closely. Some issues to be addressed include:

- *Recipients on social assistance*—provincial policy dictates that for persons on social assistance every dollar received in child support results in a dollar deduction from social assistance. Thus, in order for a parent and their dependent children to benefit financially from an upward amendment to payments, they must come off social assistance. This is an issue for all custodial parents on social assistance and has been discussed in previous evaluations (i.e. SASW, 2000). In terms of recalculation, each year an adjustment will be considered, and if an upward amount is ordered, it is the state, not the children involved, who will receive more money.
- *Cases of special circumstances*—administrative recalculation opens up the possibility of a need to review special circumstances each year, when in some instances those circumstances will not change (e.g. permanent disability). Also, in one instance, a person had voluntarily been paying above the required CSG amount and when recalculated this amount was decreased.
- *The survey indicates that for some percentage of cases (in this instance about 25%) support will not be paid each month of the year, owing to a variety of circumstances*—this situation will need to be remembered in assessing reactions to recalculation, even though irregular payment patterns are distinct from that process.

**APPENDIX 1A:
RECALCULATION SURVEY INSTRUMENT**

**SURVEY OF RECALCULATION SERVICES
FAMILY JUSTICE SERVICES WESTERN**

Survey person reads attached text to all potential participants and then obtains their consent to participate.

Introduction / Consent

Hi, my name is _____ and I am with a private research company, IHRD. We have been contracted by the provincial and federal governments to study the recalculation of child support. Your name has been provided to us by Family Justice Services Western as a person who has either paid or received child support under an order with a recalculation clause. We would like to interview you about your experiences, the purpose to see what impact recalculation has had on you and your children. The interview should take about 10-15 minutes. Your responses will be kept confidential. Are you willing to be interviewed? (If yes) Is now a good time for you or can I call back?

Description of Recalculation

Family Justice Services Western has recently been involved in a test of the process of child support recalculation. Recalculation refers to a process where the amount of child and being paid is reviewed automatically and outside court, based on the income of the person paying support. It is intended to provide a means other than going to court, to address changes in the financial circumstances of the person paying support, or both parties in some shared custody arrangements. This review of the income of the payor is performed by a recalculation clerk, who calculates the amount to be paid, and then informs the parties in writing of the results. The courts will confirm the recalculated amounts where there is no objection, and a recalculation order is made. If there is an objection, the courts will conduct a hearing to determine the outcome.

Consent Confirmed: Yes / No _____

Gender (M/F) _____ Age _____ Home Community _____

- 1. Do you currently ...
 - a. Pay child support?
 - i. Yes →Q2
 - ii. No →Q3
 - iii. Don't know →Q3
 - iv. Refused →Q3

- b. Receive child support?
 - i. Yes →Q2
 - ii. No →Q3
 - iii. Don't know →Q3
 - iv. Refused →Q3

If yes, when did your original order come into effect (year)? _____

Was this by agreement (either on your own, through mediation or through lawyers) or did the court have to decide the support amount? Agreement_____ court decided_____

2. In how many of the past 12 months have you paid / received...

Child support

- i. __ (Enter # of months)
- ii. Don't know
- iii. Refused

3. When was your order recalculated (note: has to have been after June 1, 2002)?

- a. _____ (Enter date)
- b. Don't know
- c. Refused

4. What was your order recalculated based on? Was it...

- a. Revenue Canada information (Prompt: Did the payor provide income tax information)
- b. Consumer Price Index
- c. Don't know
- d. Refused

5. What was the outcome of recalculation in terms of the amount of support to be paid? Did it...

- a. Stay the same →Q7
- b. Increase →Q6
- c. Decrease →Q6
- d. Don't know →Q7
- e. Refused →Q7

6. By how much per month did the amount of support increase/decrease?

- a. \$_____. 00
- b. Don't know
- c. Refused

7. Was the amount of support, as determined by recalculation, what you expected?

- a. Yes →Q9
- b. No →Q8
- c. Don't know →Q9
- d. Refused →Q9

8. Could you tell me why you expected a different amount?

- a. _____
- b. Don't know
- c. Refused

Have you / your ex filed an objection concerning the recalculated amount? (Prompt: Any objection would have been filed in court.)

- d. Yes →Q10
- e. No →Q11
- f. Don't know →Q11
- g. Refused →Q11

9. Did this change the outcome?

- a. Yes
- b. No
- c. Don't know
- d. Too early to tell—process not complete
- e. Refused

10. Are you satisfied with the outcome of recalculation?

- a. Yes
- b. No
- c. Don't know →Q13
- d. Refused →Q13

11. Why/Why not?

- a. Don't know
- b. Refused

12. Has the outcome of recalculation had any impact on your relationship with the person you Pay support to/receive support from?

- a. Yes
- b. No →Q15
- c. Don't know →Q15
- d. Refused →Q15

13. What type of impact did it have? (prompt: if negative, prompt concerning danger / safety)

Don't know
Refused

14. Do you feel automatic recalculation is a fair means of determining child support to be paid, after an initial agreement or order?

- a. Yes →Q16
- b. No →Q17
- c. Don't know →Q18
- d. Refused →Q18

15. Why do you think it is fair?

Don't know →Q18
Refused →Q18

16. Why don't you think it is fair?

Don't know
Refused

17. Have you ever been involved in a court procedure for a variation in support amounts paid by you/to you?

- a. Yes →Q19
- b. No →Q21
- c. Don't know →Q21
- d. Refused →Q21

18. How does your experience with recalculation compare with your court experience in having your amounts recalculated?

- a. Recalculation and legal process about the same
- b. Recalculation better
- c. Legal Process better
- d. Don't know →Q21
- e. Refused →Q21

19. Why do you feel this way?

a. Don't know
b. Refused

**APPENDIX 2:
FAMILY JUSTICE WESTERN SURVEY RESULTS**

FAMILY JUSTICE WESTERN SURVEY RESULTS

Overall there were 415 family justice cases in Western Region in the period covered by the survey (February 2001 to June 2002). Of these, 150 individuals signed consent forms permitting follow-up. IHRD conducted structured telephone interviews with 86 individuals who participated in the survey. The remainder could not be reached. This was not unexpected as typically these individuals are in transition and are quite likely to have had a change in address or phone number since the consent forms were completed.

The total adult population of program participants is 830, of which 150 consented to follow-up. Survey results apply only to the 150 individuals included in the sample frame, as there is no guarantee that the 150 are representative of the total population. Survey results should be interpreted with care, as approximately 43% of the individuals we attempted to contact could not be reached. If there are significant differences between those who completed the questionnaire and those who could not be reached, this may affect the degree to which survey results are representative of the sample frame. There is 90% confidence that results are within plus/minus 5.8% of reported values. Where the total number of responses is less than 86 for a particular question, confidence intervals will vary.

Awareness / Referral

1. How did you first hear about FJSW?

Response	Number
Friend / family	15
Courts contacted / told me	29
Lawyer	18
Legal Aid	3
School / community counsellors	4
Social services worker	5
FJSW	5
Mediator	2
Various other responses	5

2. Who referred you to the services at FJSW?

Option	# Responses	Percentage
Private lawyer	20	23%
Court staff	36	42%
Legal Aid	6	7.0%
Friend / family	5	6%
Other	19	22%

3. Why did you get involved in the services at FJSW?

Response	Number
Recommended	16
Had to / mandatory	32
Better than / To avoid court	2
Access / to see my child	2
Seeking or work out support / custody	8
Help for me / kids	10
Get more information on various issues	10
Various other responses	6

4. Did you experience any problems / barriers in accessing the services of FJSW?

Option	# Responses	Percentage
Yes	6	7.0%
No	80	93.0%

If yes, describe these problems / barriers

Issue / Problem	Number
Didn't have extra money for child care	4
Transportation	3
If you weren't referred, you weren't welcome	1

Services Provided

5. In which of the following services did you participate (check all that apply)?

Option	# Responses	Percentage
Initial intake	49	57.0%
Information sessions	85	99%
Mediation	54	63%
Mediation-child support	43	50.0%
Mediation-spousal support	16	19%
Mediation-custody and access	38	44%
Recalculation of support	7	8%
Counselling services	24	28%
Other	1	1%

6. For each service you were involved in, please answer the following questions:

By # Responses:

Option	Legal Representation?		Agreement?			Service	
	Yes	No	Yes	No	Partial	In-person	Phone
Intake	X		X	X	X	35	14
Information session	X			X		83	2
Mediation	5	47	34	16	3	51	2
Support recalculation	X			X		X	
Counselling	X			X		X	
Other		1		1		2	

By percentage:

Option	Legal Representation?		Agreement?			Service	
	Yes	No	Yes	No	Partial	In-person	Phone
Intake	X		X	X	X	71	28
Information session	X		X			98	2
Mediation	10	90	64	30	6	96	4
Support recalculation	X		X			X	
Counselling	X		X			X	
Other		100		100		100	

Time on Service:

Service	Total Time (in hrs)		Start—Finish Time (days)	
	Amount	Number	Amount	Number
Intake	Less than ½?? hr.	7	1 day	41
	½?? hr – 1 hr.	24	More than 1 day	2
	More than 1 hr.	6		
Information session	Less than 1 hr.	1	X (not asked as it is a standard one session)	
	1 – 3 hrs.	80		
	More than 3 hrs.	3		
Mediation	Less than 1 hr.	1	Less than 5 days	45
	1 – 3 hrs.	39	5 – 15 days	3
	More than 3 hrs.	9	More than 15 days	3
Support recalculation	X (no information)		X (no information)	
Counselling	Less than 2 hrs.	8	Less than 2 days	11
	2 – 4 hrs.	14	2 – 4 days	8
	More than 4 hrs.	2	More than 4 days	4
Other	3 hrs.	1	1 day	1
	4 hrs.	1	5 days	1
Total	Less than 5 hrs.	44	Less than 5 days	48
	5 – 10 hrs.	33	5 – 10 days	11
	More than 10 hrs.	8	More than 10 days	7

Recalculation

7. A. Are you a payor of child support who has had a recalculation of the amount to be paid?

Option	# Responses	Percentage
Yes	2	2%
No	84	98%

(Reader’s note: For most people this question was premature. While recalculation process had begun, they had not yet been informed by FJSW of the outcome.)

Satisfaction

8. Please rate your satisfaction with each of the services in which you participated, on the issues presented.

Legend:

1= very dissatisfied, 2= dissatisfied, 3= neutral, 4=satisfied and 5=very satisfied

By number of response

Service	Timeliness of Service					Qualifications of Staff					Fairness and Safety of Process / Approach of Staff					Outcome / Resolution				
	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5
Intake	6	2	7	12	20	3	2	2	8	33	3	-	5	9	31	7	2	3	8	28
Information session	2	2	14	29	38	1	1	1	20	62	2	1	2	26	54	3	3	9	22	48
Mediation	4	3	7	19	20	3	-	4	10	36	4	2	2	11	34	4	3	8	13	25
Support recalculation	X					-	-	1	1	3	-	-	1	-	5	1	-	-	-	5
Counselling	1	-	2	2	7	-	-	1	1	10	-	1	1	-	10	-	1	1	2	8
Services overall	2	2	11	24	36	-	-	5	17	53	1	1	7	20	46	5	5	9	14	42

By percentage:

Service	Timeliness of Service					Qualifications of Staff					Fairness and Safety of Process / Approach of Staff					Outcome / Resolution				
	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5
Intake	12	4	15	25.5	43	6	4	4	17	69	6	-	10	19	65	15	4	6	17	58
Information session	2	2	16	34	45	1	1	1	23	73	2	1	2	31	63	3	3	11	26	56
Mediation	7	6	13	36	38	6	-	7	19	68	7	4	4	21	64	7	6	15	24	47
Support recalculation	X					-	-	20	20	60	-	-	17	-	83	17	-	-	-	83
Counselling	8	-	17	17	58	-	-	8	8	83	8	-	8	-	83	8	-	8	17	67
Services overall	3	3	15	32	48	-	-	7	23	71	1	1	9	27	61	7	7	12	19	56

Comments:

Service	Survey Participants Comments
Intake	Some people couldn't recall intake at all or how long it was. Some people said the intake call was very short. Many felt it was very good (11).
Information session	The majority found them very good and informative. Some found them too short, a few too long.
Mediation	The majority found the service good and better than court. Some cases ended up going to court anyway. Others felt more compassion could have been shown.
Support recalculation	Not many comments. Many people didn't participate or commented that they felt they couldn't rate it.
Counselling	Showed more compassion than mediator or lawyer. Good for the children.
Services Overall	The majority found it a very good service overall. Some said they are still trying to get child support. Counselling very good (2).

Impact of services

9. We are interested in the impact the services provided had on you. Please answer yes or no to the following comments.

Aspect of service	Yes		No	
	#	%	#	%
It increased my awareness of legal processes / options. Most comments outlined that the information was very helpful in letting people know what their options were. Some found they already knew what was being said.	68	79%	18	21%
It facilitated referral to other services. The main points outlined in the comments indicated that: counselling was referred in three cases; that many people already knew about the other services—felt they didn't apply in their case, but knew that they were there to take advantage of if needed.	54	64%	31	36%
It promoted and facilitated mediation as opposed to court settlement. Many people said they ended up having to go to court anyway. Many people found that mediation definitely was promoted.	64	74%	21	24%
It helped my parenting. Helped parent and child cope with issues. Explained to parent how to deal with children. Helped children deal with divorce issues—counselling was seen as very helpful with this.	63	73%	22	26%
It reduced costs to me in the process. Still has to go to court—will have to pay lawyer. Doesn't cost anyway—using legal aid. It certainly did reduce costs (12). It didn't make any difference (8).	41	48%	42	49%
Other (specify). Counselling—really helped the children.	1	1%	7	8%

Overall Opinion of Services

10. Were you helped in your dealing with the issues of separation / divorce by the FJSW?

Option	# Responses	Percentage
Yes	45	52%
No	41	48%

Please explain your answer:

Yes response:

Got lots of information / answered questions	9
Explained stages / what to expect	8
Helped with how to deal with children	5
Counselling	4
Explained legal terms	2
Helpful and supportive	2
Various other responses	5

No response:

Already separated	11
No Divorce—only looking for child support / access	6
No real help—just got some information	4
No one-on-one / face-to-face meetings	2
Various other responses	7

11. Have you used family justice services (e.g. court) other than FJSW in the past?

Option	# Responses	Percentage
Yes	23	27%
No	63	73%

If yes, how would you compare FJSW with your past family justice experiences?

Option	# Responses	Percentage
FJSW better experience	11	50.0%
FJSW worse experience	4	18%
Both processes the same	7	32%

Please explain your answer:

FJSW Better Experience:

Keeps you out of court—less stressful	3
FJSW listened—court ignored	2
Got more information / compassion	2
Learned how child was affected by separation	1
Explained things more than court	1
Teaches you to get along	1
Money saver	1

FJSW Worse Experience:

Treated unfairly	1
Outcome worse	1
Didn't get hep / outcome wanted	1
Frustration—ex wouldn't cooperate, FJSW couldn't make him	1

Both the Same:

Both did same job	3
Still didn't get justice / outcome desired	2
Both didn't have a lot to do with Legal Aid	1
FJSW took time needed for explanation, but so did lawyer	1

12. Would you use the FJSW services again if required?

Option	# Responses	Percentage
Yes	78	91%
No	8	9%

Please explain:

Reasons Yes:

Better / easier / more information than going to court	11
Very helpful / understanding	7
Saves money	7
Counselling / mediation really helped	5
Helped children understand what is going on	4
Very informative	4

Reasons No:

FJSW cannot enforce issues / has no power	2
Gave wrong information	1
Caused break-down of parent-child relationship	1

13. Would you recommend these services to others?

Option	# Responses	Percentage
Yes	77	90%
No	9	10%

Please explain:

Reasons Yes:

Good information / very informative	15
Helpful / understanding	15
Better / easier than going to court	7
Information sessions very good	4
Saves time / money	3
Useful in dealing with children	3
Not complicated	1
Counselling / mediation helpful	1

Reasons No:

No help	2
Didn't get child support	1
Treatment	1
Forced to go	1
Needs compassion shown to clients	1

14. Do you have any suggestions as to how to improve these services? (Prompt: additional services / supports, changing approaches?)

Response / Suggestion	Number
More counsellors/more counselling services	9
Screening process / separate the groups according to needs	9
Make general public aware of services / advertise	5
Staff shouldn't take sides	2
Keep in touch with clients	2
Treat each case unique	2
Shorten information session	2
Other responses	14

Demographics

Gender:

Option	# Responses	Percentage
Female	61	71%
Male	25	29%

Age:

Age Group	# In Group	Percentage
20 - 24	6	7%
25 - 29	19	22%
30 - 34	13	15%
35 - 39	24	28%
40 - 44	14	16%
45 - 49	7	8%
50 - 54	3	3%

What do you do for a living?

Option	# Responses	Percentage
Working	45	52%
Homemaker	8	9%
Unemployed	6	7%
Social Assistance	17	20%
Student	6	7%
Other	4	5%

Nature of prior relationship:

Option	# Responses	Percentage
Common-law	18	21%
Married	59	70%
Never lived together	7	8%

Years together:

Group	# In Group	Percentage
0 - 4	21	24%
5 - 9	29	34%
10 - 14	22	26%
15 - 19	9	10%
20 - 24	2	2%
25 - 29	3	3%

Nature of relationship at present:

Option	# Responses	Percentage
Separated	38	44%
Divorced	38	44%
Reconciled	1	1%
Never together	7	8%

Please rate your ability to resolve issues with your ex-spouse:

Option/Rating	Very Poor		Poor		Neutral		Good		Very Good	
	#	%	#	%	#	%	#	%	#	%
At time of separation	49	57%	17	19%	6	7%	6	7%	5	6%
At present	28	33%	5	6%	20	23%	21	24%	10	12%

Time apart (in months):

Group	# In group	Percentage
6 months or less	8	9%
7 - 12 months	24	28%
13 - 24 months	25	29%
25 - 36 months	8	9%
37 - 48 months	7	8%
49 - 60 months	3	3%
61 - 72 months	2	2%
73 - 84 months	2	2%
85 - 96 months	2	2%
Greater than 8 years	5	6%

Dependent children:

Option	# Responses	Percentage
Yes	84	98%
No	2	2%

If yes, number:

# Children	# In Group	Percentage
0	2	2%
1	30	35%
2	45	52%
3	9	10%

And ages:

Age Group	# In Group	Percentage
Less than 5	34	23%
5 - 9	52	35%
10 - 14	42	29%
15 - 19	18	12%
Greater than 19	1	1%

Please describe your current custodial situation:

Option	# Responses	Percentage
Sole custody mother	46	55%
Sole custody father	6	7%
Joint custody	25	30%
Split custody	3	4%
Other	4	5%

**APPENDIX 3:
KEY INFORMANT GUIDE**

FAMILY JUSTICE SERVICES WESTERN REGION KEY INFORMANT GUIDE

Introduction

This interview guide is designed to be used with all informants providing information about the Family Justice Services Western pilot project. Not all questions will be asked of all interviewees. We will use the legend outlined below to indicate the category of informant to be asked each question.

Legend

FJ=Federal Justice official PJ=Provincial Department of Justice official
SC= project steering committee PC=project coordinator SM=staff member
LA=Legal Aid Lawyers PL=Private Lawyers CO=Court Officials JU=Judges
CA=Community Agencies

Interviewees will be informed that their input will generally be reported collectively, but that there are limits to the extent that the evaluators can keep their comments private.

Project Development and Implementation

1. What is the rationale for the FJSW project? Is this rationale reflected in actual need in the western region? Is it linked to the Federal Government's objectives in Legal Aid and Child-Centred Family Justice? To the CMHI mandate? (FJ, PJ, SM, SC)
2. How was the need for this project identified? By whom? How? Have project objectives evolved over time? What has changed? Why? (FJ, PJ, SC, SM, PC, CA)
3. What are the roles and responsibilities of the steering committee? How / when was this group formed / selected? Is the composition the right one? (PC, SM, SC)
4. What are the roles and responsibilities of staff members? How have these roles evolved? What is the background and training of staff? Are there sufficient staff, with the right backgrounds, to conduct the activities of the project? (PC, SM, SC)
5. What is the nature and extent of relationships between the project and relevant groups (e.g. judiciary, court officials, community agencies)? Are these linkages effective? (PJ, SC, PC, SM, CA, LA, CO, JU)

Project Activities (General)

6. What are the services offered by FJSW? (SM, PC, SC)
7. How are the various services advertised / promoted and accessed? Is this appropriate to the needs of all clients? Are there barriers for some client groups? (PC, SM)

8. What process is used to determine eligibility to participate in FJSW activities? How does the project screen potential clients? Who has been screened in / out? What are the protocols for dealing with cases of spousal or child abuse? At what point in the process are safety screening mechanisms used? Are they adequate? (SM, CA)

9. How / when are client needs assessed? By whom? How are needs outside of the project mandate dealt with (e.g. referral)? (PC, SM)

Mediation Services

10. What is the nature (process, range of issues) of mediation services offered by FJSW? How are services accessed? Is this appropriate? Are there barriers? (SM)

11. How are power imbalances between parties identified and addressed (e.g. safety mechanisms)? Is this appropriate? (SM)

12. What are the successful mediation outcome / compliance rates? What are the reasons for an inability for some parties to reach agreement in mediation? Are there distinguishing factors which separate successful versus unsuccessful mediation outcomes? How is compliance tracked? (SM)

13. Does the court modify agreements? How often and under what circumstances? (SM, JU)

Counselling

14. How are counselling services accessed? Are there barriers to access? (SM, PC, CA)

15. What issues are being presented for counselling (i.e. common themes, concerns)? What has been the nature and scope of involvement with children and their issues? (SM, SC)

16. What impact has counselling had on the families involved, in terms of their own personal progress? In facilitating resolution of issues between the parents (i.e. custody, support)? (SM, LA, PL)

Information Sessions

17. How are information sessions accessed? Are there barriers to access? (SM, PC, CA)

18. What is the content of information sessions? Who designed / delivers this information? Who attends / does not attend? (SM, PC, CA)

19. What impact do information sessions have on the parents involved? Are they more likely to seek cooperative resolutions? Does it impact upon how they address issues with and about their children? (SM, LA, PL)

Recalculation

20. What is the rationale for piloting recalculation of support payments? What are the anticipated outcomes? (SC, JU, PC, JC, PJ)
21. How does the recalculation process operate? (How is it accessed? How and when are recalculations made? How are parties informed / involved? What are the terms and conditions of recalculated amounts and the reasons for changes? (SM, SC, JU)
22. What is the impact of recalculation on the parties? How many contest the process? What is the outcome when people do contest? (SM, PC, SC, JU, PL, LA)?

Project Outcomes and Impacts

23. To what extent has the project increased awareness of legal processes and options to resolve family law matters? Has the project facilitated referrals to other services required by clients? (SM, CA)
24. To what extent has the project promoted and facilitated mediated outcomes as opposed to court-imposed outcomes in child / spousal support, custody and access matters? To what extent has the project contributed to safe and fair resolution of such matters for the parties involved? (SM, CA)
25. To what extent has the project contributed to reductions in workload for legal representatives, and enhanced the level of legal services provided in family law matters? (LA, CO, JU, PL)
26. What impact did the services of FJCW have on the parties involved? (SM)
27. What impact has court process had on the services offered by FJSC? (SM, CO, JU, SC)
28. Were there unintended outcomes of the project, for clients and others? Should any project components be modified, eliminated? Added to? Why? (All)

Project Costs and Sustainability

29. Are the financial and in kind allocations to the Project sufficient to meet the needs? Have available funding / guidelines affected the project? Has the project created costs / demands for government and non-government agencies? (FJ, PJ, SC, PC)
30. What are the indications that the Project will be sustained beyond the pilot phase? What would be the costs and funding sources? Could / will the service be implemented in other communities? (PC, PJ)

**APPENDIX 4:
PARTICIPANT INTERVIEW GUIDE**

FAMILY JUSTICE SERVICES WESTERN PILOT PROJECT PARTICIPANT INTERVIEW GUIDE

Interviewer _____
Interview mode *By phone* ___ *In person* ___

Introduction / Consent

Family Justice Services Western provides services to assist families experiencing separation and divorce, as a pilot project of the Department of Justice Canada and the provincial Department of Justice. The program is being evaluated by the IHRD Group, a Newfoundland consulting company with extensive experience in evaluating programs. We are interviewing a number of clients of the service, to assist the program and its funders in assessing its value and in improving services to the public. The interviews will focus on your involvement in the services of FJSW, not on your personal experiences of separation and divorce.

It is our understanding that you signed a consent as a client of the FJSW , agreeing to be contacted by evaluators / researchers about your experiences. Do you recall completing this consent? Yes ___ No ___

If yes, confirm that the client knows their participation is confidential and in no way affects their ability to receive services. If no, explain the purpose of the evaluation, and their protections, in terms of privacy and service. If the interview is done by phone, the person will provide a verbal consent and the interviewer will complete the question below. If in person, the client will receive a written consent form and sign indicating their consent.

The client was provided information about the evaluation and provided a verbal consent to participate. Yes ___ No ___ (If no, thank the person, assure them of their privacy, and discontinue the interview).

Awareness / Referral

1. How did you first hear about FJSW?

2. Who referred you to the services at FJSW?
- a. private lawyer ___
 - b. court staff ___
 - c. legal aid ___
 - d. friend / family ___
 - e. Other (specify) ___

3. Why did you get involved in the services at FJSW?

Did you experience any problems / barriers in accessing the services of FJSW?

Yes__ No__

If yes, describe these problems / barriers (prompt: transportation, child care, etc).

Services Provided

5. In which of the following services did you participate (check all that apply)?

- a. Initial intake__
- b. Mediation of custody and access__
- c. Mediation of property issues__
- d. Recalculation of Support__
- e. Information sessions__
- f. Counselling services__
- g. Other (specify)_____

6. For each service you were involved in, please answer the following questions:

<i>Service</i>	<i>Total time (in hours)</i>	<i>Start—finish time (days)</i>	<i>Legal representation? (Yes / No)</i>	<i>Agreement? (Yes / No)</i>
Intake			X	
Information Session			X	
Mediation (custody and access)				
Mediation (property)				
Support Recalculation				
Counselling			X	
other__				
TOTAL				

Satisfaction

7. Please rate your satisfaction with each of the services in which you participated, on the issues presented.

The satisfaction scale is a five point scale, where **1= very dissatisfied, 2= dissatisfied, 3= neutral, 4=satisfied, and 5=very satisfied.**

<i>Service</i>	<i>Timeliness of service</i>	<i>Qualifications of staff</i>	<i>Fairness and safety of process / approach of staff</i>	<i>Outcome / resolution</i>	<i>Comments</i>
intake					
information session					
mediation (custody and access)					
mediation (property)					
support recalculation					
other					
services overall					

Impact of Services

8. For each of the following aspects of service, please indicate its impact upon you.

<i>Aspect of service</i>	<i>Positive impact (yes / no)</i>	<i>Comments</i>
it increased my awareness of legal processes / options		
it facilitated referral to other services		
it promoted and facilitated mediation as opposed to court settlement		
it helped my parenting		
it reduced costs to me in the process		
other (specify)		

Overall Opinion of Services

9. Were you helped in your dealing with the issues of separation / divorce by the FJSW?
Yes__ No__ Please explain_____

10. Would you use the FJSW services again if required? Yes__ No__
Please explain_____

11. Would you recommend these services to others? Yes__ No__
Please explain_____

12. Do you have any suggestions as to how to improve these services (prompt: additional services / supports, changing approaches)?

Demographics

Gender: female__ male__

Age:___

What do you do for a living?
Job (Write answer given)_____
homemaker__
unemployed__
social assistance__
student__
other__

Nature of prior relationship:
common-law__
married__
common-law leading to marriage__

Years together__

Nature of relationship at present:
separated__
divorced__
reconciled__

Time apart (in months)___

Dependent children: Yes__ No__

If yes, number__
and ages _____

Please describe your current custodial situation

sole custody mother__

sole custody father__

joint custody__

split custody__

other (specify)__