



**The Purple Heart Campaign
Report**

*The Mokami Status of Women Council
2007*

EXECUTIVE SUMMARY

The Purple Heart Campaign (PHC) began on December 6th, 2005. The campaign started in reaction to what many women perceived to be an extremely light sentence for a violent assault on a woman in Labrador. The Mokami Status of Women Council (MSWC) wanted the justice system to be more accountable to women. We also needed to learn more about how the system works and wanted to observe cases of violence against women in our courts.

We chose the purple heart to symbolize women's strength and bravery in the face of abuse and violence.



The goal of the PHC is to:

- Learn about the criminal justice system
- Understand the role of court monitoring in creating systems change
- Learn more about the impact of domestic violence and sexual assault on our community
- Remind the criminal justice system that the public is watching

We modeled our campaign after the WATCH program from Minnesota. WATCH is an American association of court-monitoring programs that have been operating since 1992. We used the WATCH materials to develop our own program.

This report is based on our observations of violence against women cases in the courtrooms in Happy Valley-Goose Bay over the past year and a half. It is also based on personal interviews with key stakeholders including complainants, witnesses, support workers, police officers, lawyers and judges.

The purpose of our campaign has not been a witch-hunt. We want to work with the system, rather than against it. It is essential to women in our communities that the system is fair and just. We believe the Purple Heart Campaign has a role in the evolution of a system of justice that takes into account the special needs of women who have experienced violence.

Recommendations

1. **The Department of Justice and the Provincial Court take steps to immediately address and reduce delays in court.**

Bail hearings frequently caused scheduled trials to be postponed, even when all witnesses were present. A separate bail court might reduce the overbooked docket. When delays are unavoidable, court staff should explain to participants why the delay is happening, when they expect to resume and then maintain that schedule as much as possible.

2. **The Department of Justice and the Provincial Court begin renovations to the HV-GB court house.**

The HV-GB court house is completely inadequate. There is currently one interview room for the use of all lawyers and witnesses involved in both criminal and family matters in the HVGB court house. The waiting room seats approximately 12 people when it is common for 30 or 40 to be present on first appearance days. Women are often expected to sit in the common waiting room with the accused. When going to and from the courtrooms, complainants and accused people often have to squeeze through a crowd in the hallways.

3. **The Department of Justice and the Provincial Court provide clear, quality-controlled, consecutive interpretation for every case involving a person whose first language is not English.**

Several languages are spoken in Labrador. Language interpretation in the courtroom is haphazard. Interpretation must be available to all witnesses, the accused, and the community at every appearance. We have observed one mistrial in the first year of the PHC because of interpretation problems. We have observed routine postponements because the provincial court has not provided an interpreter. We have also observed cases in which an interpreter was required for one appearance but waived for other appearances of the same accused.

4. Officers of the court must maintain courtroom safety and foster an environment that is safe for women.

Respect for women who have experienced violence and for complainants in general, is essential to making a courtroom safer for women. We have observed that lawyers and other staff can often be overheard discussing cases in public spaces. Derogatory remarks about complainants have been made by both accused people sitting in the gallery seats and justice staff in the open courtroom. This cannot be tolerated. It is disrespectful to women who have experienced violence and appears unprofessional to observers. Even if the complainant is not present or has not heard the remarks herself, such comments create an unsafe space for all women.

5. Absolutely no conditional sentence options for domestic violence or sexual assault be used in sentencing.

The dynamics of family violence and violence against women are complex. Conditional sentences in such cases are difficult to monitor and women's safety is at risk. Conditional sentences often put the burden of monitoring the offender's compliance with sentence conditions on family members and even on the victims. Over the past year and a half, we observed a number of situations in which the offender breached conditions at home with behaviour that put the victim's safety at risk. This is unacceptable.

Although there is little treatment available for violent offenders at the Labrador Correctional Centre, it is more accessible than community programmes, which are essentially non-existent.

Programming and treatment are an integral part of the rehabilitation for offenders. Rehabilitation can make women safer in their relationships. The Judge must be aware of what treatment is available to the offender and have a reasonable expectation that the treatment will be provided when it is ordered. At present, many probation orders contain recommendations for counseling or education programmes that do not exist in Labrador. We have not observed any attempts to follow up on those orders.

6. **A broad community-based consultation be undertaken to explore the possibility of a Domestic Violence Treatment Option Court for first-time offenders.**

In other parts of Canada a separate court with specialized staff, which have expertise in family violence, deal with first offences. There is emphasis on the rights of the victim and treatment for the offender. However, in order for this to work in Labrador, intensive community-based research would have to be conducted and programming would need to be developed to deliver domestic violence treatment.

7. **Mandatory training for Judges and Crown prosecutors about the nature of family violence.**

Family violence is inherently different from other types of violence because of the dynamics of the relationship between the complainant and the accused. We observed that professionals involved in prosecuting offences and those charged with adjudicating them often struggled with even a basic grasp the dynamics of violence in relationships. Ongoing in-service training on such topics would help to provide a context for the difficult decisions that must be made in courts of law.



Methodology

The Mokami Status of Women Council (MSWC) was responsible for the management of the Purple Heart Campaign. The MSWC hired a Program Coordinator to develop the project and policies, recruit and train volunteers to monitor violence against women cases in court and prepare the final report about our observations. A Purple Heart Campaign Steering Committee provided opportunities for feedback and support for the Coordinator.

The PHC Steering Committee recognized that we would not be able to monitor every single court case in the Happy Valley-Goose Bay region. The Provincial Court operates two courtrooms in Happy Valley-Goose Bay and one courtroom in Wabush. Circuit courts operate in Nain, Natuashish, Hopedale, Makkovik, Rigolet, Postville, Cartwright, Port Hope Simpson and Forteau. The Supreme Court Trial Division operates in Happy Valley-Goose Bay and a circuit to Wabush. We just do not have the resources to follow all of those courts.

I felt like the Judge was thinking, 'you did okay, you put her in her place'; that it was justified because I had slapped him and that putting someone in a headlock is not an unnecessary use of force.
♥ Complainant

As a result, our findings are based on direct observation of violence against women cases in the Happy Valley-Goose Bay courthouses. Because of the needs of victims, we decided to monitor only those cases that involved an adult complainant. We did not monitor cases involving children.

Community stakeholders brought up many common issues with some differences of perspective depending on their connection to the court system. The most common theme from all of the stakeholders was the lack of time in court and the delays in proceedings, along with a severe lack of resources to deal with the caseload.

Court Monitoring

Before beginning to monitor the court, the Purple Heart Campaign sent letters of introduction to the Legal Aid Commission, lawyers in private practice who appear in the Provincial Court, Crown Attorney's Office and to the Provincial Court Judges and the Supreme Court Justice. All welcomed the PHC monitors.

Court monitoring formed the core activity of the PHC. It involved sitting in the public gallery, observing cases of violence against women in court and noting observations. Court monitors wore a Purple Heart Campaign pin so that everyone present would be aware of their purpose in the courtroom.

The PHC Coordinator did most of the court monitoring. There were nine volunteers throughout the fall, including women from the community, as well as students from the local Community Studies Program. The volunteers were screened by the PHC Coordinator and attended training sessions that included Victim Services and the Crown Attorney's Office.

(Purple Heart Campaign) presence does have an effect on people in the system. People are aware when (they are) being monitored.
♥ Justice Staff

Stakeholder Interviews

Personal interviews were conducted with a wide range of people who are involved in the criminal justice system: Provincial Court Judges, Crown Attorneys, defense attorneys at the Legal Aid Commission and in private practice, RCMP members, Victim Services, community service providers and complainants and witnesses.

We advertised on the local community cable channel and through email list-serves in Happy Valley-Goose Bay and invited women complainants to come in to the Women's Centre and meet with the PHC Coordinator. They also had an option to fill out an anonymous questionnaire available in the waiting rooms of the Provincial Court, Adult Probation, Victim Services, at Libra House and the Women's Centre.

Court House and Courtroom Design



The physical design of the Provincial Court is grossly inadequate for the sheer numbers of cases that go through it. Complainants sit in the same small waiting room as the accused, wait in the small hallway, or in one of two interview rooms (that are usually occupied by attorneys meeting with clients). Since July 2007, one interview room has been converted into an office for the Sheriff's officers. The presence of the Sheriffs

has increased security and reduced the responsibilities for the RCMP Court Liaison Officer but the sense of overcrowding in the small space has increased significantly.

A woman came into the crowded courtroom on a plea day, waiting for her case to be called. She had clearly not been to court before and did not know what to do. She stood by the door for several minutes until finally someone informed her that she could sit down and wait for her case. As it was a plea day (the busiest day of the week), the courtroom was quite crowded. The only place for this woman to sit was directly in front of the man she had come to apply for a Peace Bond against. It can only be imagined how uncomfortable and possibly scary this situation was for her.

♥PHC Court Monitor

There is no "reception" area in the court house and no one is directly responsible for answering questions or providing general information to people as they come in. As a result, people often come into court and have no idea where they are permitted to sit or what they should do.

There are two courtrooms in the Happy Valley-Goose Bay Provincial Court. However, they are generally not used at the same time because it is rare that two judges are sitting in that space at the same time due to the circuit court schedule. A newly appointed third Judge in Labrador working out of the

Wabush court house may change this but we have yet to see how this will evolve.

During the weeks when there *are* two judges sitting in the same court house, there is not enough additional staffing to make it work effectively. During criminal court, there has to be a judge, a court clerk, a Crown and Defense, as well as security (RCMP or Sheriff). Due to low staffing, many times there have been delays and confusion while trying to accommodate the caseload.

The small court room in Happy Valley-Goose Bay (Court Room #2) is not accessible for support people for victims. Because of the design of the space, they have to step over the accused to reach the only seating available - the bench shared with the accused.

Videoconferencing equipment is only accessible in one courtroom and is unreliable at best.

We do not have closed circuit television options for vulnerable witnesses.

**The gap between the event and
when the case is heard is often
so significant.
♥ Justice Staff**

Accessibility of Services and Impact on Delays

The court house and surrounding area needs to be accessible to those who are involved in the criminal justice system. The Crown, Victim Services and Adult Probation are all located in the Provincial Court building.

Until fairly recently, the Legal Aid Commission was located within walking distance of the court house. Legal Aid is now located uptown, close to the 5-Wing base, approximately 6km from the court house. There is no public transportation in Happy Valley-Goose Bay and the price of a taxi from the court house to Legal Aid is approximately \$10.00 one way. From the lower valley to Legal Aid one way is \$14.00. This creates a barrier to accessing the service.

Having Legal Aid located closer to the court house would potentially save a great amount of court time and prevent delays for complainants. We observed

that many times the accused has told the Court that he has been unable to access the Legal Aid Commission and he has been given a postponement. We have observed several cases in which there were many postponements to allow the accused to get a lawyer.

The accused has to be made aware of where Legal Aid is and given clear directions on how to get there and stress the importance of going immediately following their appearance. This could probably speed up how quickly individuals put in their application for legal counsel.

Crown witnesses can get rides to court, while the accused cannot; if transportation were provided, this could significantly reduce (the need to reschedule) court appearances due to the accused being absent.

♥Community Agency Staff

An outreach office for the Legal Aid Commission or for Labrador Legal Services in the court house would be useful in speeding up access to representation for accused people. An outreach office or scheduled outreach hours in North West River and Sheshatshiu would also increase access to services and reduce the number of delays that occur in cases coming to trial. A flat fee of \$50.00 one way is the cost of a taxi from North West River and Sheshatshiu to Happy Valley-Goose Bay.

Although we currently have community agency staff in the court room whose job is to provide information to aboriginal people who have been charged, they do not have space in which to work and provide their services in the public spaces of the court room. There is no mechanism in place to identify them or to help people access their services.

Language Interpretation

Language interpreting is a challenging issue in Labrador. Language interpreters are needed for Innu-Aimun, Inuktitut, French and Sign Language. However, the language interpreters are not full-time staff of the Department of Justice and only seem to be called in on an “as-needed” basis. From our observations, it is not clear who is responsible to ensure interpretation is provided – is it the court’s role to provide it or the Crown or Defense’s responsibility to request it? We observed inconsistencies about decisions about language interpretation in the cases we monitored.

This haphazard approach does not seem conducive to either the court, the accused, the complainant or the language interpreter. The court seems to be moving into a phase of consecutive language interpretation and we welcome that. This means that breaks are provided after anyone speaks during a case so the information can be translated and is properly received by all involved, as well as recorded with the rest of the courtroom proceedings. This does not occur much of the time at the moment, however. Most of the time we observed that language interpretation is delivered at the same time as others are speaking in the courtroom and is not loud enough to be heard by anyone except the accused.

Lawyers need to give more information to their client, and be especially clear when dealing with an individual who is using an interpreter.

♥Community member

Included in the Northern Strategic Plan for Labrador under the 2007 Provincial Budget is the sum of “\$424,000 annually to improve access to interpretation services in the justice system through the establishment of an Aboriginal interpretation project including the creation of a justice liaison position”¹. From our perspective, this money could create permanent, full-time positions with on-site offices for the interpreters.

Justice staff has recently been travelling to Nunavut to observe and learn about their interpretation project, with plans of implementing something similar in Labrador.

Some cases are not given sufficient time to deal with its complexities due to the insufficiency of court time. They are often rushed through, especially the interpretation.

♥Justice Staff

There have been occasions of conflicts of interest for the interpreters when family relationships exist, either with the accused or the complainant. Solutions to these conflicts have been confusing and have been dealt

with on a case-by-case basis during the proceedings. There does not seem to be a policy or process in place to deal with that issue.

¹ <http://www.releases.gov.nl.ca/releases/2007/exec/0420n04bk1.htm>

As the court does many bail hearings from all over Labrador, it has to be noted that there are two different dialects of Innu-Aimun, one from Natuashish and one from Sheshatshiu. There are not standardized words between the dialects for many court terms. This needs to be taken into account to ensure that all individuals are able to fully understand in their language and specific dialect.

Language interpretation should also be accessible to family members, the gallery and the public.

Courtroom Decorum & Fostering Safe Space for Women

In speaking with some of the women, and also through our own observations, overall courtroom decorum must remain respectful.

It is well understood by those of us who sit in the courtroom on a daily basis that there are few lawyers in this small community and they must work together closely. However, this communication is often light-hearted and can often be confusing to the people in attendance. Women have expressed anger at hearing the Crown Attorney joking with the Defense.

Women reported that they feel betrayed and that they are not being taken seriously.

**Lawyers were
awful cozy,
laughing together
at breaks.
♥Complainant**

There is only one interview room and lawyers often do their discussions/negotiating in the courtroom or in the hallway for anyone to hear. This is not appropriate. The court room is a public area and anyone can be sitting in there. Women do not need to hear details about their case discussed in such a public way. They reported to us that it has been embarrassing and frightening for them to hear themselves discussed in public like that.

PHC monitors and many complainants have reported that the court room is not a welcoming or inclusive space for women. In fact, many observed that the men – accused, lawyers and even the judges, seemed “awful cozy” with each other and that informal banter amongst them was commonplace.

Monitors' Observations

In PHC court monitors' notes about cases we followed, some alarming statements and situations were observed and recorded:

- Convicted man to the Judge: "I see my woman and she is depressed. She won't talk to me and it pisses me off."
Judge (laughing): "I understand, but that doesn't mean that you can push her."
- Judge to convicted man during sentencing: "I know you to be a good man."
- Judge (in reference to the accused hitting his wife with a rock during an argument): "What he did was wrong, but not a crime."
- Judge (during sentencing): "He has done (her) a great favour by pleading guilty and not having her attend court."
- Judge to the accused man in the public seats when his case is called: "Come up and join the party."
- One lawyer remarking to another lawyer after the court clerk asked them not to block the door so she could come and go: "She must be having a tropical moment."

**More women should be
judges. There is a
different perspective.
♥ Lawyer**

Training in Family Violence for Judges and Justices

PHC monitors reported that the court system does not seem to have a framework for understanding family violence as different from other kinds of violence – until it is taken into consideration at sentencing as an aggravating factor.

We observed and heard a Judge say that if a woman chooses to “prolong their relationship, they are doing so with knowledge of danger” and that it “...does not seem to be a lethal kind of danger”.

A statement such as this is takes the responsibility away from the offender for the violence. It also does not take into account the nature of relationship violence and the dynamics of victimization in such relationships. It also does not take into account the common experience of women staying in violent relationships to be safe from the escalation of violence that can occur because she has ended this relationship.

**“In 2004, half of the women who reported experiencing spousal assault by a past partner indicated that the violence occurred after the couple separated, and in one-third of post-separation assaults the violence became more severe or actually began after the separation. Spousal homicides against separating women have been attributed to extreme possessiveness or jealousy on the part of male perpetrators, and to an attempt to maintain control over female partners through the use of violence (Wilson et al. 1995). In half of all ex-partner homicides against women between 1991 and 1999, the woman was killed within two months of leaving the relationship.
(Hotton 2001).”²**

² www.statcan.ca/english/research/85-570-XIE/2006001/findings/risk.htm

Roles of People Involved

People who are part of criminal court include:

- the Judge, whose role is to decide the case
- a court Clerk, who calls court in session, records the information that is presented during a hearing, swears in the witnesses and is responsible with providing the Judge with information regarding the charges
- Crown Attorney, who are lawyers employed by the Department of Justice to prosecute cases
- Defense Counsel, who may be either from the Legal Aid Commission or private counsel, to protect the rights of the accused person
- RCMP Court Liaison Officer who provides original files for the Crown Attorney, provides court room security and keeps track of cases in court.
- Sheriffs, who provide transportation to and from court for those in custody (either at the Labrador Correctional Centre, or in RCMP cells); they also provide security at the Provincial Court of Happy Valley – Goose Bay.

No one tells you the types of questions, or that they will pick apart your statement or what you are saying
♥ **Complainant**

Bail Hearings

Bail hearings consume an enormous amount of time in court. They happen on a near daily basis and take precedence over all other cases because the accused has a right to appear before a judge within a set time limit. Trials and other appearances (including family matters, youth matters and Child, Youth and Family Services matters) are often postponed to accommodate bail hearings. Happy Valley - Goose Bay Provincial Court needs a separate bail court. This would allow trials to run on their scheduled dates and consequently make court time available for setting earlier trial dates.

People use the term “bottle-neck” to describe our system here in Happy Valley-Goose Bay. There are many cases on the docket, but there are a limited number of lawyers, clerks, court rooms and RCMP. They are not moving through in a timely, organized way. Our system is backlogged due to a lack of resources.

Under the new provincial budget, Labrador is expecting additional Crown Prosecutors. A new Sheriff’s program is in place. In order for these measures to be effective, additional staffing for infrastructure (clerks, language interpreters, administrative support) must support them.

Breaches of Undertakings

**There is a lack of time to explain things to them (victims).
♥ Justice Staff**

A court order such as an Undertaking is often put in place to protect the rights of the accused while also putting some safety measures (such as no contact conditions, for example) in place for the complainant. Women

expressed concern that the men who abused them were repeatedly released on Undertakings without, it seemed to them, consequences for breaching those Undertakings. For many women, it is not worth the struggle if they know that their situation will not get any better.

According to the 2005-2006 Provincial Court of Newfoundland and Labrador Annual Report, the number one most common offence in the province over this time period was Breach of Court Orders (7,379 occurrences, followed by assault with 2,076 occurrences)³.

Delays

Many factors contribute the delays in court in Labrador.

**Lawyers could give more information, especially with Innu.
♥ Innu community member**

Occasionally witnesses, the accused and lawyers all have to travel to Goose Bay for the trial. For complainants who live or work on the coast, this can be inconvenient and often unmanageable because of flight schedules, weather or personal responsibilities such as childcare. We observed a situation

³ http://www.court.nl.ca/provincial/ar05_06.pdf, pg. 21

in which the complainants had to stay in Happy Valley-Goose Bay for a week after their court appearance because of flight schedules to the coast. It is not uncommon for a trial date to be reset many times for a variety of reasons, including key witnesses not being present due to weather delays or other barriers.

Some court monitors felt that accused people abused the length of time the court allowed them to find a lawyer. Some monitors observed the same accused person appear before the court several times without having taken the steps necessary to get a lawyer. It seemed as if no action was taken by the court except to schedule a new court date.

Perhaps some take it lightly, while others do not understand fully the importance of appearing, and the consequences of not doing so. This confusion may be due to not fully understanding their role or may be due to language barriers. Subpoenas are delivered to individuals to order their presence in court but are not provided in any other language than English. It is not clear if the RCMP take an interpreter with them to deliver subpoenas.

Sentencing

Many factors are part of deciding a sentence. The Judge is required to take into account the seriousness of the crime (as compared to other crimes, not as perceived by the victim), previous case law and the criminal record of the accused.

However, to send the right message to the public, that violence against women is not tolerated, sentences must be increased. There is argument that long custodial sentences are ineffective (other than protecting the victim and the

**(It feels like) no one is trying to swing the pendulum the other way to prove guilt.
♥Complainant**

public while the accused is incarcerated), but there is great potential for rehabilitation if there is appropriate programming within the correctional facility to address the issues of the inmates.

These programs have to address anger management issues, control issues, domestic violence, alcohol and drug abuse, and programming for sexual offenders. They have to be extensive, culturally appropriate, on-going and delivered by trained counselors. Follow up within the communities is also

essential to help keep offenders from re-offending and to protect women in the community.

The Gladue decision came into effect in 1999. The decision directs sentencing judges to find alternatives to custodial sentences for Aboriginal offenders. In sentencing, some judges have noted that the more serious the offence, the less weight personal circumstances of the accused have on the judge's decision. We would argue that family violence is, in and of itself, serious enough to outweigh the special provisions of the Gladue decision.

Here in Labrador, with the high Aboriginal population, many Aboriginal women expressed concern that what is being lost is the issue that many of the offences committed by Aboriginal men are against Aboriginal women. How are the Aboriginal woman's rights, background and the systemic problems that they face being addressed? According to Statistics Canada, "In the 1999 General Social Survey, Aboriginal women reported spousal assault at a rate that was twice as high as Aboriginal men and three times higher than non-Aboriginal women and men."⁴

Domestic Violence Treatment Option (DVTO) Courts

Domestic Violence Courts have been established in Manitoba (1990), Ontario (1996), Saskatchewan (2003), Alberta (2005), Yukon (2000), and New Brunswick (2007)⁵

The Yukon DVTO model uses the following process:

- An application is made at either the first or second court appearance (this indicates an early acceptance of responsibility which is a requirement of the program).
- The court adjourns to conduct an assessment and determine whether the accused/circumstances are eligible (if it is determined that they are not, the case is then sent back to regular court).
- When the accused has been accepted into the treatment program, the guilty plea is then entered, before any treatment is undertaken.
- Treatment programs are then presented to the Judge (one required element is the Spousal Abuse Program (SAP), a fifteen week program)

⁴ <http://www.statcan.ca/english/research/85-570-XIE/2006001/findings/aboriginal.htm>

⁵ <http://www.statcan.ca/english/research/85-570-XIE/2006001/findings/responses.htm>

- Once the treatment is complete, the sentencing takes place (Victim Services, Crown and Defense provide their recommendations to Probation Services). Normally the sentence is a conditional sentence of imprisonment, plus probation, or just a period of probation.⁶

A program such as this may be a possible option for Happy Valley – Goose Bay Provincial Court. However, extensive research *within* Labrador must be conducted, including community consultations. Labrador is unique in its culture and geography, and this must be respected before considering launching a program of this kind.

Population & Caseloads

According to the 2006 census, the population of Labrador is 26,364.⁷ The court in Happy Valley - Goose Bay services all 32 communities in the region.

Although many of the stakeholders working in the system feel that we are not necessarily higher than average when compared with the rest of the province, our numbers are significant. According to the 2005-06 Provincial Court of Newfoundland and Labrador annual report, our total adult cases are only behind St. John's and Corner Brook.

	Total Population	Total Adult Cases	Total Percentage
Happy Valley – Goose Bay*	26,364 ⁸	1863 ⁹	6.5
St. John's**	235,898 ¹⁰	10,005 ¹¹	4.2
Corner Brook***	60,530 ¹²	2533 ¹³	4.2

* All of Labrador

** St. John's and Harbour Grace (Minus Southern Harbour, Arnold's Cove and Come-by-Chance

*** St. Anthony to Port Au Choix and Corner Brook to Rocky Harbour

⁶ <http://www.yukoncourts.ca/courts/territorial/dvtoc.html>

⁷

<http://www12.statcan.ca/english/census06/data/popdwel/Table.cfm?T=502&PR=10&S=1&O=A&RPP=25>

⁸

<http://www12.statcan.ca/english/census06/data/popdwel/Table.cfm?T=502&PR=10&S=1&O=A&RPP=25>

⁹ http://www.court.nl.ca/provincial/ar05_06.pdf, pg. 7

¹⁰ http://www.communityaccounts.ca/communityaccounts/maps/avalon_all.pdf

¹¹ http://www.court.nl.ca/provincial/ar05_06.pdf, pg. 7

¹² <http://www.exec.gov.nl.ca/rural/>

¹³ http://www.court.nl.ca/provincial/ar05_06.pdf, pg. 7

According to these calculations, Labrador has more adult cases per capita than both St. John's and Corner Brook. This is certainly disproportionate, considering our resources to deal with this caseload, before and after a trial.

Our total cases have gone down since the 2004-05 report, however, it is indicated by many of the people spoken to that it is not the actual numbers of files, it is the quantity of serious cases and the severity within them. It takes much more prep time when dealing with a serious offence that may involve several witnesses and possible long criminal histories. Throw into that the geography of Labrador, the difficulty in travelling within it (inclement weather, limited flights), and possible language and cultural factors that need to be taken into account.

The resources are such that if everything went to trial that could, the entire system would collapse.
♥Justice Staff

Happy Valley – Goose Bay services all of Labrador, with 10 different communities involved in circuit court. Circuit court operational costs were \$70,457.35 (according to the 2005-06 Provincial Court Annual Report), far exceeding that of the other circuit courts (obviously due to our geography and the number of communities we service). The total cost of circuit court for the whole province last year was \$148,528.39. Labrador's circuit is taking up nearly half of that expenditure, with 109 days on circuit last year¹⁴

(Regarding our caseload), it is a question of the number of hours (required to deal with a case), as opposed to the number of cases.

There are specific factors when working in Labrador: culture, language (not understanding the significance of charges, getting a lawyer, court dates, etc.), weather (delays and rescheduling), the number and frequency of circuits, and travel time.

♥Justice Staff

¹⁴ http://www.court.nl.ca/provincial/ar05_06.pdf, pg. 24

Women's Experiences

During the final phases of the project, we wanted to speak with women who have been through the system as complainants. We wanted for them to be able to share their experiences, or to express their frustrations or satisfactions with the outcomes of their cases. Understandably, it was difficult to get many first-hand stories, as many women are not ready to share them. We are truly thankful to those women who did share their experiences with us.

Some of the things that women reported to us were:

- One woman was told by the Crown that the Crown does not strategize with the victim, does not prove guilt, does not represent her.
- Victims need to be made aware clearly that they will not have a second opportunity to speak.
- Before the time to testify, the victim must be prepared for the possibility of questioning regarding her memory.
- One woman was told by the Crown that they were not to bring up past events, but during the trial the accused was able to do this, it was even encouraged by the Judge.
- One woman said she was not asked anything that might help the case, no further info was gathered from the victim; she felt that there should be more of an attempt by Crown to prove the case.
- One woman pointed out that she had to testify four times: to the police; during the preliminary inquiry; during the first trial; and due to a hung jury, during the second trial.

Not all of the points were negative:

- The Judge was pretty respectful; he tried to validate her feelings.
- One woman's first lawyer was good at presenting the case

Thank You

The Mokami Status of Women Council and the Purple Heart Campaign thank all those who helped our court monitoring project. This project would not have been possible without the support of the Provincial Court staff, Supreme Court staff, Legal Aid Commission, Crown Attorney's Office, Victim Services, Adult Probation, Labrador Legal Services, RCMP, Child Youth and Family Services, other community stakeholders who work in justice services, members of the private bar and, most especially, the women who experienced violence and shared their stories with us.

We would also like to take this opportunity to wish a special thanks to the students of the Community Studies Program of the College of the North Atlantic and the volunteers who helped monitor cases in court.

The Government of Canada has contributed funding to this initiative.



Appendices

- Appendix A: Case Study**
- Appendix B: Introductory Letter**
- Appendix C: Court Monitoring Form**
- Appendix D: Questionnaire for Stakeholders**
- Appendix E: Questionnaire for Women**

Appendix A: Case Study

John Doe was charged with sexual assault in 2005. His first appearance for that charge was in April of 2005. The first date set for his trial was in December 2005. At the writing of this report, this case is not concluded.

Date	Reason for Appearance	Outcome
April 11 th , 2005	In Custody	Released on Undertaking
May 4 th , 2005	Adjourned for Election and Plea	Accused did not come to court so Warrant for Arrest issued
June 1 st , 2005	Adjourned for Election and Plea	Not guilty plea entered and put over for trial
December 16 th , 2005	Adjourned for Trial	Adjourned – no time to complete the trial.
Note that first trial date is not scheduled until 8 months after the first appearance.		
July 13 th , 2006	Adjourned for Trial	Issues arise that need a special hearing.
November 17 th , 2006	Adjourned for Trial	Special hearing.
December 15 th , 2006	Adjourned for decision on the hearing	No decision
January 10 th , 2007	Adjourned for Trial Continuation	Not completed – another hearing date set.
January 25 th , 2007	Adjourned for Hearing	Hearing concluded.
February 10 th , 2007	Adjourned to Set a Date	Trial continuation set for September
September 11 th , 2007	Adjourned for Trial	Trial continued into the second day
January 22 nd , 2008	Adjourned for Decision	

This man appeared a total of eleven times for this charge, with dates set for the trial starting in 2005 and then set four more times. During the third trial date, the accused disputed some of the evidence that was given during a testimony, and there was debate about whether to allow some other RCMP testimony. As they had to decide whether to allow this testimony, they again set over the trial for another month.

So many delays are very stressful to the victim, who had to come to court prepared to testify over and over, only to be told it has again been rescheduled. Waiting more than two years for a trial to be completed is unacceptable, and often does not allow the victim to move on with her life.

Appendix B



Purple Heart Campaign Court Monitoring Project

December 5th, 2005

Dear Sirs,

The Mokami Status of Women Council, Labradorians for Peaceful Communities, Libra House and the Women's Centre in Happy Valley Goose Bay have launched a research project to monitor women's experiences in the court system. We call our project the Purple Heart Campaign. The purple heart is a symbol of courage and we have adopted that symbol to reflect the incredible courage of women who experience violence in our society.

The mission of the Purple Heart Campaign is to make the justice system more effective and responsive in handling cases of violence, particularly against women, and to create a more informed and involved public.

The goals of the Purple Heart Campaign are to:

- Learn about the criminal justice system.
- Understand the role of court monitoring in creating systems change.
- Learn more about the impact of domestic violence and sexual assault on our community.
- Remind the criminal justice system that *the public is watching*

Our trained volunteers will be attending public court sessions in Happy Valley Goose Bay Provincial or Supreme courts between December 6th, 2005 and December 6th, 2006 to monitor proceedings and sentences as they relate to violence against women. December 6th is a significant date in the women's community – a day we honour the lives of women who have died by violence in our communities.

Our volunteers are women from the community. They will not disrupt the court proceedings or express opinions about specific court cases to the media. Our project will collect information for analysis and we will release a report at the end of the year.

If you have any questions, you are welcome to contact me at 896-8022.

Regards,

Janet O'Donnell
Committee Member
Purple Heart Campaign

Appendix C



Purple Heart Campaign

Court Monitoring Project

PO Box Stn B Happy Valley Goose Bay, NL A0P 1E0 Phone: 896 3484 Fax: 896 3472

Court Monitoring Form

Date:	Monitor:
Matter: R v	D.O.B. Year M D
Court: <input type="checkbox"/> Provincial <input type="checkbox"/> Supreme	Judge:
Crown:	Defense:
Charge(s):	
Reason for Appearance (Rsn):	
Scheduled Start Time:	Actual Start Time:
Reason for Delay (if delayed):	
Time spent in court: From:	To:
Was complainant present?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't Know
Was interpreter requested?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't Know
Was interpreter provided?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't Know
Did complainant make a statement?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't Know
Did accused make a statement?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't Know
What did s/he say? (use point form)	
How did this appearance end?	
Sentencing:	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't Know
Please describe sentence or conditions of release (if any):	
Next Appearance Date:	
Reason for Appearance (Rsn):	
Comments on reverse	

Appendix D

Questions for Stakeholders

1. Has it been clear what the Purple Heart Campaign is?
2. What did you think about the Purple Heart Campaign when we first began? Has your opinion changed? Do you think that we are effective?
3. How do you think the system is working?
4. Do you see any flaws in the system with regards to violence against women/or anything else? If so, what do you think is the answer?
5. What gaps do you see in our Court system?
6. There is a perception that Labrador's caseload seems to be unusually high. Can you comment on that?
7. Do you think that there are adequate resources to deal with the caseload?
8. Do you think there are an unusual number of cases of violence against women in our region? If so, why?
9. There is a community perception that sentences are lenient, particularly for violent crimes. What is your perspective?

Appendix E

Questionnaire for Women

The Purple Heart Campaign is a court monitoring campaign following cases of violence against women. We are looking for women's experiences in court as complainants to accurately capture what is happening in our justice system. All information given will be anonymous. We appreciate any information that you are able to provide us.

1. When completed this form can be brought to Stephanie Flowers at the Women's Centre (in the Glenn Plaza building) 896-3484, or dropped off to the Provincial Court.
2. When did the criminal incident happen?
3. When was the first court appearance?
4. Has the case been completed?
5. Did you go to court? If so, did you have to testify?
6. How do you feel you were treated by the court (staff, judge, lawyers)?
7. Did you get to talk to your lawyer (the Crown)?
8. Were you informed by anyone of the services that you could obtain while going through the court process (e.g. Victim's Services)?
9. Were you satisfied with the outcome/decision? Please explain why you were/were not?
10. If you were unsatisfied with the proceedings/outcome, how do you think it could have handled differently?
11. Is there anything else you would like to add?