

Feedback to the College from the Task Force on Psychological Service Provision in the Context of Disputes Concerning Child Custody, Access or Child Protection

Context

In March of 2012, the College received copies of two Decisions of the Health Professions Appeal and Review Board. Both upheld the Decisions of the Inquiries, Complaints and Reports Committee of the College and each made a recommendation to the College. The Board recommended that the College

- *consider investigating and implementing a specific policy that recognizes and addresses the issues associated with the Child Custody and Access Assessments conducted by its members*
- *consider adopting a policy that would provide members with specific guidance as to their professional obligations when asked to testify on behalf of one party when two parties have engaged in joint sessions*

Upon consideration of these recommendations from the Board, the Executive Committee of the College directed that a Task Force be established to develop advice to members regarding their professional obligations in conducting child custody and access assessments.

The members appointed to the Task Force were: Dr. Barbara Fidler (Chair), Dr. Marlies Sudermann, Dr. Sharon Francis-Harrison and Dr. Robert Rowe. All had extensive experience providing psychological services in the context of child custody disputes and child protection proceedings. The Task Force invested considerable time in this project and provided the College with a comprehensive document intended to provide information to College members providing services in these areas of practice. The Task Force also provided recommendations to the College.

Information for Members

The Task Force produced a document entitled: *Information for Consideration by Members Providing Psychological Services in the Context of Child Custody Disputes and Child Protection Proceedings*. It is available on the College's website in the Resources section and is intended to assist members, working in this challenging area of practice, in providing ethical and competent services.

Recommendations to the College

In light of concerns of Task Force members that the College's investigation of complaints related to services provided respecting child custody, access and welfare may be contributing to a reluctance on the part of members to offer such services, the Task Force also provided feedback to the College. In formulating the feedback, Task Force members relied upon their own professional experience and analysis of responses to two questionnaires developed by Task Force members. Consideration of the recommendations from the Task Force recommendations involved the Council and the Inquiries Complaints and Reports Committee (ICRC).

A Summary Report of survey results was prepared by the Task Force and is attached as Appendix A.

Training

The Task Force recommended that the College address an identified need for training with respect to the provision of services within this area as well as the inadvertent provision of custody and access recommendations by some College members. In particular the Task Force recommended that members have access to training based on the *Information for Consideration by Members Providing Psychological Services in the Context of Child Custody Disputes and Child Protection Proceedings* ("best practice guidelines").

The Council referred the issue of training to reduce the likelihood of members inadvertently becoming involved in custody and access work to the planning committee for the Barbara Wand Annual Symposium on Ethics. Council also directed that the College approach the Ontario Psychological Association and the Ontario Association of Psychological Associates to determine whether they might be interested in sponsoring or providing pertinent training.

In addition, the Council directed that representatives of graduate psychology training programs and psychology internship programs in Ontario be apprised of the Task Force's view that providing additional coursework for those wishing to be engaged in these services would be beneficial.

Investigation of Complaints

As mentioned above, out of concern that the risk of being subject to complaints may discourage College members from providing services in the context of child custody and access disputes and child protection proceedings, the Task Force also made several recommendations regarding changes to the Complaints Investigation process. Most of these recommendations related to the College's application of the legislative provisions to identify complaints that are frivolous, vexatious, made in bad faith, moot or otherwise an abuse of process. Further information about the College's practices concerning such complaints can be found in the Volume 5(20) of the College's e-bulletin (April 2014), which is available on the College website.

The Council noted that consideration of recommendations concerning the identification and disposition of complaints falls within the role of the ICRC, pursuant to the *Health Professions Procedural Code*. The ICRC provides guidance to College staff respecting the investigation of complaints, both generally and specifically.

Current College Procedures with Respect to Complaints which may be Frivolous, Vexatious, Made in Bad Faith, Moot or Otherwise an Abuse of Process

Current guidelines from the ICRC to staff are to provide to a panel, as soon as possible after a complaint is received and before any investigation takes place, any complaints that meet the following criteria:

- The member who is the subject of the complaint was not a member of the College at the time of the event(s) giving rise to the Complaint;
- The concerns raised in the complaint are not relevant to the member's practice of, or suitability to practice, psychology;
- The substance of the complaint has been the subject of a prior complaint by the complainant against the member and has already been finally disposed of by the College;
- The complaint has been made by an individual with a pattern of making unsubstantiated complaints; or
- There is another more appropriate statutory remedy available to the complainant that would serve the public interest as well as the rights of the parties to the complaint, being the complainant and the member;

These guidelines are reviewed on a regular basis by the ICRC.

Frequency of Complaints

Unfortunately, there are no available statistics on the number of custody and access or child welfare cases College members have been involved in that have *not* resulted in complaints.

Review of annual statistical reports on complaints received by the College between 1994 and 2011 indicates that as many as 25% of all complaints were characterized as complaints about members conducting custody and access or child welfare related services. This number included matters involving members who had improperly or inadvertently provided opinions about Custody or Access in the course of providing some other service. An example would be where a member provided opinions about custody and access to an individual therapy patient or to another professional, where those opinions may have been provided as evidence in court, even though the member was providing therapy to an individual and there was no assessment or collection of objective information about any other individuals within the family.

Beginning in 2011, following the implementation of a new data base at the College, only those complaints about members who had a mandate to provide such services were categorized in this

way. The percentage of complaints fell to 13% and then 8% and 5% in each of the next two years.

The College has recently reviewed the frequency of complaints against individual members practicing in this area. Between October 1984 and October 2014 the College received a total of 1899 complaints against members providing services of any nature. Of these, 327 complaints (17%) were categorized as related to custody and access or child welfare services. This number includes some complaints against members who provided Custody and Access recommendations but who had not been retained to provide this service, as discussed above.

The following table provides information about the number of individual members who were the subject of multiple complaints. Please note that the existence of a complaint or the number of complaints lodged against a single member does not necessarily correlate with a problem with the member's practice.

The net number of members registered for autonomous practice has increased over the years and was 3,450 as of March 9, 2015.

Number of Complaints per member	Number of Members Receiving Multiple Complaints -	
	All Complaints (n=1899)	Custody /Access/Child Welfare Related Complaints Only (n=327)
2	199	23
3	79	13
4	34	6
5	23	2
6	16	1
7	9	1
8	4	2
9	3	0
10+	14	5

Considerations for Members

While other bodies may address concerns about specific family matters before the courts, the College is the only body authorized to assess a member's compliance with the standards of the profession and to protect the general public when a member's professional services do not meet those standards.

The College recognizes that receiving and responding to a complaint is a significant source of distress. It also recognizes that in some cases complainants may make allegations against members in the hope of reducing the risk of losing custody or access to their children. In most cases, an investigation indicates that the member has not failed to maintain the standards of the

profession. Statistics about the disposition of complaints is published regularly in the College's e-bulletin.

In a relatively small number of cases investigation of complaints about services of this nature has indicated that the College must take some action to protect the public.

The Colleges thanks the members of the Task Force for their substantial contribution of time and thought. Based on the recommendations of the Task Force the College has updated and comprehensive information for members on the College website, serving as a valuable resource for members who are providing, or wish to provide, high quality services. In addition, the College has been advised of possible areas for additional training and has been provided with information for the ICRC's ongoing review of its processes.

The College also thanks those members who responded to the Task Force's surveys.

A number of members of the College choose to practice in areas relating to custody and access and child welfare. We hope that, in addition to considering the challenges and risks associated with this important work, members will also recognize the potential rewards in providing these services.



Appendix A



CPO Survey: Summary Report

Purpose

- » *The College recognized that practicing in the context of child custody/access and child protection (welfare) related presents many challenges to members and exposes them to the risk of complaints and other adverse events. The College struck a task force to develop guidance to members and assist the College in identifying possible ways of helping members provide high quality services in the face of these challenges. The Task Force wanted to consider several sources of information, including those members who are doing this work.*
- » *The College sent out an initial survey and received a 711 responses. Unfortunately, the survey did not permit sufficient space for members to say all that they wanted to say. As a result, a second survey was conducted in order to receive more detailed feedback regarding advice to members and recommendations for the college.*
- » *The findings from this survey helped to guide subsequent advice to members and the task force's recommendations to the college*



A note on method

- » **Two surveys were conducted. For each:**
 - > **Incomplete cases were deleted from further analysis. As such, there may be slight discrepancies between survey generated data and the attached summary.**
 - > **Members responses on open ended questions were coded for content and categorized for later analysis.**
- » **The current report offers only a brief summary of selected findings from what was considered by the task force to be the most important findings from the surveys.**
 - > **The second survey was conducted primarily to allow for additional space for feedback, advice, and recommendations. As such, the current summary focused primarily on this area of results.**



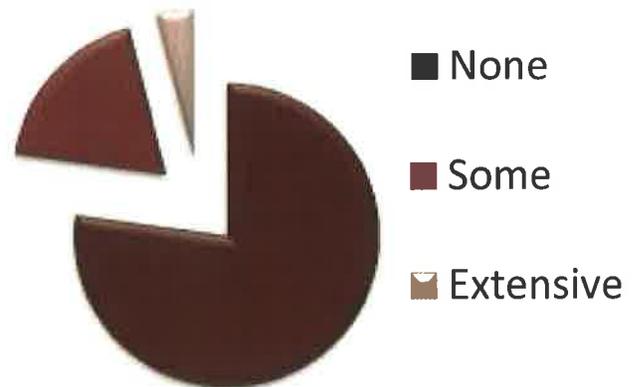
Survey 1

» Basics

- > Total number of responses was **711**

» Experience

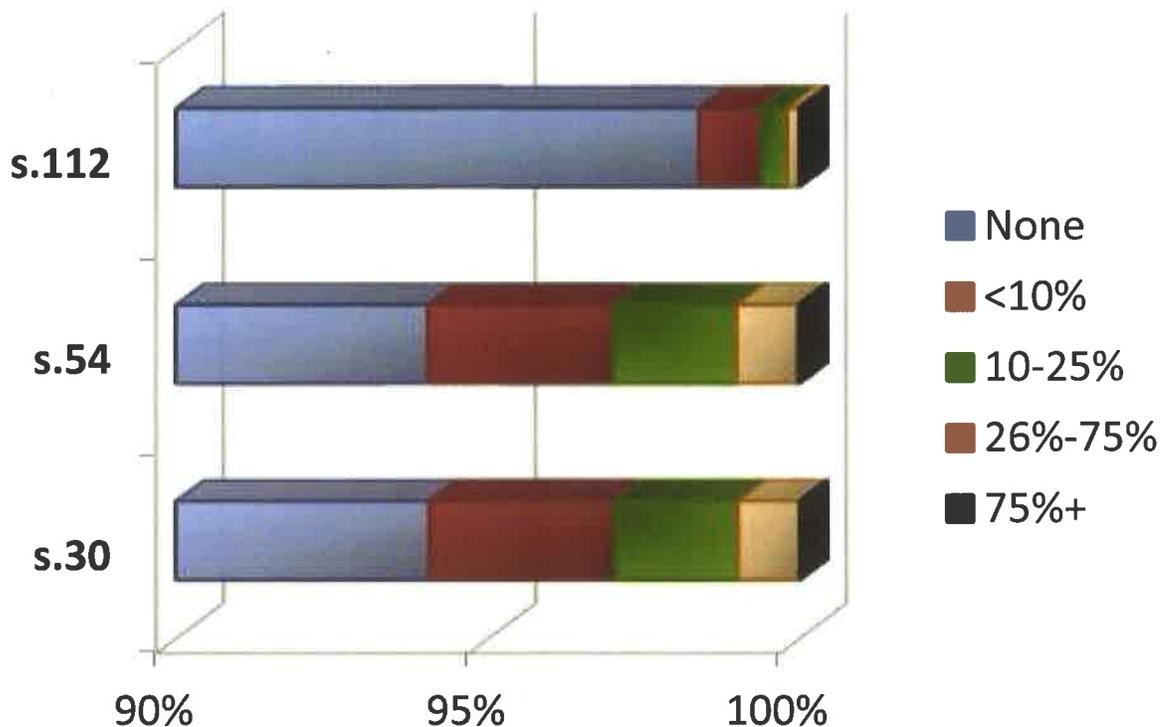
- > Members were asked what their level of experience was with family related court matters. Most had no experience while 162 had at least some.



- > 549 responding members (77%) had never had any involvement providing services either in the past or present in family court related matters
- > Of 162 members with at least some experience
 - + 134 (19%) indicated their experience to be slight or minimal both past and present
 - + 28 (4%) indicated that they had extensive involvement past or present
 - + 28 (4%) indicated that they were currently involved in providing services in this area

» Current level of practice

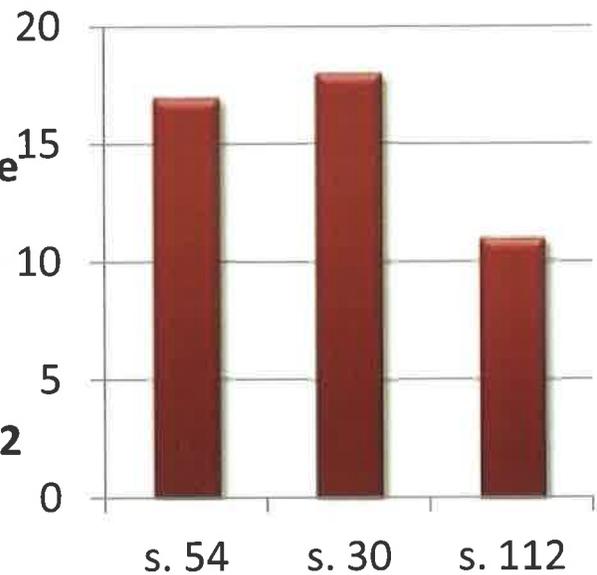
- > Members were asked to provide a proportion of their current practice that was occupied doing professional work on specific types of custody/access child protection work
- > An overwhelming number of members were not currently involved in these types of assessment (>95%)
- > For roughly half of members that were involved in these types of assessment it comprised less than 10% of their practice.



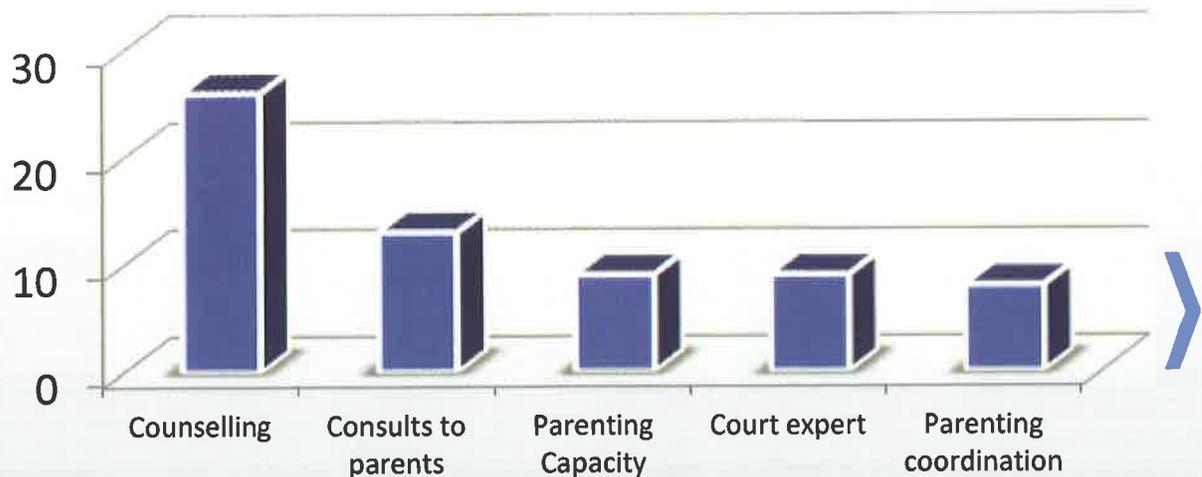
» Current - II

- > Less than five percent of the total sample indicated that a sizable portion of their current practice consisted of court ordered assessments

- > Eighteen members indicated that over a quarter of their practice was comprised of custody and access assessments, while lower counts were found for s.54 and s.112 type assessments.



- > For those having experience in the field, the most common type of involvement in family court related work was counselling children involved in a custody dispute.



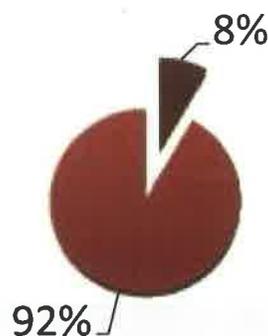
» Experience

- > Members completing court related work had extensive years of work in the field and had been registered an average of 20 years.
- > Average experience in providing custody and access services;
 - + **M=15.8 years** (SD=10.3; range <1 year to 40 years)
- > Average experience in completing parenting capacity assessment;
 - + **M=12.3 years** (SD=10.8; range <1 year to 40 years)

» Interest

- > Members were asked about their general interest in completing or providing custody/access and child protection services.

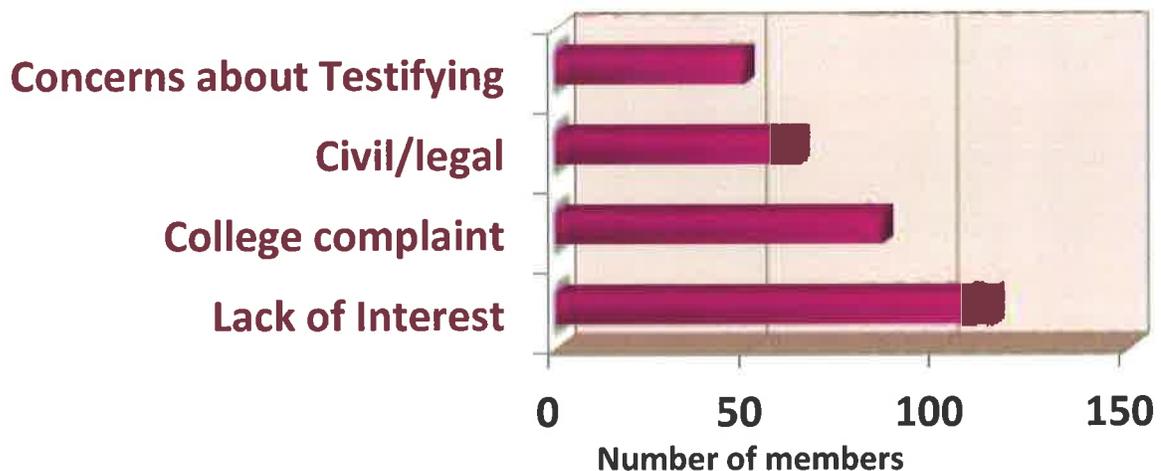
■ Interested ■ Not interested



Only a fraction of the total sample indicated that they have any interest in engaging in family court related work. Even those completing this work had minimal involvement

» Choosing Never to Practice

- > Members that identified themselves as qualified to offer services in family court related matters were asked to provide reasons if they were not practicing in the area. A lack of interest was the most common response (N=114) followed closely by risk of a professional complaint (N=85).



» Choosing to Not Continue Practice

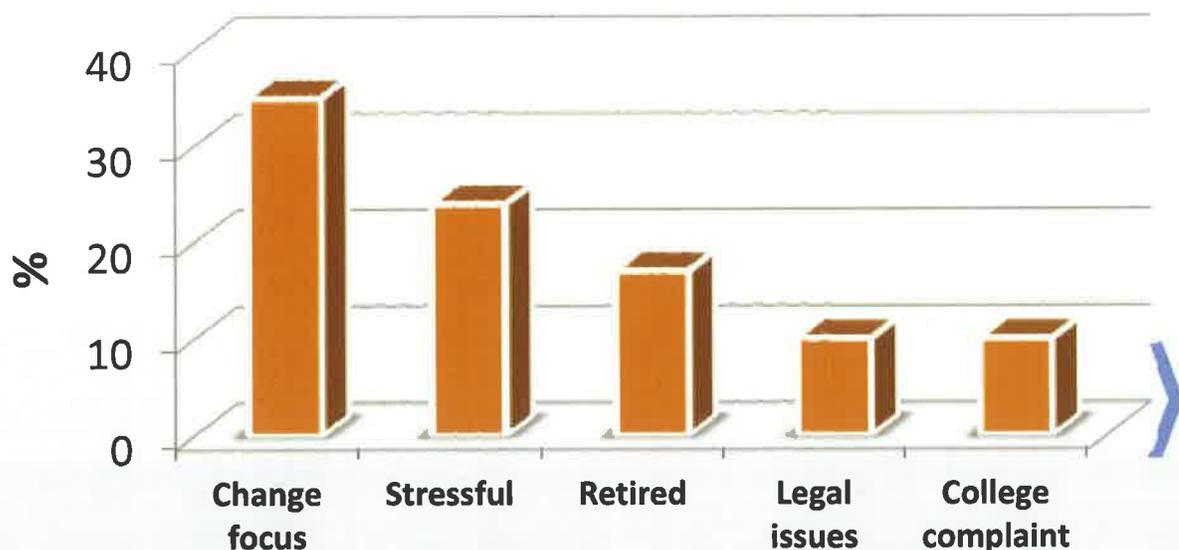
- > A segment of the total sample identified themselves as qualified AND having experience (N=162).
 - + A large proportion (56%) of these members indicated they would not be interested in pursuing current practice in the field under ANY circumstances.
 - + Twenty-six percent said they would consider providing services in the future while eighteen percent were not sure.

» Risk of Complaints

- > **Members not providing services due to a fear of complaint compared to other members;**
 - + **Had been registered longer**
 - + **Had fewer years experience specifically in child protection**

» Ceasing work

- > **Several members (N= 34) indicated that they had experience in the field but had chosen specifically to cease working in the field.**
- > **Many who had ceased working in the area indicated they had done so because their practice had changed focus (34%) or they had retired/stopped practicing (17%). Some suggested it was due to the nature of the work or risks associated with court related services.**

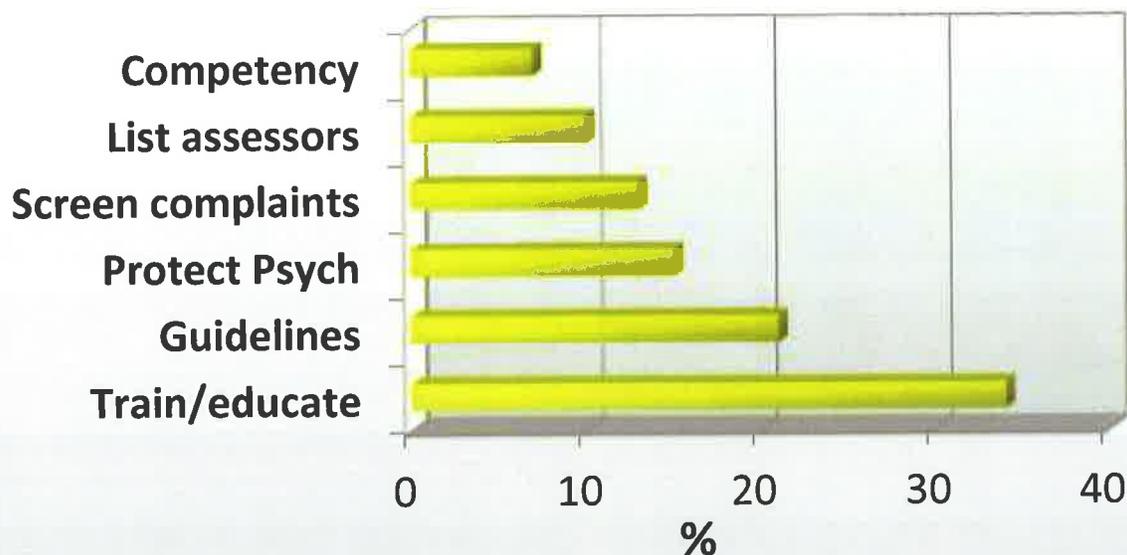


» Enticement

- > All members were asked under what circumstances they might consider providing these services. The top three responses;
 - + Increased professional supports
 - + Decrease in the risk of college complaints
 - + Decrease in civil/legal complaints

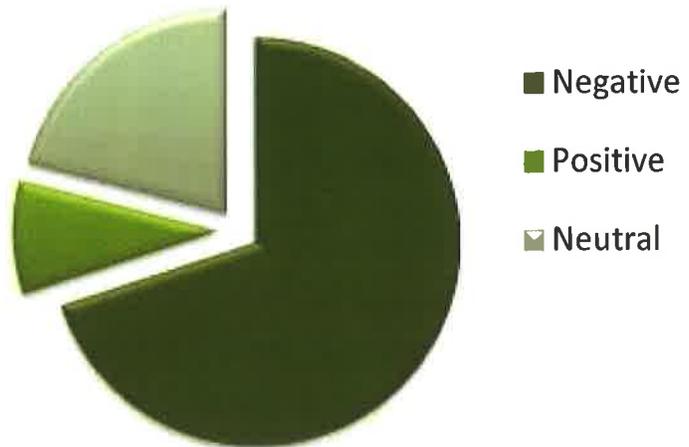
» Recommendations

- > All members were asked to provide recommendations to the College. Of those offering recommendations, the most common advice;
 - + More extensive training and education (34%)
 - + Guideline provided to members (21%)
 - + Assist in protecting psychologists from legal or professional complications (13%)
- > Experienced members provided similar recommendations



» Complaints

- > Thirty-three members responded that they had been involved in a professional complaint in the context of child custody/access related practice.
 - > Most (70%) considered the complaints process a negative experience. Only 9% of members indicated they had benefited from the process.
 - > Years registered was positively related to involvement with a complaint, but not experience in the field.
 - > Involvement in the complaints process significantly predicted ceasing work in the field.
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- > The most common negative outcomes were;
 - > Stress/conflict (36%)
 - > Leaving/limiting practice (27%)



» Challenges

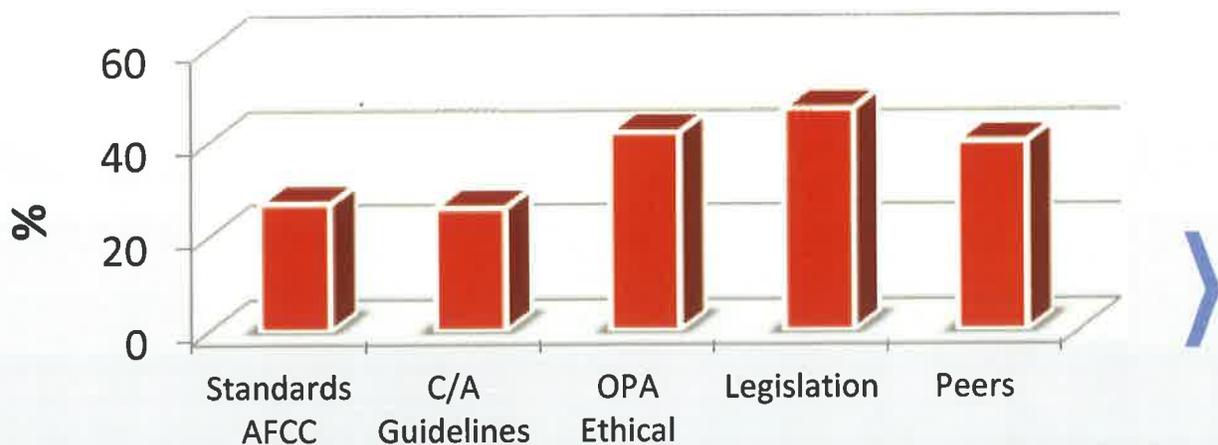
- > Experienced members indicated that the most challenging aspects of providing services were ;
 - + Complexity of cases (31%)
 - + Court process/legal issues (18%)
 - + Difficult clients (18%)
 - + Complaints to college (13%)

» Advice to members

- > Experienced members were asked to provide the most important lessons of their work. Almost half (47%) advised other members to engage in consults with peers and utilize resources.
- > Other types of advice included;
 - + follow best practice guidelines (19%)
 - + Clearly define a scope of work (11%)
 - + remain objective/fair (13%).

» Resources utilized

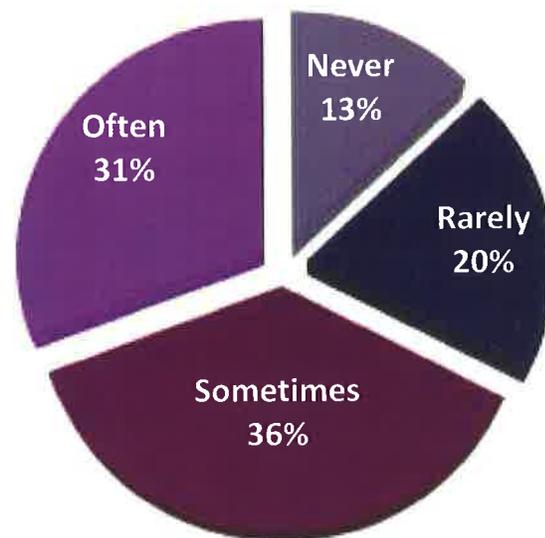
- > Members indicated a wide range of awareness of available resources and materials;
 - + The most essential resources identified were relevant legislation (47%) and OPA's Ethical Guidelines for Psychological Practice Related to Child Custody and Access (42%).



» Resources (cont)

- > Many members were not familiar with resources*;
 - + 31% AFCC model standards of practice
 - + 19% Custody/Access Assessment guidelines
 - + 28% APA guidelines in child custody evaluations
 - + 8% of relevant legislation

- > Members typically relied on peers, with over two-thirds indicating that they sometimes or often consulted with peers or colleagues about their work



- > Members who worked in the area indicated that their most common method of training was workshops (23%). Conferences (18%), internships (7%), and graduate training (6%) were also listed.
- > A large number of members (84%) indicated poor training opportunities and a need for more training.

» Training

- > Members indicated their top priorities for training

Best practice
guidelines



Legal issues



Complex
Cases



Survey 2

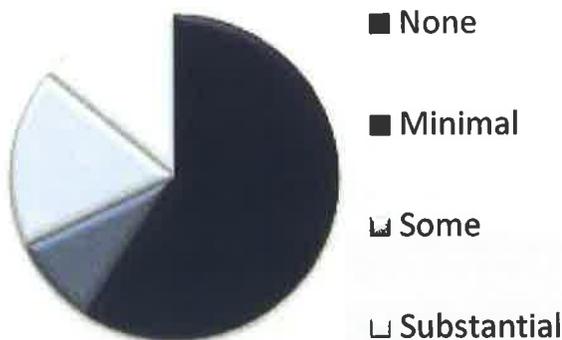
» Basics

- > Total number of responses was **44**

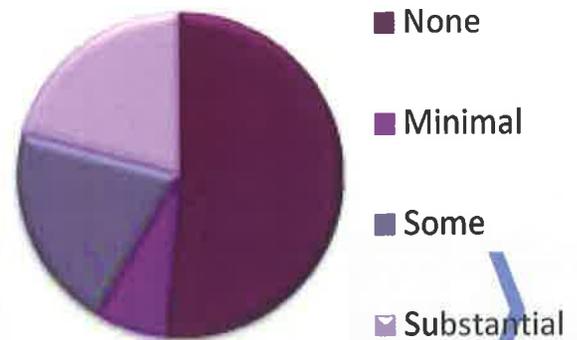
» Experience

- > Members were asked what their level of experience was with family related court matters both currently and historically. Almost half had none.

Thirty-two percent stated that family court related services were part of their **current** practice



Forty-one percent stated that family court related services was part of their **past** practice

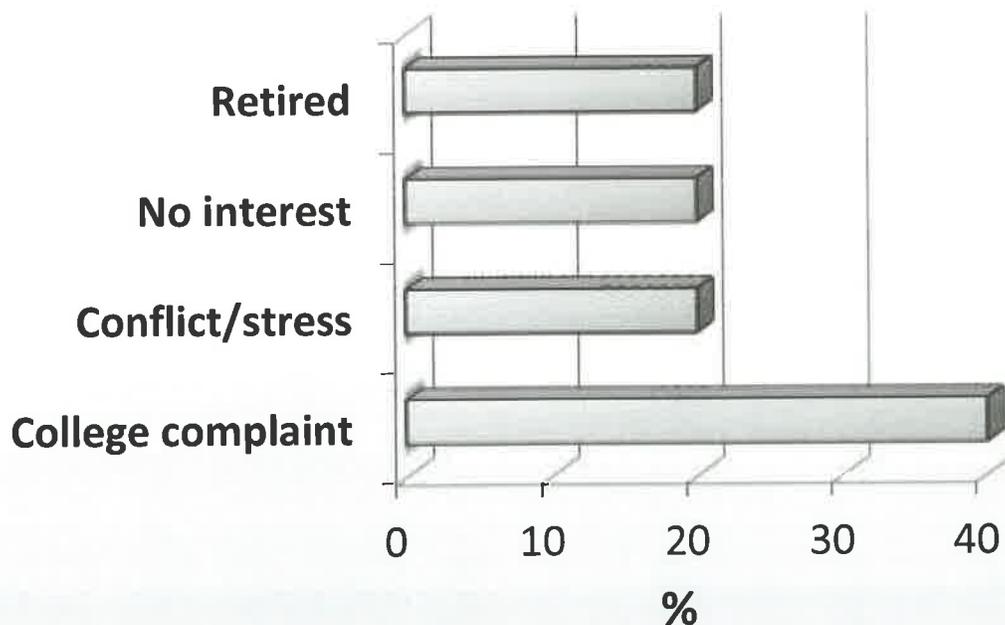


» Experience (cont)

- > Overall, thirty-two percent of members (N=14) were considered to have significant experience.
- > Another 21% were identified as having minimal experience and 48% none.
- > Forty-one percent of members (N=18) indicated that they were qualified to provide services in this area.

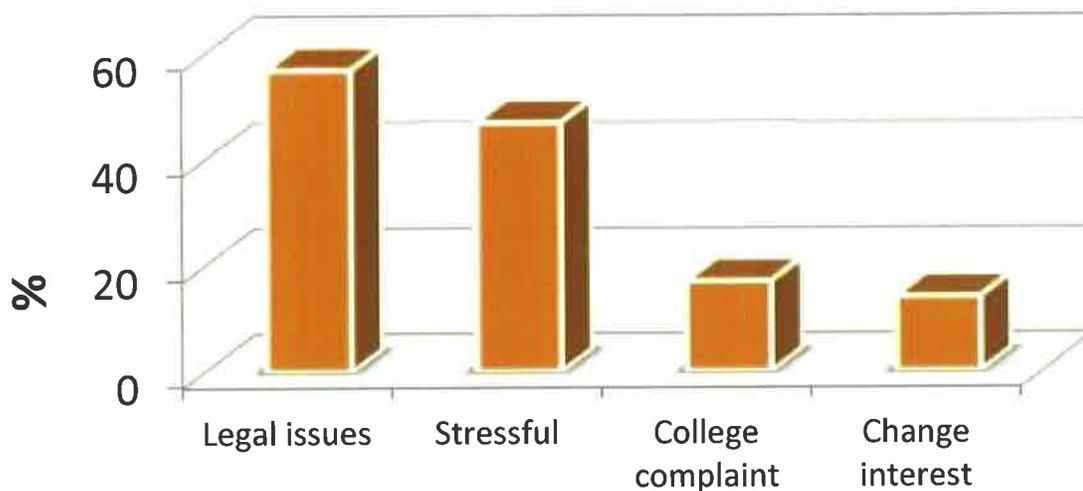
» Not practicing

- > Twelve members indicated that they were qualified but not practicing. The most common reason was fear of College complaints (40%)



» Ceasing work

- > A few members (N= 7) indicated that they had experience in the field but had chosen to specifically cease working in the field.
- > The top reasons for ceasing practice (57%) included stress and legal issues (57%).



» Note:

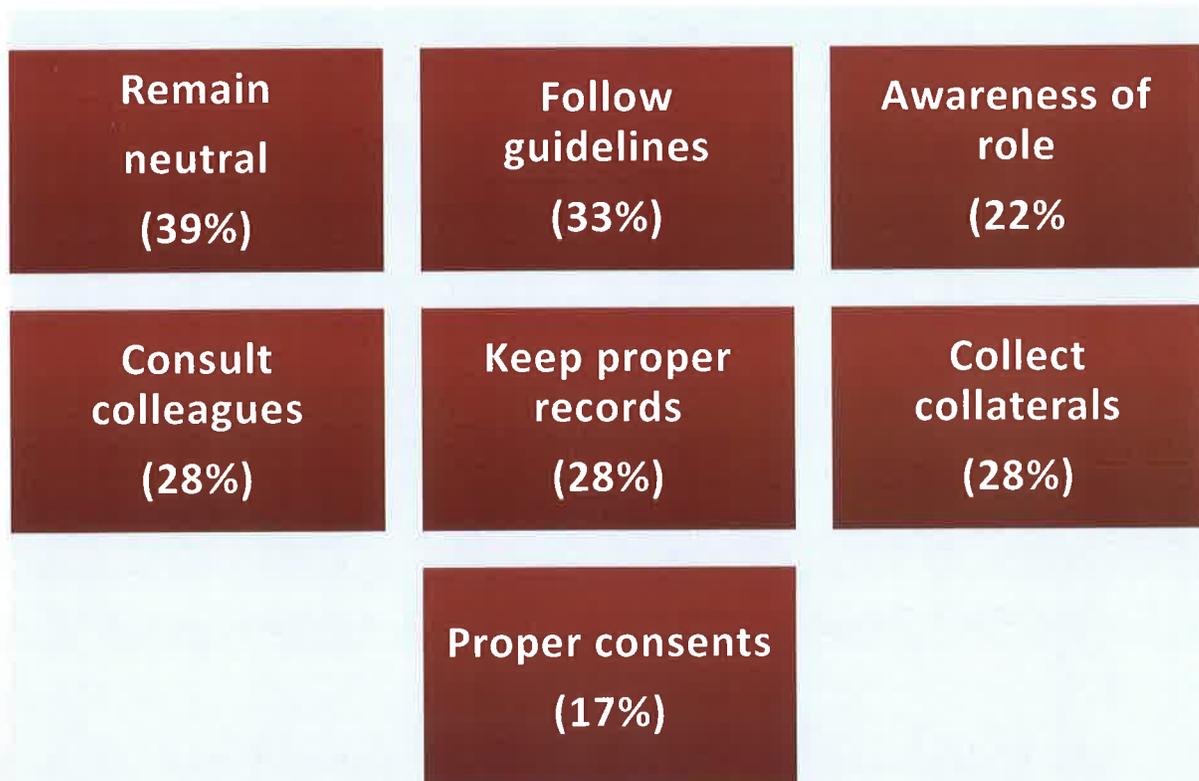
- > *The pattern of responses for both Survey 1 and Survey 2 surrounding issues of involvement and experience were similar*
- > *Explanations for non-involvement and ceasing work, although slightly different in magnitude, were similar in nature*

» Challenges

- > From a sample of the most experienced providers (N=14) the top challenge in conducting family court related work was considered professional/complaint issues (44%) and a lack of education/training (44%).

» Advice to members

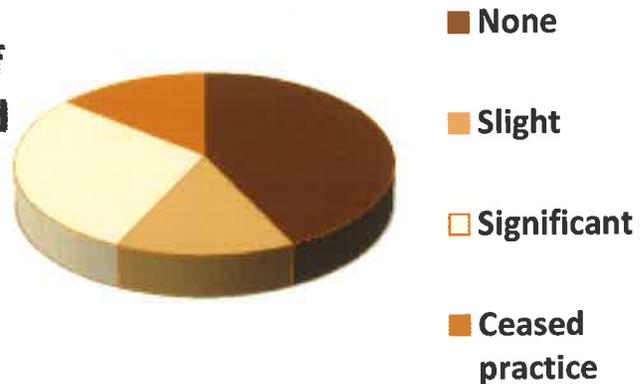
- > Experienced members listed the most important advice;



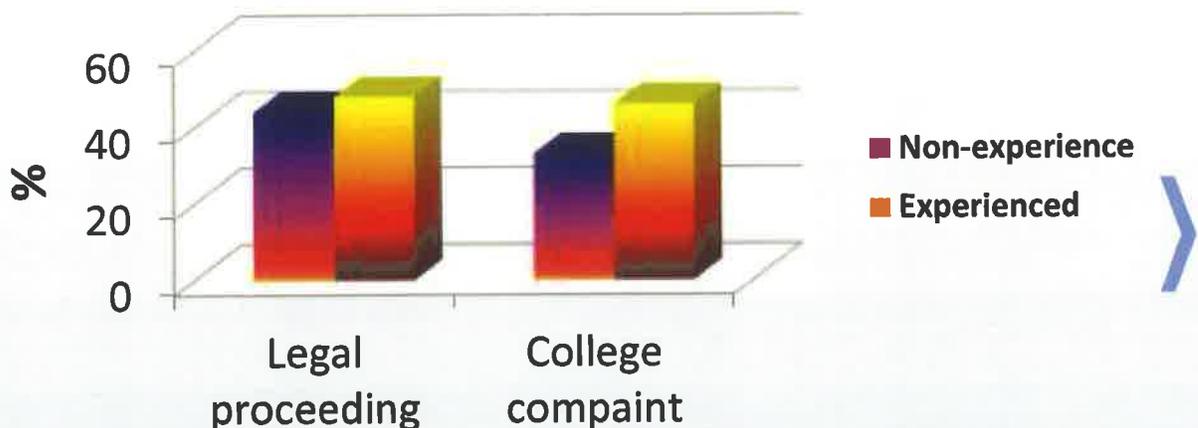
» Complaints

- > A small number (N=8) of the sample had experienced a professional complaint with the college.
- > This was almost half (47%) of the experienced members

- > Forty three percent of members experienced no impact while 14% ceased practicing in the field due to the complaints process



- > Members indicated that their practice was affected by both the threat of a college complaint (48%) and legal complaints (45%).
- > Significant differences were not found across level of experience.



» Recommendations to College

- > Advice was examined and differences were noted between experienced and non-experienced members.
- > Non-experienced members had minimal input and therefore were not included
- > Experienced members indicated that they believed that the College could assist members and increase the number of members available to provide serviced by;

Provide best practice guidelines

- 28%

Develop education/training opportunities

- 39%

Effectively screen vexatious/frivolous complaints

- 22%

Qualify competent professionals

- 17%

Assist in complaints process

- 11%

Advocate/provide legal assistance to members

- 6%