Domestic Violence: State Child Custody and Visitation Laws

Child Custody

More than half the states have laws requiring courts to consider domestic violence when making child custody and visitation awards. These standards are an improvement over the view that violence between parents is irrelevant to child custody and visitation, but they still leave a great deal of discretion to the court. Judicial bias and misconceptions about domestic violence and battered women may limit the effectiveness of these laws.

The American Bar Association recommends that state laws go beyond merely requiring consideration of domestic violence in child custody decisions, and create a presumption against giving custody of children to perpetrators of domestic violence. The ABA favors this presumption for three reasons:

- First, the abuser has ignored the child’s interests by harming the child’s other parent.

- Second, the pattern of control and domination common to abusers often continues after the physical separation of the abuser and victim.

- Third, abusers are highly likely to use children in their care, or attempt to gain custody of their children, as a means of controlling their former spouse or partner.

If enacted, the federal VAWA II legislation would also promote the use of presumptions against granting child custody to perpetrators of domestic violence.

Several states have enacted presumptions that it is not in a child’s best interest to be in the custody of a domestic violence perpetrator, or have created other presumptions about domestic violence, and provided detailed guidance to courts in making child custody decisions. For example, Iowa requires an unrebutting finding of
domestic violence to outweigh any other considerations in the custody award, provides a list of factors for courts to consider in determining the existence of domestic violence, and mandates that absence or relocation of a battered parent not be used against her. Also, some state statutes require that courts take into account the safety of both the child and the non-violent parent when making custody or visitation decisions.

However, this recognition that domestic violence should be taken into account in child custody decisions has been counteracted by the "fathers' rights" movement, and by a more general trend, over the last decade, toward a strong preference for joint legal custody (both parents have the right to make decisions about a child’s schooling, health care, etc.) and/or joint physical custody (the child lives with both parents for approximately equal amounts of time). The impetus behind this trend is the belief that continuing contact and involvement with both parents generally benefits children. In addition, many states have enacted "friendly parent" provisions allowing courts, in ruling on custody, to favor the parent who is more willing to cooperate and share parenting. Such provisions "effectively compel parents to accept some form of joint custody, rather than risk losing custody completely by opposing the joint arrangement." These laws may benefit most children, but they may also create risks of harm for both parents and children in cases of domestic violence. Therefore, some states which generally favor joint custody make exceptions for cases in which there is a history of domestic violence.

Finally, state statutes addressing the problem of parental kidnapping are important in protecting children from the adverse effects of domestic violence. However, these laws need to be carefully drafted to exempt parents who, in good faith, flee with their children to escape domestic violence, from criminal prosecution and from being penalized in child custody decisions.

Child Visitation

As in custody laws, the general trend favors liberal visitation between children and their non-custodial parents. However, many states have statutes addressing the problems raised by visitation with parents who have perpetrated domestic violence. Some states simply require
courts to take into account the safety of the custodial parent and the child when crafting visitation awards. Others either encourage or require the use of supervised visitation. At least one state statute completely denies visitation rights to the perpetrator, if the court finds that safe visitation is not possible.

Although supervised visitation may be essential in ensuring the safety of the abused parent and the child, it can be logistically difficult and expensive for low-income families. One recent commentator points out that "only a few communities have programs to carry out court-ordered supervised visitation in a safe and effective manner ...." Without community facilities, a battered woman may have to find an untrained friend or relative to supervise the visitation...." The American Bar Association recommends that supervised visitation costs be paid by the perpetrator of domestic violence. Some states have created state-run supervised visitation centers. California has set statutory standards for providers of supervised visitation, and Florida has established a clearinghouse of supervised visitation providers. VAWA II, if enacted, might further encourage states to develop supervised visitation centers.

Domestic Violence and Mediation of Child Custody Disputes

There is also a general trend in state family-law statutes towards promoting mediation as an alternative to litigation in child custody disputes. Mediation may be problematic in cases involving domestic violence, however. Commentators have argued that "effective mediation requires voluntary participation, relatively equal bargaining power, similar quality of representation, and approximately equal investment in the outcome." Abusive relationships are often characterized by extreme imbalances of power. Moreover, the non-violent parent often has fewer financial resources, and so may lack legal representation and/or be susceptible to pressure to make economic concessions in exchange for custody. For these reasons, some states have exempted cases involving domestic violence from mediation requirements. However, being exempted from mandatory mediation may not be of much help to low-income battered women, for whom the only alternative to mediation may be pro se litigation.
The Batterer As Parent

Batterer Characteristics

Many batterers do not physically abuse their children. However, their need to maintain power and control in their home often carries over into their relationships with their children. It often manifests in controlling and manipulative behavior as well as a strong sense of entitlement and possessiveness. Entitlement is the belief that one has special rights and privileges without accompanying reciprocal responsibilities: a recipe for disaster in parenting. Batterers frequently have an expectation that family life should center on meeting their needs. They expect to be soothed when upset, to be praised and complimented, and to be deferred to in conflict. When these expectations are not met, a batterer may view himself as being victimized. In his mind then, retaliation against his partner or children for failing to meet his needs becomes justified as self-protection or self-defense.

These controlling and entitlement characteristics of batterers frequently display themselves in a parenting style that is authoritarian, neglectful, and verbally abusive.

Authoritarian

A batterer may excessively criticize his child, seek to completely control the child’s outside social contacts, or enforce strict economic control over the child. The batterer is often unwilling to hear the children’s viewpoint on important issues, may give overly harsh punishment for misbehaviors that are typical in children, and insist on sticking to bad parenting decisions long after it is evident they aren’t working or aren’t fair. Where children have been traumatized by witnessing physical violence, this authoritarian and verbally abusive style of parenting can be especially damaging.
Underinvolved and Neglectful

Batterers often want the status of father and head of a family and may take interest in their children when it is convenient or when there is an opportunity for public recognition. However, many batterers lose interest when it comes to the hardship, sacrifices, and daily chores of parenting. They see the work of caring for children as the responsibility of the mother. Their under-involvement and lack of knowledge about their children’s temperament and abilities can result in behavioral expectations that are inappropriate for the children’s level of development and personality. The batterer father’s lack of availability may increase his value in the eyes of a child who craves his attention and praise.

Self-Centered in Relationship with Children

In keeping with their sense of entitlement, batterers often expect their children to meet their needs rather than the other way around. Batterers are often intolerant of crying babies. They may burden children with information about adult worries like money, health, and work. A batterer may expect his children to be available anytime he wants to spend time with them while neglecting the children in their own times of need.

Charismatic

Despite the poor parenting skills that batterers routinely display at home, many batterers are able to perform well under observation. During an interactive or custody evaluation or in psychological testing, a batterer may come across as a loving and attentive parent, capable of meeting his child’s needs and maintaining good emotional boundaries. He may also be charming or charismatic toward the evaluator and be able to say exactly what the evaluator wants to hear from a parent. Batterers can be articulate and passionate in expressing beliefs that are diametrically opposed to their actions at home.
Undermining the Mother’s Ability to Parent

Batterers frequently try to undermine their partner’s ability to parent effectively. They may belittle or treat their partner with contempt in front of the children. Children learn from their abusive parent that it is alright to disrespect, insult, or even to physically assault their mother. Children may begin to imitate the words and tone of the batterer when speaking to their mother.

Batterers attempt to exercise power and control over their victims in many areas of their lives. This includes parenting. A batterer may overrule his partner’s parenting decision in front of the children to undermine her authority and increase his power within the household. A batterer may prevent his partner from comforting a distressed child or not allow a victim to care for the children as she deems appropriate. He may not allow her to seek medical treatment for a sick or injured child or may prevent her from attending school conferences or other school events.

Batterers often blame their victims for the violence. A batterer may tell the children that their mother is causing the violence because of her actions. He may call her a bad mother, incompetent, unsafe, or tell the children that their mother does not love them.

Using the Children to Control Their Mother

A batterer may use the children as a weapon against his partner by requiring them to report on her activities. Placing the children in the middle creates a pervasive tension for the children. Forcing the children to “spy” on their other parent and to report on her activities to the abuser may make children feel responsible for the abuse.

Batterers often threaten to take custody of the children away from the mother if she attempts to leave. An Indian abuser may falsely threaten to use the Indian Child Welfare Act’s Indian preference for child placement in order to prevent a non-Indian mother from leaving the abuse.

Additionally, batterers often seek to divide the family by singling out one of the children, usually a boy, for favorable treatment. This can
have profound effects on all of the children living in the abusive household.

**Role Modeling Battering Behavior**

Batterers role model their behavior for their children. Boys who grow up in homes where they witness domestic violence are at a dramatically higher risk to batter their own partner as an adult. Girls who grow up in homes where there is domestic violence are also more likely to suffer domestic violence in their adult relationships.

**Traumatic Bonding**

Both children and adults can become strongly bonded in an unhealthy way to a perpetrator of abuse through a process known as traumatic bonding. Traumatic bonding is the development of strong emotional ties between two persons when one person is intermittently harassing, beating, threatening, abusing or intimidating the other.

It is important to note that traumatic bonding does not occur in every household that experiences domestic violence. However, when it does occur, it can be a complex and powerful phenomenon. It is important to have an understanding of the phenomenon, especially in child custody cases where the children maintain that they want to live with their battering parent.

Trauma bonded relationships have two common features:

1. a power imbalance, where the maltreated person is dominated by the other person; and
2. the abuse is intermittent.

Because the physical abuse is administered at intermittent and random times, it may be interspersed with friendly and caring contact. The emotional attachment strengthens during the times when the child experiences calm and loving feelings from the abuser. The
traumatic bonding leads the child to become increasingly focused on
the needs and emotional state of the abusive parent (role reversal).

Confusing and Conflicting Emotions

Children will often have conflicted emotions which are extremely
confusing and unsettling. A child may feel anger about the batterer-
parent’s bullying and selfishness while also being awed by his power
and charm. A child may feel resentful about his batterer-parent’s
cruelty towards mom, yet feel happy, safe, and close to dad when
joining him in disrespecting her. A child may feel sad and angry
about dad’s lack of availability but still be drawn to dad at those times
when he is kind and focused on the child.

The Domestic Violence Victim As Parent

Research on parenting by victims of domestic violence is a relatively
new area of study. One recent study showed that women who live in
violent relationships are equally competent at providing structure,
showing warmth, being emotionally available and positively
reinforcing their children as women who were not in violent
relationships.

As a result of the batterer’s efforts, some mothers who are currently
in an abusive relationship or who have just recently left an abusive
relationship, may score poorly on traditional parenting tests.
However, preliminary data indicate that the parenting skills of most of
these mothers improves dramatically after intervention and when the
daily influence of the batterer on her and her relationship with the
children has ended.

The Myth: The Victim-Parent Fails to Protect Her Children

Some jurisdictions criminally prosecute victims of domestic violence
for child neglect or for “failure to protect” for remaining in a home
where she is being battered. It is not uncommon for victims to undergo severance of parental rights proceedings (also known as dependency actions) for “failure to protect” their children by remaining in the home with their abuser.

For many years, victim advocates have compiled substantial anecdotal evidence showing that the lethality risk for women and children increases dramatically at the time of separation. Recent quantitative data are now supporting the same conclusion: staying in an abusive relationship can be the safest choice for some women and children and should not be viewed as “failure to protect.”

Furthermore, by prosecuting the non-abusive parent or initiating dependency proceedings for “failure to protect,” the tribe or state is holding the victim, rather than the abuser, accountable for the violence. It is important to keep the focus on the batterer-parent as the cause of the abuse in the home. Instead of asking “Why didn’t she leave?” or “How could she expose her children to that?” we should be asking “How can he treat his partner and the mother of his children that way?” or “Why has our community allowed his abusive behavior to go unchecked?” or “What can we be doing to provide support, resources, and enhanced safety for victims/survivors when they leave an abusive relationship.” The discussion should be redirected to properly identify the batterer-parent’s actions as the person actually responsible for the abuse.

**The Truth: The Victim-Parent Has Probably Taken Extreme Pains to Protect Her Children**

It is also important to recognize the many ways that victims protect their children from the violence. A victim-parent often takes extraordinary steps to protect her children and to lessen the negative impact of the batterer-parent’s actions on her children. Many victims actively draw their partner’s physical violence away from their children onto themselves. They “walk on eggshells” to try to prevent their partner’s outbursts of verbal and physical abuse. They speak up for their children’s needs knowing that they will likely face retaliation from their batterer for challenging the batterer’s authority. For
battered women who are economically dependent on their abusers, keeping a roof over their children’s heads and food in their stomachs may be more protective than leaving the relationship and becoming homeless. Where a batterer has threatened to kill her and the children if she leaves him and the victim has reason to believe he will carry out the threat (for example, he has access to a gun), it may be more protective to remain with her batterer.

**The Myth: A Battered Woman Who Advocates Against Shared Custody or Unsupervised Visitation is an “Unfriendly Parent” and Should Not Be Granted Custody**

The “friendly parent” concept originated in the fathers’ rights movement of the 1980s and presents a formula for resolving child custody disputes. Based on the idea that children do better when allowed or encouraged to maintain a close relationship with both parents, the “friendly parent” doctrine says that custody should be awarded to the parent most likely to foster the child’s relationship with the other parent. Unfortunately, this places many parents, especially parents whose former partners are batterers, in a “Catch-22” or “no win” situation:

The friendly parent concept... renders parents unable to protect themselves and their children from abuse, violence, and neglect at the hands of the other parent.

In practice, this situation causes parents who wish to protect their children to not disclose that their children are at risk.

One study compared 200 child custody mediation cases involving charges of domestic violence with 200 non-domestic violence related mediations. The results were alarming: only 35% of the mothers who alleged domestic abuse got primary custody (defined as possession of the children 75% of the time), compared to 42% in the non-domestic violence group. Fathers who were accused of domestic violence were given primary custody in 10% of the cases, as compared to 9% of fathers when there were not domestic violence allegations.
Compared to non-battering fathers, batterers are more likely to seek custody of their children, misusing the “legal system as a symbolic battleground for continuing abuse through harassing and retaliatory litigation.” Often these fathers have not taken an interest in their children before and have not been involved in their day-to-day lives. The primary goal of many of these batterer-fathers in seeking custody is to continue to assert power and control over their former partner.

The Truth: The Non-Abusive Parent is Typically the Best Custodian for the Children

More often than not, the victim-parent has been the primary caretaker for the children. She knows the children’s likes, dislikes, abilities, and interests and has been involved in every aspect of her children’s lives. Providing continuity of care for children can be critical in easing their transition through the upheaval inherent in a divorce or separation. There is a high correlation between spousal abuse and physical and sexual abuse of children. Regardless of whether the children are directly abused, living in a home where domestic violence is occurring has a negative impact on children. As the perpetrator of that violence, the batterer should not benefit from the victim’s desire to protect her children from further exposure. In fact, the victim’s fears for the safety of her children while in the custody of the batterer may be well-founded.

Some jurisdictions create presumptions against giving custody to a parent who has committed domestic violence. This approach properly places the responsibility for the abusive environment and its ill-effects on the children on the batterer. Some jurisdictions even create presumptions that unsupervised visitation is inappropriate for a parent who has committed domestic violence. The supervision requirement may be lifted once the batterer has completed a batterer re-education program and/or parenting classes. This approach recognizes the danger that batterers can represent to their children. It also provides protection against a batterer’s efforts to use visitation to gain information from the children about their mother’s activities and whereabouts. This minimizes the batterer’s ability to use visitation as a means to continue to assert power and control over his former partner.
Children’s Recovery from Living in an Abusive Home

Although the lasting impact on children who experience and/or witness violence in the home can be dramatic,[33] many children demonstrate a great capacity for resiliency. Children utilize a variety of coping strategies that can reduce the long term psychological and developmental impact of the violence:

- Avoid being at home
- Find other families to spend time with
- Find friends or trusted adults they can tell
- Develop an active fantasy life
- Pour themselves into schoolwork, hobbies, sports, reading, music
- Pretend to side with dad, while holding onto the knowledge that what he is doing is wrong
- Become protective of mom and siblings
- Defy the abuser in small ways he doesn’t know about
- Maintain an internal belief, even if it can’t be said out loud, that the abuse is wrong and that they will never grow up to behave like the abuser does

The child’s relationship with the non-abusive parent can be a critical factor in recovering from the trauma. Research indicates that children’s recovery from exposure to domestic violence and from divorce depends largely on the quality of their relationship with the non-battering parent and with their siblings. Victims as parents often compensate for the trauma and stress their children experience by offering increased nurturing and protection for their children.

Conclusion

It is important to keep the focus on the batterer-parent as the cause of the abuse in the home. His choice to use violence against his partner has likely had a negative impact, perhaps a lasting one, on his children regardless of whether he has ever physically or sexually abused his children. The same characteristics and need for power and control that batterers exhibit usually make them poor parents.
Their authoritarian and self-centered approach to family life can traumatize and confuse their children. It can result in traumatic bonding and increase the likelihood that his children will be involved in domestic violence in their own adult relationships.

On the other hand, many victim-parents take extraordinary steps to protect and care for their children. Many victims actively draw their partner’s physical violence away from their children onto themselves. They “walk on eggshells” or they speak up for their children’s needs in spite of the likely retaliation they will face for challenging the batterer’s authority. Many battered women without resources to leave their abusive partners suffer years of abuse rather than render their children hungry and homeless. Research indicates that a strong relationship between children and their non-abusive parent can be a critical factor in recovering from an abusive home. In the absence of other serious concerns, the victim-parent is the more appropriate custodian for the children.

Child Custody and Visitation Decisions in Domestic Violence Cases: Legal Trends, Research Findings, and Recommendations

It may be hard to believe an abusive partner can ever make good on his threat to take the children away from his victim. After all, he has a history of violent behavior and she almost never does. Unfortunately, a surprising number of battered women lose custody of their children. The actual number is not known and offenders appear to be no more successful in gaining custody than non-offenders. However, violence against one parent by another is often considered in custody-determination proceedings. This document describes some of the legal and cultural trends surrounding custody and visitation decisions and the social science evidence supporting a need to consider domestic violence in these decisions.
Legal Trends

Over the past 200 years, the bases for child custody decisions have changed considerably. The patriarchal doctrine of fathers' ownership of children gave way in the 1920's and 30's to little preference for one parent or the other obtaining custody. When given such broad discretion, judges tended to award custody to mothers, especially of young children. The mother-child bond during the early, "tender years" was considered essential for children's development. In the 1970's, "the best interests of the children" became the predominant guideline and presumably was neutral regarding parental rights. Exposure to domestic violence was not originally included in the list of factors used to determine the child's best interest.

States recently came to recognize that domestic violence needs to be considered in custody decisions. While a growing number of states specifically mention domestic violence as a factor to be considered, most of them allow wide discretion and do not give it special weight. It is simply one additional factor when considering the best interests of the child. By the end of the 1997 legislative session, 13 states had adopted the Model Code of the Family Violence Project of the National Council of Juvenile and Family Court Judges. These statutes specify that there is a "rebuttable presumption that it is detrimental to the child and not in the best interest of the child to be placed in sole custody, joint legal custody, or joint physical custody with the perpetrator of family violence."

Statutes now address other concerns related to custody and the recent proliferation of legislation seems likely to continue. Statutes in some states now cover: the prevention of child abduction by the perpetrator through supervised visitation and similar safeguards, providing a defense against child abduction charges if battered women flee with their children, exempting battered women from mandated mediation, protecting battered women from charges of "child abandonment" if they flee for safety without their children, and allowing parents to check on the criminal charges against a divorce partner. Recent case law makes it easier for battered women to relocate far away from their abusers. Unfortunately, courts may apply psychological pressures that keep women tied to their abusers. "Friendly parent" statutes ask courts to assess each parent's
willingness to co-parent when making custody decisions. Despite their reasonable reluctance to co-parent, battered women may end up being labeled "uncooperative," with an increased risk of losing their children. Along with legal changes, training and resource manuals for judges and court managers have recently been published, including guidelines for selecting custody evaluators and guardian ad litems.

General Views About Joint Custody

Enthusiasm for joint custody in the early 1980's was fueled by studies of couples who were highly motivated to "make it work." This enthusiasm has waned in recent years, in part because of social science findings. For example, Johnston concluded from her most recent review that "highly conflictual parents" (not necessarily violent) had a poor prognosis for becoming cooperative parents and there is increasing evidence that children of divorce have more problems because of the conflict between the parents before the divorce and not because of the divorce itself. "High conflict" parents should be allowed to develop separate parenting relationships with their children. Frequent visits and joint custody schedules led to more verbal and physical abuse. More frequent transitions between high-conflict parents were related to more emotional and behavioral problems of the children. If this is true of "high conflict" parents, it is likely to be even more true if mothers are being physically victimized.

Not all social scientists conclude that joint custody can be problematic. For example, Bender believes that "even the small percentage of parents who are very angry may be able to work out procedures to alleviate anger so that the child is not caught in the middle." However, his conclusion relies on data gathered at one point in time and thus statements about cause and effect are not possible. For example, better child adjustment is likely to result when joint custody is requested by (or ordered to) non-violent, low-conflict couples rather than from joint custody per se. Joint custody can be quite beneficial to the children of these non-violent, low-conflict couples, but not in cases of battering.
Parents Most at Risk for Physical and Emotional Abuse of a Child

Social science evidence can help to establish which parent is most likely to harm children. The most convincing evidence for the potential of men who batter their partners also to batter their children comes from a nationally representative survey. Half the men who battered their wives also abused their children. Abuse was defined as violence more severe than a slap or a spanking. Battered women were half as likely as men to abuse their children. Several non-representative surveys show similar results. When battered women are not in a violent relationship, there is some evidence that they are much less likely to direct anger toward their children.

Emotional abuse of children by men who batter is even more likely because nearly all of these men's children are exposed to domestic violence. This exposure often constitutes a severe form of child abuse since the problems associated with witnessing abuse are now clearly documented. There are short and long-term emotional and behavioral consequences for both boys and girls. Parents may not realize that their children can be affected even if they do not see the violence. For example, the children may be hiding in their bedrooms listening to repeated threats, blows, and breaking objects. Obviously, they may be afraid their mother will be injured or killed, but they may also have divided loyalties between their parents, guilt about not being able to intervene, and anger at their mothers for not leaving. If mothers cannot find safety, their fears and depression may keep them from being as nurturing and supportive to their children as they normally would be.

Although state laws include emotional abuse in their statutory definitions of child abuse, such abuse is difficult to substantiate and child protection workers often give it low priority.

Mothers may also be blamed for harming their children in cases where evaluators and practitioners do not understand the dynamics of abuse. Their cases are sometimes labeled as "failure to protect" since they are supposedly able to protect their children from the physical and emotional abuse of their partners. Battered women may even face criminal charges. However, battered women's actions
often come from their desire to care for their children. They may not attempt to leave because of financial needs, because they believe that the children need a father, or because they fear losing the children to their abuser. They often leave the relationship when they see the impact of violence on their children, only to return when threatened with even greater violence or out of economic necessity. Innovative programs, like Project Protect in Massachusetts, were developed to address these concerns. They use specially trained staff and multidisciplinary teams to integrate interventions for child abuse and domestic violence. On a policy level, states generally allow evidence to show that the non-abusive spouse feared retaliation from her partner and thus could not try to stop or prevent abuse to the child. However, only a few states explicitly authorize this type of evidence.

**Parents Most at Risk for Physical and Emotional Abuse of a Child**

In a given custody case, a number of factors related to or incorrectly attributed to child abuse and exposure to domestic violence may be present. Several factors -- parental separation, childhood victimization of the parents, the parents' psychological characteristics, and abuser interventions -- are discussed next.

**Parental Separation.** Parental separation or divorce does not prevent abuse to children or their mothers. On the contrary, physical abuse, harassment, and stalking of women continue at fairly high rates after separation and divorce. In one study, a fourth of the women reported threats against their lives during visitation. Separation is a time of increased risk of homicide for battered women and these homicides sometimes occur during custody hearings or visitation exchanges of children. In rare cases, men kill children in retaliation for their female partners leaving them.

Children are also likely to be exposed to renewed violence if their fathers become involved with other women. Over half of men who batter go on to abuse a second woman. Judges who consider the remarriage of a man to be a sign of stability and maturity should instead consider it as a possible sign that the children will once again be emotionally harmed.
Parents' Childhood Victimization. Evaluators may look to childhood risk factors of each parent to assess their child abuse potential. The link between being abused in childhood and becoming a child abuser is not as strong as was once thought, with about 30% of child abuse victims becoming abusers. Some evidence suggests that the link is stronger in men than in women.

Parents' Psychological Characteristics. The parents' personality traits and psychological disorders are generally poor predictors of child abuse. Neither parent is likely to have chronic mental disorders of genetic origin (e.g., schizophrenia, or bipolar disorder). Personality disorders are much more likely to appear on the psychological tests of both parents. Great care must be taken, however, when interpreting parents' behaviors and psychological tests. Men who batter often have the types of personality disorders that keep childhood traumas, anxiety, and other problems hidden.

To the extent that psychological disorders continue to be used to describe battered women, they can be placed at a serious disadvantage. Compared with the chronic problems of their partners, battered women's psychological problems are much more likely to decrease as she becomes safer. Many battered women may seem very unstable, nervous, and angry. Other battered women may speak with a flat affect and appear indifferent to the violence they describe. These women probably suffer from the numbing symptoms of traumatic stress. The psychological test scores of some battered women may indicate severe personality disorders and mental illness. However, their behaviors and test scores must be interpreted in the context of the traumas they have faced or continue to face. The tactics used by their abusers parallel those used against prisoners of war and include threats of violence, forced isolation, degradation, and attempts to distort reality and increase psychological dependence. Severe depression and traumatic stress symptoms are the likely results. When women fear losing custody of children to an abusive partner, the stress can be overwhelming.

Interventions for the Abuser. Successful completion of treatment does not at all mean that the risks of child and woman abuse are eliminated. Although the evaluation of programs for men who batter
is still in its infancy, it is clear that a substantial proportion of women (35%, averaged across a number of studies) report that physical abuse by their partners occurs within 6-12 months after treatment. Psychological abuse is even more prevalent. Only two studies of programs for men who batter investigated the reduction of actual or potential violence toward the children. Both of these studies showed promising results, yet did not specifically focus on parenting issues. Only one description could be found of a special parent training program for men who batter.

**Recommendations for Custody and Visitation**

Despite the dearth of sound research in this area, some tentative recommendations can be made from practice wisdom and the research that does exist. There is general agreement that joint custody has many advantages when a woman has good financial resources and an ex-partner who is non-abusive and supportive as a co-parent. However, the past and potential behavior of men who batter means that joint custody (or sole custody to him) is rarely the preferred option for these families. In addition to their propensity for violence, these men are likely to abuse alcohol and communicate in a hostile, manipulative manner.

As stated earlier, the model state statute of the National Council of Juvenile and Family Court Judges clearly states that there should be a presumption that it is detrimental to the child to be placed in sole or joint custody with a perpetrator of family violence. The model statute emphasizes that the safety and well-being of the child and the parent who is the victim must be primary. The perpetrator’s history of causing fear as well as physical harm should be considered. A parent’s absence or relocation in an attempt to escape violence by the other parent should not be used as a factor to determine custody. Courts sometimes label battered women as "impulsive" or "uncooperative" if they leave suddenly to find safety in another city or state. The model statute specifies that it is in the best interest of the child to reside with the non-violent parent and that this parent should be able to choose the location of the residence, even if it is in another state. The non-custodial parent may also be denied access to the child's medical and educational records if such information could be used to locate the custodial parent.
Visitation guidelines should be based on the following general principles: a) contact between child and parent should be structured in a way that limits the child's exposure to parental conflict; b) transitions should be infrequent in cases of ongoing conflict and the reasonable fear of violence; and c) substantial amounts of time with both parents may not be advisable. Ideally, a court order should detail the conditions of supervised visitation, including the role of the supervisor. Unsupervised visitation should be allowed only after the abuser completes a specialized program for men who batter and does not threaten or become violent for a substantial period of time. Practitioners need to be aware of the strong likelihood that men who batter will become violent in a new relationship and that they often use nonviolent tactics that can harm the children. Rather than rely on official records of recidivism, the best way to establish that the perpetrator is nonviolent is to interview current and past partners.

Visitation should be suspended if there are repeated violations of the terms of visitation, the child is severely distressed in response to visitation, or there are clear indications that the violent parent has threatened to harm or flee with the child. Even with unsupervised visitation, it is best to have telephone contact between parents only at scheduled times, to maintain restraining orders to keep the offender away from the victim, and to transfer the child in a neutral, safe place with the help of a third party. Hart describes a number of safety planning strategies that can be taught to children in these situations.

The model statute states that visitation should only be awarded to the perpetrator if adequate safety provisions for the child and adult victim can be made. Orders of visitation can specify, among other things: the exchange of the child in a protected setting, supervised visitation by a person or agency, completion by the perpetrator of "a program of intervention for perpetrators", and no overnight visitation. If the court allows a family or household member to supervise the visitation, the court can set the conditions to be followed during visitation. For example, an order might specify that the batterer not use alcohol prior to or during a visit and that the child be allowed to call the mother at any time.
Visitation centers are expanding across North America in response to the need for safe access and visitation. The approaches of these centers vary. For example, most of them provide some form of observational records of the visit, but the role of these programs in evaluating parents and reporting to courts differs. The experience of the visitation center in Duluth, Minnesota, shows the difficulty of keeping a neutral stance given the traditional biases in our social systems. The Duluth center found that the traditional over-emphasis on parental rights and child welfare may block from view the harm of domestic violence to both battered women and their children.

In conclusion, although there is a need for further practice experience and research, our current knowledge of risk factors for continued abuse of women and children means that decision-makers must exercise great caution in awarding custody or visitation to perpetrators of domestic violence. If custody or visitation is granted, careful safety planning and conditions attached to the court order are important to help lower the risk of harm to the children and their mothers.
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