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THE IMPACT OF
**DOMESTIC
VIOLENCE**
on Children



A Report to the President of the
American Bar Association



American Bar Association

A PROJECT
MADE POSSIBLE
by the
CONRAD N. HILTON
FOUNDATION



FAMILY VIOLENCE: A MODEL STATE CODE

NATIONAL COUNCIL OF JUVENILE & FAMILY COURT JUDGES

MODEL CODE ON DOMESTIC AND FAMILY VIOLENCE

Drafted by the

Advisory Committee

of the

*Conrad N. Hilton Foundation
Model Code Project
of the
Family Violence Project*



National Council of Juvenile and Family Court Judges
Louis W. McHardy, Executive Director

CHAPTER 4

FAMILY AND CHILDREN

Sec. 401. Presumptions concerning custody.

In every proceeding where there is at issue a dispute as to the custody of a child, a determination by the court that domestic or family violence has occurred raises 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.

COMMENTARY

Support for the presumptions incorporated in this section, that domestic violence is detrimental to the child and that it is contrary to the child's best interest to be placed in sole or joint custody with the perpetrator thereof, is extensive. This section compels courts, attorneys, custody evaluators, and other professionals working with cases involving the custody of children to consider the impact of domestic and family violence on these children. This mandate is not limited to courts issuing orders for protection but includes courts hearing divorce, delinquency, and child protection cases.

Sec. 402. Factors in determining custody and visitation.

1. In addition to other factors that a court must consider in a proceeding in which the custody of a child or visitation by a parent is at issue and in which the court has made a finding of domestic or family violence:

(a) The court shall consider as primary the safety and well-being of the child and of the parent who is the victim of domestic or family violence.

(b) The court shall consider the perpetrator's history of causing physical harm, bodily injury, assault, or causing reasonable fear of physical harm, bodily injury, or assault, to another person.

2. If a parent is absent or relocates because of an act of domestic or family violence by the other parent, the absence or relocation is not a factor that weighs against the parent in determining custody or visitation.

COMMENTARY

This section was constructed to remedy the failure of many custody statutes to give courts direction related to appropriate consideration of domestic and family violence in contested custody cases. Paragraph (a) of subsection 1 elevates the safety and well-being of the child and abused parent above all other "best interest" factors in deliberations about custodial options in those disputed custody cases where there has been a finding of abuse by one parent of the other. It contemplates that no custodial or visitation award may properly issue that jeopardizes the safety and well-being of adult and child victims.

Paragraph (b) compels courts to consider the history, both the acts and patterns, of physical abuse inflicted by the abuser on other persons, including but not limited to the child and the abused parent, as well as the fear of physical harm reasonably engendered by this conduct. It recognizes that discreet acts of abuse do not accurately convey the risk of continuing violence, the likely severity of future abuse, or the magnitude of fear precipitated by the composite picture of violent conduct.

Subsection 2 recognizes that sometimes abused adults flee the family home in order to preserve or protect their lives and sometimes do not take dependent children with them because of the emergency circumstances of flight, because they lack resources to provide for the children outside the family home, or because they conclude that the abuser will hurt the children, the abused parent, or third parties if the children are removed prior to court intervention. This provision prevents the abuser from benefiting from the violent or coercive conduct precipitating the relocation of the battered parent and affords the abused parent an affirmative defense to the allegation of child abandonment.

Sec. 403. Presumption concerning residence of child.

In every proceeding where there is at issue a dispute as to the custody of a child, a determination by a court that domestic or family violence has occurred raises a rebuttable presumption that it is in the best interest of the child to reside with the parent who is not a perpetrator of domestic or family violence in the location of that parent's choice, within or outside the state.

COMMENTARY

This section articulates a rebuttable presumption that the residence of the child in the context of domestic or family violence should be with the non-perpetrating parent in the location chosen by that parent. This presumption builds on the one enumerated in section 401. It is designed to defeat any assertion by a perpetrator of domestic or family violence that custody and residence with the abused parent should only be presumptive if the abused adult remains within the jurisdiction of the marital domicile. It recognizes that the enhanced safety, personal, and social supports, and the economic opportunity available to the abused parent in another jurisdiction are not only in that parent's best interest, but are, likewise and concomitantly, in the best interest of the child.

Sec. 404. Change of circumstances.

In every proceeding in which there is at issue the modification of an order for custody or visitation of a child, the finding that domestic or family violence has occurred since the last custody determination constitutes a finding of a change of circumstances.

COMMENTARY

This section provides that in proceedings concerning modification of an order for custody or visitation of a child, a finding by the reviewing court that domestic or family violence has occurred constitutes a finding of a change of circumstances.

Sec. 405. Conditions of visitation in cases involving domestic and family violence.

1. A court may award visitation by a parent who committed domestic or family violence only if the court finds that adequate provision for the safety of the child and the parent who is a victim of domestic or family violence can be made.

2. In a visitation order, a court may:

(a) Order an exchange of a child to occur in a protected setting.
(b) Order visitation supervised by another person or agency.
(c) Order the perpetrator of domestic or family violence to attend and complete, to the satisfaction of the court, a program of intervention for perpetrators or other designated counseling as a condition of the visitation.

(d) Order the perpetrator of domestic or family violence to abstain from possession or consumption of alcohol or controlled substances during the visitation and for 24 hours preceding the visitation.

(e) Order the perpetrator of domestic or family violence to pay a fee to defray the costs of supervised visitation.

(f) Prohibit overnight visitation.

(g) Require a bond from the perpetrator of domestic or family violence for the return and safety of the child.

(h) Impose any other condition that is deemed necessary to provide for the safety of the child, the victim of domestic or family violence, or other family or household member.

3. Whether or not visitation is allowed, the court may order the address of the child and the victim to be kept confidential.

4. The court may refer but shall not order an adult who is a victim of domestic or family violence to attend counseling relating to the victim's status or behavior as a victim, individually or with the perpetrator of domestic or family violence as a condition of receiving custody of a child or as a condition of visitation.

5. If a court allows a family or household member to supervise visitation, the court shall establish conditions to be followed during visitation.

COMMENTARY

Subsection 1 permits the award of visitation to a perpetrator of domestic violence only if protective measures, including but not limited to those enumerated in subsection 2 of this section, are deemed sufficient to protect the child and the abused parent from further acts or threats of violence or other fear-engendering conduct. The Model Code posits that where protective interventions are not accessible in a community, a court should not endanger a child or adult victim of domestic violence in order to accommodate visitation by a perpetrator of domestic or family violence. The risk of domestic violence directed both towards the child and the battered parent is frequently greater after separation than during cohabitation; this elevated risk often continues after legal interventions.

Subsection 2 lists the protective conditions most routinely imposed on visitation by the perpetrator of domestic and family violence. It is not intended to be exhaustive, nor does this subsection contemplate that each provision should be imposed on every custody order.

Subsection 3 recognizes that it may be necessary to withhold the address of the adult victim and children from the perpetrator and others in order to prevent stalking and assault of adult and child victims in their undisclosed residence. Research reveals that one of the most effective methods of averting violence is denying the abuser access to the victim, which can be facilitated by preserving the confidentiality of the victim's address.

Subsection 4 prohibits a court from ordering a victim of domestic or family violence to attend counseling related to the status or behavior as a victim as a condition of receiving custody of a child or as a condition of visitation. It does not preclude the court from ordering other types of counseling, such as substance abuse counseling or educational classes.

Subsection 5 requires a court to establish conditions to be followed if the court allows a family or household member to supervise visitation. When those supervising visitation are furnished clear guidelines related to their responsibility and authority during supervision, they are better able to protect the child should the perpetrator engage in violent or intimidating conduct toward the child or adult victim in the course of visitation.

Sec. 406. Specialized visitation center for victims of domestic or family violence.

1. The insert appropriate state agency shall provide for visitation centers throughout the state for victims of domestic or family violence and their children to allow court ordered visitation in a manner that protects the safety of all family members. The state agency shall coordinate and cooperate with local governmental agencies in providing the visitation centers.

2. A visitation center must provide:
 - a. A secure setting and specialized procedures for supervised visitation and the transfer of children for visitation; and
 - b. Supervision by a person trained in security and the avoidance of domestic and family violence.

COMMENTARY

Supervised visitation centers are an essential component of an integrated community intervention system to eliminate abuse and protect its victims. Visitation centers may reduce the opportunity for retributive violence by batterers, prevent parental abduction, safeguard endangered family members, and offer the batterer continuing contact and relationship with their children. This section requires a state to provide for the existence of visitation centers but does not mandate that the state own or operate such centers, nor that the centers be operated at public expense. See Appendix III.

Sec. 407. Duty of mediator to screen for domestic violence during mediation referred or ordered by court.

1. A mediator who receives a referral or order from a court to conduct mediation shall screen for the occurrence of domestic or family violence between the parties.
2. A mediator shall not engage in mediation when it appears to the mediator or when either party asserts that domestic or family violence has occurred unless:
 - (a) Mediation is requested by the victim of the alleged domestic or family violence;
 - (b) Mediation is provided in a specialized manner that protects the safety of the victim by a certified mediator who is trained in domestic and family violence; and
 - (c) The victim is permitted to have in attendance at mediation a supporting person of his or her choice, including but not limited to an attorney or advocate.

COMMENTARY

This section requires mediators who receive referrals or orders from courts to screen for domestic or family violence between the parties. Screening must include an assessment of the danger posed by the perpetrator, recognizing that victims of domestic violence are at sharply elevated risk of as they attempt to end the relationship, and utilize the legal system to gain essential protective safeguards. Subsection 2 articulates a practice standard for the mediator who discovers that domestic or family violence has occurred. See Appendix III.

Drafters note: Drafters must look to general provisions concerning mediation in their state laws and insert exception as provided in sections 311 and 408.

The Model Code provides alternative sections concerning mediation in cases involving domestic or family violence. Both of the sections provide directives for courts hearing cases concerning the custody or visitation of children, if there is a protection order in effect and if there is an allegation of domestic or family violence. Neither of these sections prohibits the parties to such a hearing from engaging in mediation of their own volition. For the majority of jurisdictions, section 408(A) is the preferred section. For the minority of jurisdictions that have developed mandatory mediation by trained, certified mediators, and that follow special procedures to protect a victim of domestic or family violence from intimidation, section 408(B) is provided as an alternative.

Sec. 408(A). Mediation in cases involving domestic or family violence.

1. In a proceeding concerning the custody or visitation of a child, if an order for protection is in effect, the court shall not order mediation or refer either party to mediation.

2. In a proceeding concerning the custody or visitation of a child, if there is an allegation of domestic or family violence and an order for protection is not in effect, the court may order mediation or refer either party to mediation only if:

- (a) Mediation is requested by the victim of the alleged domestic or family violence;
- (b) Mediation is provided by a certified mediator who is trained in domestic and family violence in a specialized manner that protects the safety of the victim; and
- (c) The victim is permitted to have in attendance at mediation a supporting person of his or her choice, including but not limited to an attorney or advocate.

COMMENTARY

Subsection 1 makes it explicit that referrals to mediation by a court in the context of domestic or family violence, not only mandates for participation, are impermissible. Judicial referrals are compelling and often viewed by litigants as the dispute resolution method preferred by the court. Also see commentary following section 311.

Subsection 2 authorizes courts to require mediation or refer to mediation when there is an allegation of domestic or family violence only where there is no protection order in effect and the three enumerated conditions for mediation are met. First, the court should not approve mediation unless the victim of the alleged violence requests mediation. The second requisite condition for court-approved mediation in the context of domestic violence contains two components: that mediation be provided in a specialized manner that protects the safety of the victim and that mediators be certified and trained in domestic and family violence. Guidelines have been generated by mediators, scholars, and advocates. Paragraph (c) of subsection 2 reflects the policy recommendations, promulgated by the collaborative studies of mediators, advocates, and legal scholars, that at the victim's option, he or she may have another party present during mediation. This person may be the victim's attorney, an advocate, or some other person of the victim's choosing.

Sec. 408(B). Mediation in cases involving domestic or family violence.

1. In a proceeding concerning the custody or visitation of a child, if an order for protection is in effect or if there is an allegation of domestic or family violence, the court shall not order mediation or refer either party to mediation unless the court finds that:

(a) The mediation is provided by a certified mediator who is trained in the dynamics of domestic and family violence; and

(b) The mediator or mediation service provides procedures to protect the victim from intimidation by the alleged perpetrator in accordance with subsection 2.

2. Procedures to protect the victim must include but are not limited to:

(a) Permission for the victim to have in attendance at mediation a supporting person of his or her choice, including but not limited to an attorney or advocate; and

(b) Any other procedure deemed necessary by the court to protect the victim from intimidation from the alleged perpetrator.

COMMENTARY

Subsection 1 authorizes a court to order or refer parties in a proceeding concerning custody or visitation of a child only under two conditions, that mediation is provided by a certified mediator who is trained in domestic and family violence and procedures are provided that protect the victim from intimidation.

Subsection 2 enumerates the procedures that must be followed by a mediator to protect the victim from intimidation. Paragraph (a) reflects the policy recommendations, promulgated by the collaborative studies of mediators, advocates, and legal scholars, that at the victim's option, he or she may have another party present at mediation. This person may be the victim's attorney, an advocate, or some other person of the victim's choosing. Paragraph (b) authorizes the court to impose any additional procedure deemed necessary to protect the victim from intimidation.

Sec. 409. Duties of children's protective services.

1. The state administrator of children's protective services shall develop written procedures for screening each referral for abuse or neglect of a child to assess whether abuse of another family or household member is also occurring. The assessment must include but is not limited to:

(a) Inquiry concerning the criminal record of the parents, and the alleged abusive or neglectful person and the alleged perpetrator of domestic or family violence, if not a parent of the child; and

(b) Inquiry concerning the existence of orders for protection issued to either parent.

2. If it is determined in an investigation of abuse or neglect of a child:

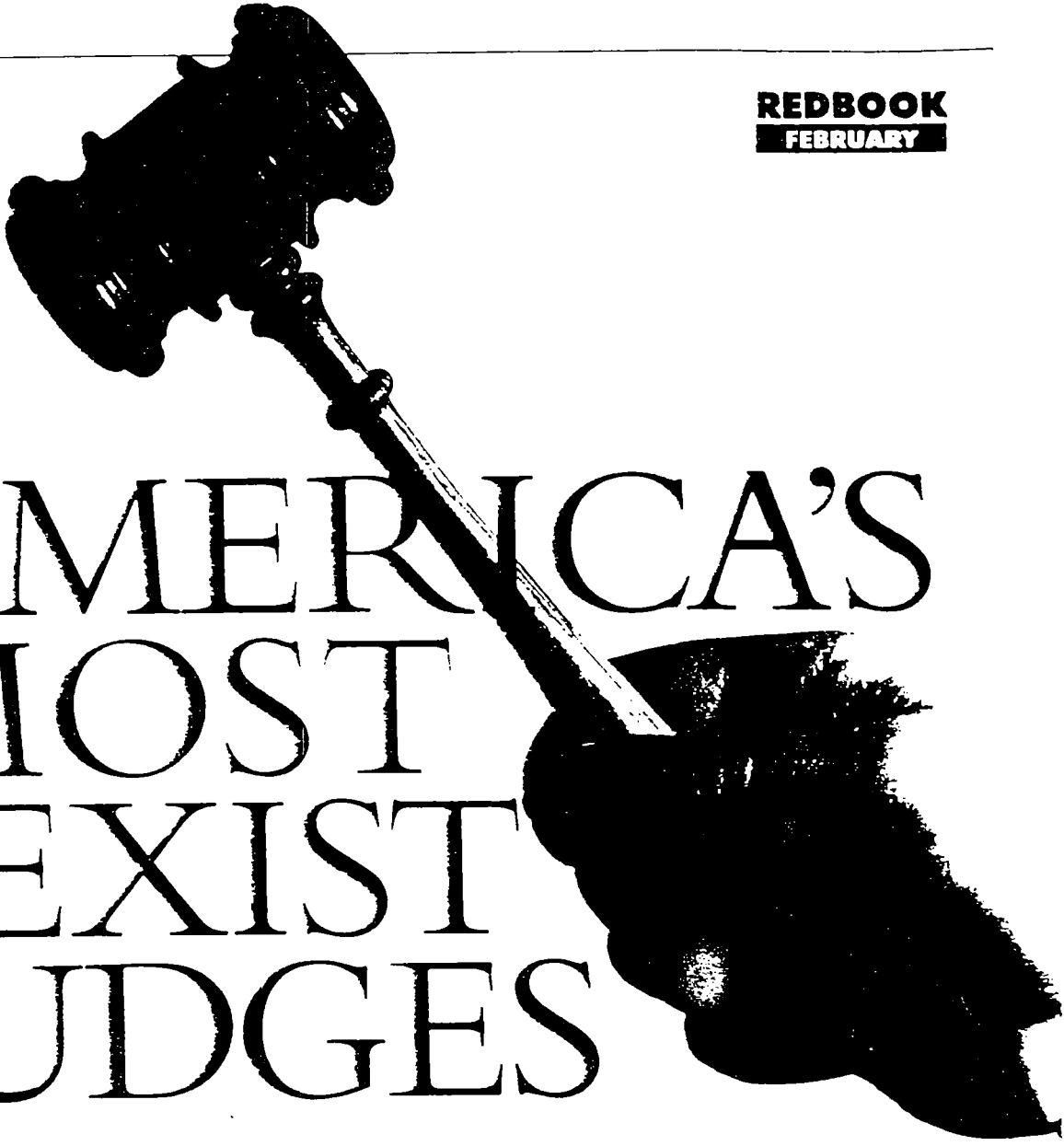
(a) That the child or another family or household member is in danger of domestic or family violence and that removal of one of the parties is necessary to prevent the abuse or neglect of the child, the administrator shall seek the removal of the alleged perpetrator of domestic or family violence whenever possible.

(b) That a parent of the child is a victim of domestic or family violence, services must be offered to the victimized parent and the provision of such services must not be contingent upon a finding that either parent is at fault or has failed to protect the child

COMMENTARY

This section underscores the premise that protection of the abused child and the non-perpetrating parent should be the guiding policy of child protective services agencies. Subsection 1 requires the state's administrator of child protective services to develop both an assessment tool and investigation procedures for identification of violence directed at family or household members in addition to the child alleged to be at risk. Identification of adult domestic or family violence through careful intake screening and preliminary risk assessment, followed by thorough investigation, is essential if parents are to be afforded the life preserving assistance necessary for effective parenting and child protection.

Paragraph (a) of subsection 2 codifies the premise that when a parent or parent-surrogate has abused a child or poses a continuing risk of abuse or violence towards anyone in the family or household, and the agency concludes that safety can only be accomplished if those at risk live separate and apart from the perpetrator, the agency should either assist the non-perpetrating parent in seeking the legal exclusion of the perpetrator from the home or itself pursue removal of the perpetrator from the home. The perpetrator should be removed rather than placing the abused child or children in foster care or other placement. This provision does not require that a perpetrator be removed from the home if both the child and the victim of domestic violence can be adequately protected by other interventions. Paragraph (b) of subsection 2 requires that the agency make services available to parents of abused children under the supervision of the agency, who have been victimized by domestic or family violence. This subsection requires that services for parents victimized by domestic or family violence are to be undertaken whether or not the abused parent is found to bear any culpability for the abuse of a child under the supervision of the agency; findings of neglect, abuse, or any failure to protect by the parent victimized by domestic or family violence are not a prerequisite for service.

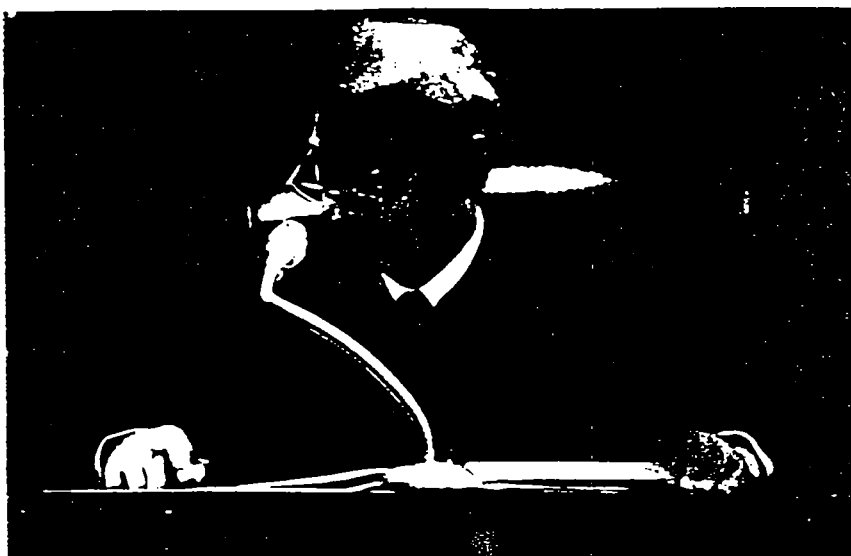


AMERICA'S MOST SEXIST JUDGES



*If you go before the
bench, you have every right
to expect justice.
But the shocking reality
is that there are courtrooms
where women will
never receive a fair trial.*

BY SHEILA WELLER



Judge Lawrence Keough.

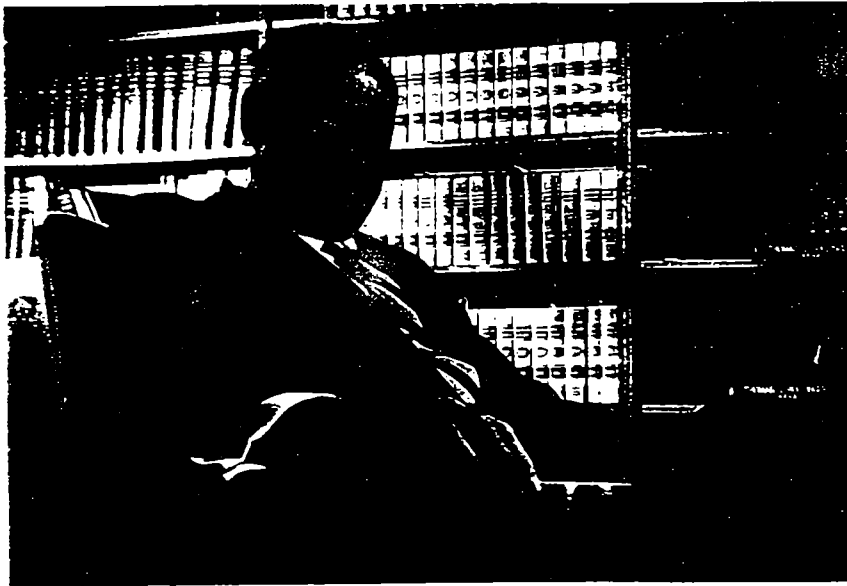
61, of the Sixth Circuit Court of Pasco County, Florida, routinely asks divorcing mothers who appear before him whether they have a "paramour." If they say yes, the judge—invoking an archaic state law—announces that cohabitation is "lewd," "lascivious," and "illegal." Then he invites their ex-husbands to challenge them for custody of their kids.

Last March, **Judge Edward Cottingham**, 65, of the Fourth Circuit Court in Bennettsville, South Carolina, *right*, was given the task of deciding punishment for Magistrate J. Archie Lee, 67, of Horry County. Lee had been suspended—and then resigned—after being indicted for sexually assaulting women who appeared before him.

The charges ranged from breast-fondling to, in one case, ordering a woman to kiss his exposed penis. Lee pleaded no contest. He could have gotten a maximum of 36 years in prison, but Judge Cottingham gave him only a three-year suspended sentence, 400 hours of community service, a \$500 fine, and mental health counseling, saying that his invalid wife needed him at home.



In April 1992, **Judge Gail Craytor**, 61, of the 17th District Court in Idabel, Oklahoma, reduced the sentence of a man who killed his wife to just five years—four of them suspended. But after crediting the killer for time already spent in jail, Judge Craytor allowed his release in only three months, citing the fact that he had not used a firearm (he had beaten his wife to death). Two years earlier, when another husband shot and killed his wife with an elephant gun, Judge Craytor suspended the man's entire 25-year sentence and released him from prison after he served less than six months.



Judge Thomas Bollinger, 52, of Baltimore County Circuit Court, granted mere probation to a 44-year-old man who was found guilty of raping his 18-year-old employee after she got drunk and passed out on his bed. At the sentencing last April, Judge Bollinger said the victim had "facilitated" the crime by getting drunk, and he worried that criminalizing intercourse with a sleeping woman might make many husbands, in the eyes of the law, rapists. When the victim's lawyer described the scenario of a woman left vulnerable on a bed as the defendant's "dream come true," Judge Bollinger remarked it was "the dream of a lot of males, quite honestly." After angry demonstrations by women's groups, Judge Bollinger said he was misinterpreted; he was sorry he hadn't added "unfortunately" to his "dream of a lot of males" remark. Nevertheless, he was fined \$500 and agreed, grudgingly, to take a rape-sensitivity course.

Last June **Judge Frank Eppes, 71,** of Tenth Circuit Court in Oconee County, South Carolina, heard the case of a man who'd kidnapped his ex-wife and her mother, bound them with duct tape, and repeatedly shocked his ex-wife with an electric cattle prod. Judge Eppes wiped aside the man's guilty pleas and suspended the entire 95-year sentence he had given him earlier in favor of a combined five years' probation and 60 months of house arrest—saying the attack was "a domestic thing."



In April 1981 **Judge I. Sytlan Brown,** then 52, of Maricopa County Superior Court in Arizona, threw out a jury's guilty verdict in a rape and kidnapping trial, insisting the victim (who was kidnapped at gunpoint by a man on probation for drug possession) could have escaped and that her story, including being forced naked onto his car hood, was not credible. Attorney Dianne Post, a women's rights activist, remarked, "Anyone who knows how hot car hoods get in Arizona in July knows that no one would voluntarily lie on one!" The rapist's conviction was later reinstated by a state appeals court.



Judges are supposed to be our ultimate guardians. Respected as scholars, admired as model citizens, rarely criticized for any other profession. In their role as champions of justice, we trust them to make fair and objective decisions, free of personal prejudices—racist, sexist, or otherwise.

But in practice, women judges, lawyers, and lay judges say that sexism is shot through the judicial system. "Today sexism is as much a part of our judicial system as our polyester robes," says Judge LaDoris Hazzard of Santa Clara County Superior Court in California. "The insensitivity to women by judges is endemic," says Judge J. Edgar Miller of the Louisiana Fourth Circuit Court.

Year after year reports from every state about judges' abuses against women. "I've heard a lot of reports about judges' abuses against women," says Lynn Hecht Sanfarran, executive director of the NOW Legal Defense and Education Fund's National Judicial Education Program to Promote Equality for Women and Men in the Courts. Although complaints involve judges of all ages and backgrounds, many observers say the most common offenders are men over 50. That means there's lots of opportunity: the vast majority of the 25,750 judges presently on the bench are men—and most of those are over 50. Their abuses are often shocking.

DIVORCE AND CHILD CUSTODY

Up until a few years ago, when a colleague pointed out to him that it was improper to do so, Judge Jerry Carr Whitehead, 59, of the Second District Court in Reno, Nevada, would not grant divorces to women unless they filed using their husbands' last names. According to one mother in a long-settled custody case, Judge Whitehead, in August 1991, informed her lawyer that he was turning the child-support hearing she had arrived to attend into a custody hearing—and said he would give the woman's children to her ex-husband (who hadn't asked for them), charging that she had violated the terms of the custody by moving out of the county (a detail she disputed). In the end the mother kept custody and the father readily agreed to her financial terms. And in another case, a divorced mother, a physician, claims that Judge Whitehead took her son away from her in July 1992, after the judge's appointed psychologist met and evaluated only her ex-husband. The Northern Nevada Women Lawyers Association has rallied to her support.

"Judge Whitehead is one of the old boys, leading the posse against the upstart women," says one woman lawyer.

RAPE AND SEXUAL ASSAULT

In 1990 Judge Leamon Freeman, 64, of Oklahoma County District Court, interrupted a policeman's testimony about a rape victim's suffering to point out that *some* women don't like being raped.

In 1992 Justice Nicholas Figueroa, 60, of New York Supreme Court, sparked protest when he argued that a specific

rape hadn't been violent and that the victim's suffering was lessened by the fact that she'd been molested before.

DOMESTIC VIOLENCE

Does a marriage license give a man the right to beat his wife? Judge William J. O'Neil, 64, of Carroll County Superior Court in New Hampshire, seems to think so. Last May he sentenced Stephen Sarno, 40, to a mere 28 days (to be served over consecutive weekends) for beating Susan Sarno, 33, from whom he'd been separated for a year. Sarno stalked his estranged wife on a camping trip. When he found her in a tent with another man, he hit her repeatedly in the face with a flashlight; she needed 17 stitches. Judge O'Neil reasoned that because the couple wasn't yet divorced, "she was still his wife"; therefore, "I can't conclude that the attack was completely unprovoked. I think that would provoke the average man." The judge did concede that the assault went too far. He told the woman, "To have slapped you might have been more normal." The judge's superior later apologized publicly to Susan Sarno for the "insensitivity" she experienced in court.

TAKING WOMEN LAWYERS LIGHTLY

Making women plaintiffs' lives difficult is only part of the picture, however. Sexist judges also work daily with growing numbers of women lawyers and other judges. Judge Robert Horgos, 45, of Allegheny County Court of Common Pleas in Pennsylvania, once invited a male lawyer entering his chambers to "make yourself at home—take off your jacket." He then told the female lawyer with him, "And you can take off anything you want." More recently, according to the president of Pennsylvania NOW, when someone knocked on the door to his chambers during his conference with a woman lawyer, he joked: "Wait a minute, she's getting dressed." He later apologized to the lawyer.

Then there's what could be called passive sexism—tolerating disrespect for women in their courtrooms. "I was in a packed courtroom, prosecuting a big death-penalty case," recalls Judge Melba Marsh of Hamilton County Municipal Court in Cincinnati, "or a day in the early eighties when she was still a lawyer." The opposing lawyer said, "Your Honor, let's pick a trial date when the prosecutor doesn't have PMS"—and the judge said *nothing*.

"So I replied, 'I only have PMS a few days of the month. There's *no* part of the month when *you're* not an asshole.' Once then did the judge get his tongue back. He yelled at both of us."

Some judges' mistreatment of women lawyers is neither lighthearted nor passive. In the fall of 1988 an eight-months-pregnant attorney called Judge Jerry Carr Whitehead from her doctor's office, seeking to postpone a trial because she had gone into premature labor and was ordered to bed immediately. The judge refused, relenting only after she sent a male lawyer to plead for her. A few weeks later this same woman lawyer watched as Judge Whitehead unhesitatingly granted opposing counsel a three-month delay in the same case. What her opposing counsel, a man, was going hunting. *Continued*

ABUSE OF POWER

How are judges getting away with this? First, many are appointed to long terms or life-tenured positions. When judges are elected, they often run for reelection unopposed and voter interest is generally low. Second, the burden of proving a judge unfair lies with the plaintiff: She must purchase the transcript of her hearing; pinpoint the example of bias (lawyers say some loyal court reporters "forget" to transcribe judges' most intemperate words); and convince a disciplinary committee to take her complaint seriously. The vast majority of complaints are dismissed as frivolous.

The biggest handicap for a plaintiff is that she's often deprived of her best witness: her lawyer. Lawyers are loath to point the finger because they know that few judges (only about 125 a year in the whole country) are ever reprimanded or censured by the judicial-disciplinary committees that exist in every state and federal court. Most of these committees (usually composed of judges, lawyers, and laypeople) can only recommend disciplines against judges; it's up to the state supreme courts or the circuit judicial councils to decide whether the discipline should be implemented. The disciplines are often reprimands rather than removals or even suspensions: when a removal is being considered, it may not take effect for years. It's a virtual certainty that the lawyer will again face the judge she's complained about in other cases, and when she does, she runs the risk that he will take out his anger at her on her clients.

"Judges have power and women are scared to talk," sums up a frustrated Lynn Carter of the Texas Gender Bias Task Force. Such task forces were first started in 1982 and exist in 32 states; they gather information on courtroom sexism but don't have even the limited authority of the disciplinary committees. Many women are reluctant to come forward with examples, and when they do, fear of reprisal is so great

they often insist on anonymity—not just for themselves but also for the judges they are condemning.

Even outspoken female judges and lawyers are afraid to name names. An Iowa judge told one woman that she deserved the knuckle sandwich her husband rendered, but the woman lawyer did not object because, "I still have to practice in front of that judge." In California a judge ranted on in chambers in front of a male and a female lawyer about how women "pussy whip" men—but the woman lawyer was too afraid of reprisals to report him. And a Florida judge, before hearing a case against a man who'd set his wife on fire, burst into a satirical chorus of "You light up my wife...." Yet the female social worker who listened, shocked, refuses to name the judge. All these men went undisciplined and all remain on the bench.

WILL THE FUTURE BE MORE FAIR?

Judge Joseph Rodgers of Hampden County Probate and Family Court in Springfield, Massachusetts, might have remained on the bench longer if not for a new vigilance about sexism. In June 1991, Elizabeth Clark, recently forced on to welfare, stood before him after the father of her then two-year-old son had sought custody of the boy. Instead of ruling on custody, Judge Rodgers ordered Clark and her current live-in boyfriend to get married—or else the boyfriend had to move out. If they didn't comply, they'd face criminal charges under a 1692 fornication law. An appeals court later overturned the order.

After Clark and a few other women told their stories to a local TV station, dozens more called with similar complaints about Judge Rodgers's snide threats and harassment. Many were low-income and on welfare, including a woman to whom Judge Rodgers issued an illegal order not to have any more children out of wedlock. He'd placed one mother on probation because she was jobless, threatened to take another mother's two kids away because she was pregnant and unmarried, and allegedly railed at one battered woman attempting to win full custody from her ex-husband: "Are you trying to tell me that just because a man is abusive to his wife, he is not a good father? If you are, you're in the wrong courtroom!"

In October 1992 Judge Rodgers became the first judge in Massachusetts to be publicly reprimanded by the state's Commission on Judicial Conduct for "a pattern of gender-biased attitudes and conduct." He had retired four months earlier at age 62, citing poor health as the reason.

It's reasonable to speculate that as more judges like Judge Rodgers are pressured to retire, and as younger men and women become judges, sexist decisions will decrease. Rape, domestic violence, divorce and child custody, and sexual harassment are now part of thoughtful public debate and are increasingly the featured topics in the continuing judicial-education programs most judges are required to enroll in periodically. Women's groups are also scrutinizing judges, protesting decisions they find unfair, and mounting recall petitions against judges.

Thanks to this new scrutiny, sexist would-be judges may be rooted out sooner. Last February former Maryland legislator John Amick, 60, had ascended the bench as Baltimore County District Court judge and was awaiting routine state senate confirmation. But during his confirmation hearings, he could not deny that, in once discussing a bill to improve protection for battered women, he had said "women are all a bunch of lying bitches" and "battered women are lying c---." After a public outcry, he withdrew his name from proceedings.

*Sheila Weller specializes in women and the legal system. She is the author of *Marrying the Hangman* and coauthor of *Army Fisher: My Story*.*

"FAVORS" WE CAN LIVE WITHOUT

When sexist judges are paternal or protective, some might think that women actually benefit. But consider: Last March Judge William E. Schadler, 63, of District Court in Jonestown, Pennsylvania, dismissed speeding charges against a young model who said she was doing 122 miles an hour to escape a carload of men she said were following her. Judge Schadler ruled that the woman's good looks made her story more credible; had she not been as attractive, he might not have believed her. Three years before, Judge Schadler released a 19-year-old woman charged with forgery, explaining that it would be a shame to see such a pretty woman in jail. He then paid for her dinner and her hotel room. In that case the judge's superior called his later visits to the woman in jail "inappropriate," but no action was taken against him. Judge Schadler retired two months ago.

SAME-SEX SEXISM

In March 1990 Judge Frederica Brenneman, 67, of Superior Court in Plainville, Connecticut, terminated the parental rights of a mother who abused drugs during her pregnancy. After female attorneys protested the decision, Judge Brenneman called them "hysterical lady lawyers."

In 1992 Judge Muriel Robinson Rice, 50, of Fourth Circuit Court of Davidson County, Tennessee, declared in a local newspaper column that "a home is a man's castle ... and nobody can do more to ensure this than the woman."

BATTERED WOMEN AND CHILD
CUSTODY LITIGATION

HEARING
BEFORE THE
SUBCOMMITTEE ON INTELLECTUAL PROPERTY
AND JUDICIAL ADMINISTRATION
OF THE
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES
ONE HUNDRED SECOND CONGRESS
SECOND SESSION
ON
H.R. 1252, H.R. 1253, and H. Con. Res. 89
BATTERED WOMEN AND CHILD CUSTODY LITIGATION

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Mr. HUGHES. Judge Bell, welcome.

STATEMENT OF ROSALYN B. BELL, ASSOCIATE JUDGE,
MARYLAND COURT OF SPECIAL APPEALS

Judge BELL. Thank you. Glad to be here.

Mr. Chairman, Congressman Moorhead, Congresswoman Morella, I first want to say I also come from the great State of Maryland But I would tell you that I was born and raised in the great State of New Jersey, and my mother still lives there and she votes, and so I hope that will redeem me. And I love California. Having said that, maybe I will be able to finish up here.

Mr. HUGHES. I knew when I first saw you.

Judge BELL. I have been asked to speak strictly on House bill 1253, and this really is the one that involves custody and children. I have heard time and time again, and I am sure you all have, about how important the children are in all of this, but we too often lose sight of them. But before I do that I want to make four points.

And the first point I want to make is that I have heard nobody say anything against this bill today, and that is significant. Apparently everybody is in agreement that the State Justice Institute is absolutely the perfect vehicle for this type of program. They already have an organization in place. They are already in the area of gender bias and into the whole issue of domestic violence. You couldn't have chosen a better group to implement the program. And also, I think that they have the respect of all the State judiciaries in establishing, presenting and furthering educational programs.

We learned a great deal about domestic violence in connection with the gender-bias reports. You also heard today that the victims have very low self-esteem and the abusers are motivated by the need to control. One of the ways this comes out is when the woman wants to leave. And I say woman advisedly, because 95 percent of them are women and while men may want to have custody of children frequently, the loss of custody doesn't bear the same stigma to men that it does to women. So, when the women are told, "If you leave I will kill you," that isn't as frightening to them as when they are told, "You will never see the children again if you leave," and that many times makes them stay.

In connection without gender-bias report, we found out that almost a third of our judges in Maryland agree that child custody awards are made without regard to whether there was violence within the home. But it was interesting, when we asked the women lawyers the same question, almost 65 percent of them believed that the judges did not consider this violence when they made their custody awards. The victim having heard that she is not going to get the children, is afraid; she lives in fear of this and hence she doesn't leave.

Well, what happens next if she doesn't leave? Many continue to be abused and some of them are killed. You have heard that. But now I am going to give you the one statistic that I think, hopefully, is going to make you realize that this \$600,000 is really an investment. It goes like this:

Sixty-three percent of the young men in jail between the ages of 11 and 20 who are doing time for homicide are there because they

killed their mother's abuser. That is a lot of people and a lot of lives. And, if we could stop that, we would have eliminated costs and it would have been a good investment, let alone the lives we would have saved and what we would have done for these people.

If you pass this bill, is that going to stop all this? Are we going to have no children in jail? And the answer, of course is no, it is not going to stop all this. Some of these things are still going to happen, and I recognize this. But by itself the losing of custody is a very major stressor, and the chance of losing custody is something that these victims are desperately concerned about.

And another thing it would do. At least it would start a message that doesn't ask any more why women stay, but it asks why we as a nation put up with women being beaten and in more danger in their home than they are on the streets.

Why do we need a study? There are lots of studies out there. Why do we need another one? Well, we really have three different ways that judges look at custody when there has been a victimization of this type: One, we say we do it on a case-by-case basis. That makes a lot of sense. Another one is one that we heard at Congresswoman Morella's first hearing on her prior bill; we heard of a study which said that we ought not give custody of the children to the victim because the victim had very low self-esteem, but we really ought to give custody to the person who was not the victim but the person who had this confidence because that obviously would build confidence in the child and that was a much better situation. Well, I think most of us have tossed that one out of-hand.

Judges do want to make things on a case-by-case basis, but they need to have information in order to do it. We actually don't know how much of an impact it will have on the child or what the effect will be. We know full well that the children that grow up in violence are affected by it and are much more apt to be abusers.

In one of the studies that was done it turned out that the children, young men particularly, who are brought up in homes in which violence is the method by which we solve problems were by far proportionately more apt to be the ones who were in violent crime and who ended up in the juvenile system and being waived over into the adult system. We need to have the kind of information that is going to tell us where these children are going to be best off. We intuitively know and we have studies that do tell us that there is a greater risk if they stay in the home with the abuser, and it makes sense. Because if they stay with the abuser—the whole trick is the control. And, if we no longer have a spouse to control, the abuser then has either elderly people in the home to control or children to control, somebody who is vulnerable.

So we know it intuitively, and we are pretty sure what the statistics are of what we are saying. What we really want to know is, there are some cases where this doesn't happen. If we know where it doesn't happen and what the differences are, we could make the best decision. But, as it presently stands, we really don't have the data out there to establish it. That is part of what this bill is going to do. It would be taking a look at it. It would be fairer for any number of reasons to have this data and information.

~~DRAFT~~

THE WHITE HOUSE
WASHINGTON

March 19, 1996

Dana Rayl West
Apartment 401
2939 Van Ness St., N.W.
Washington, D.C. 20008

Dear Ms. West:

The President has asked me to follow up on your letter to him concerning child custody and domestic violence. I am in the process of obtaining a copy of the report you mentioned by the American Psychological Association on "Violence and the Family," and I look forward to reviewing it. I also appreciate the opportunity to review the other material you attached.

As you know, the President feels strongly that the Federal government must use all the means at its disposal to fight family violence and ensure the safety of children. I have asked my staff to focus on these and related issues in the coming months, and your letter will be very useful to us as we move forward.

Thank you so much for writing and for bringing these materials to our attention.

Sincerely,

Carol H. Rasco
Assistant to the President
for Domestic Policy

Davis F411
I am supposed to follow up on this somehow.
If you have any ideas, let me know.
- Davis

MAR 12 1996

THE WHITE HOUSE

WASHINGTON

March 7, 1996

Dana Rayl West
Apartment 401
2939 Van Ness Street, N.W.
Washington, D.C. 20008

Dear Dana:

Thanks for your fine letter and for sending the information on domestic violence and child custody battles. As you know, these issues mean a lot to me personally, and we're continuing to work hard to combat all types of domestic and family violence. We must give our children back their childhood.

I appreciate your suggestion about looking into the American Psychological Association report, and I've asked Carol Rasco to follow up. Please say hello to Casey for me. I hope you both are well.

Sincerely,

Bill Clinton 

960311

February 25, 1996



President Bill Clinton
The White House
Washington, DC 20050

Dear Mr. President:

First of all, I want to tell you how very moved I was by your State of the Union message this year. It was excellent. I was so proud of you. As always, you prove over and over again what a good man and a fine leader you are.

Next, I want to say thank you for the support you are giving those of us who are addressing issues related to domestic violence.

Mr. President, I am writing to you tonight to literally beg you to help many of us who deal with the issue of how batterers have learned to use the courts and custody to continue their control and abuse. We desperately need your help with this issue. I do not believe this is an issue that should be left solely to the states. If domestic violence is an issue that we can address on the national level, then surely children being removed from fit, caring mothers -- because batterers have learned how to manipulate our legal system -- is an issue worthy of national attention.

You may know that this past week the American Psychological Association (APA) released its report on "Violence and the Family." In it, there are several references to the use of custody by batterers as a means of continuing the abuse. I hope you will ask a member of your staff to get the APA report for you and that you will study it.

We simply will never be able to address violence in the streets until people really understand the full scope of violence in the homes, and that includes the psychological abuse that often continues long after the physical abuse.

I am attaching a document on domestic violence and custody I hope you can study. Custody is a serious matter. For too long many of us and our children who have been through custody battles have been treated as though we were damaged goods. The volunteer work I do has taught me that it is usually the best moms who experience these custody battles waged by batterers. In fact, at the American Psychological Association's press conference this past week, Lenore Walker stated "the highest number of custody battles are waged by batterers."

Please help us, Mr. President. We don't have a child to spare. Too many people have been used and manipulated by a fathers' rights movement -- a clear backlash to stricter child support enforcement and a tool of many batterers. Good dads have always been involved in their child's life. Encouraging fathers' involvement in children's lives should not come at the exclusion of the mother's involvement in a child's life. Unfortunately, for many families this is exactly what is happening. Mothers are being demonized and marginalized. In the name of fathers' rights, children are being used by batterers and often there is a tremendous financial incentive to go for custody, not only does the dad get out of child support but the moms pay them child support.

There are thousands of these cases and the numbers are increasing. Many of us work with very little political support to get judges trained. The money to train judges in this area has been zeroed out in the Violence Against Women program.

Mr. President, I know you know that judges ignore evidence of domestic violence everyday. I am not sure, though, if you have any idea how many kids are being taken from fit mothers everyday because of the witch hunts conducted during custody cases.

Our children and families are being destroyed by a system that rewards psychologists who are for sale. Our children are traumatized as they are pulled from their mother's arms. They cry for their mothers, they suffer in school, they get into trouble and they are a growing breed of juvenile delinquents. Before politicians push to incarcerate 14 year olds, shouldn't we all be looking at what has caused a generation of kids to become so angry and so violent.

I pray for the day when you will assign dedicated, experienced, sensitive people to look into the issue of custody and domestic violence. The American Psychological Association, along with others, has begun to address this problem. In fact, I see more and more members of the media, beginning to understand the scope of this problem. It is both a personal a national travesty.

On behalf of all the children who have been wrenched from their mother's arms -- either because of the backlash to child support enforcement or because a batterer had his way in court -- I ask you to give this issue the attention every child's life deserves.

I am enclosing two reports done by Kathy Slobogin over at CNN. A couple of years ago during our three-hour lunch, it was difficult to convince Kathy (whose husband is a psychologist) what was happening in the courtroom. She couldn't believe judges were awarding custody to batterers or that court appointed experts were engaging in unethical referrals practices with attorneys. I am proud to share with you the two reports which address issues I raised with Kathy. She has done an excellent job with these reports. One is from last year; the other, ran in January of '96.

I know I am asking a lot for you to take time to look into these matters. I do my best everyday to create a greater awareness of these issues. I wouldn't be doing my job as an advocate for all children, not just Casey, if I didn't call on you, Mr. President to help us save all of our children, before its too late. (By the way, I know both you and Casey have that "resilient" quality referred to in APA's report. I also thank God for the strength to endure the pain a dysfunctional legal system caused my family.)

Please help us help our children, Mr. President. And please, stand up for single moms. . . no one would ever have dreamed of accusing WWII widows and moms of raising delinquent youth. The problems of our society shouldn't be blamed on hard working single moms. I believe the problems of today stem from our children witnessing dysfunctional systems that reward the greediest, the most powerful and often the most abusive. Our problems also stem from years of not addressing the impact of domestic violence on children.

Please help us return to a time when it was unthinkable to take a child from a fit, caring mother.

I know because of you, better days are coming for our country. Thank you for your courage. Many of us still have hope because of you.

*Thank you -
Mr. President -
your thoughts are every day inspiring
me to do the same
Dana
(EMIL WEST)*

Feb. 25, 1996

Nancy -

Please give these materials to the President. They deal with the issue of domestic violence and custody. Though I've shared some of my thoughts regarding these issues with the President in the past - I believe he should be aware of this past week's press conference held by the American Psychological Association and their report - which also deals with the fact that batterers are waging these terrible custody battles. Our kids need the President's help on this... anything he says will help.

Thank you for your help.

Sincerely, Lana Rayl West

14**Domestic Violence
and Child Custody**

MARSHA B. LISS
GERALDINE BUTTS STAHLY

The impact of domestic violence on women's lives has been the focus of most of this volume. However, in addition to women, there are others who are affected by domestic violence—children. When children are exposed to domestic violence, their lives are also damaged and disrupted. When the woman makes the decision to leave the batterer, her decision changes the children's environment as well as their relationships with both parents. Although it may seem that the mother's decision to leave will protect her children from further exposure to battering and its effects, the continuing involvement of the batterer in the lives of both the children and their mother may create new problems, exacerbate old problems, and prevent healing of the damage that has already occurred (Besseney, 1989; Stahly, 1991). Given that the man's need for power and control is an important component of domestic violence, divorce may actually exacerbate his need to control, as evidenced in bitter and never-ending custody disputes (Chesler, 1986; Stahly, 1991). In this chapter we examine what is known about domestic violence as an issue in custody decisions, outline ongoing research in this timely field, and review the types of cases and decisions judges have dealt with so far.

**History of the Treatment of
Domestic Violence in Custody Cases**

Historically, under common law, children were considered the father's property, and upon divorce custody of the children was awarded to him.

Evidence of the father's beating of the mother or the children had no place in any court of law in any jurisdiction and was acknowledged in some circles as a matter of privacy and due course. The home was the man's castle, and abuse of either children or spouse was no one else's business (Aries, 1970). It was only in the late nineteenth century that child abuse was addressed by any modern court. In the twentieth century, industrialized countries developed new philosophies, such as the tender years doctrine, espousing that, all other things being equal (religion, sexual morality, psychological disturbance), custody should be awarded to mothers during the early childhood development period. This philosophy continued until almost the present day. During the 1970s the tender years doctrine began to be questioned, and in 1981 the Supreme Court of Alabama struck down the presumption of the tender years doctrine based on failure to provide equal rights to fathers (*Devine v. Devine*, 1981).

In place of the tender years doctrine and presumption of maternal care, the standard adopted in most states became the "best interests of the child." This standard, criticized by many as vague and lacking in guidance, definition, and parameters, does not require that any special weight be given to the sex of the parent (Chambers, 1984). Either mother or father might be awarded custody.

In recent years, attention has focused on "joint custody," another index of the changing view of the needs of children. In this model, parents share child custody responsibilities after dissolution of the marriage. The literature on joint custody indicates that when it works, it may be the ideal (Kelly & Wallerstein, 1982). In theory, joint custody is designed to afford the child access to continuing involvement by both parents. In California, the increasing number of parents awarded joint custody by the courts shows that it is almost routinely granted in disputed custody cases, generally without consideration of the special circumstances created by domestic violence (Judicial Council Advisory Committee, 1990). A growing body of literature in psychology urges parents to develop joint parenting arrangements following divorce (Hetherington, 1979; Teyber & Hoffman, 1989). However, recent data show that although joint custody works well with cooperative, dissolution-resolved parents with flexible schedules, these success stories may highlight the unusual rather than the normative family. In families that fall short of these characteristics, joint custody seems to foster continuing conflict for parents and children (Wallerstein & Blakeslee, 1989). It is within this framework of the "best interests of the child" and the tensions regarding custody and decision making post-dissolution that we will discuss child custody and domestic violence.

The role of domestic violence within the home has only recently been addressed by litigation and court decision as well as legislation. In the past, many courts would have found such allegations irrelevant to children's

custody determinations; if discounted as mere artifacts, substantial events in them. *Legal Periodicals* even inc

As of this writing, at le legislation, which may be sole custody awards. State links between domestic vio tive January 1, 1991, judg 4608) must consider alleg violence in cases of child what extent they must con or his own discretion in ev should also be noted that i a course of several years t neutral language. The legi battered women and abusec rights groups. This step, no the consideration of family interests of the child." Dis the negative effects of fam ment can be found elsewhe

Some of the changes in c efforts of advocates in the tion of interests and forces emergence of changes in v down of rigid sex roles, an the courts' consideration o the opening of judicial mi considered, including alleg of domestic violence or attorneys, who were reluct vant issues. Paradoxically, equality of treatment by th loss of power by women in was as certain as the role o

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Domestic Violence and Child Custody

177

custody determinations; if found relevant at all, they would often be discounted as mere artifacts of the custody dispute process and not as substantial events in themselves. It was not until 1980 that the *Index to Legal Periodicals* even included a listing for "domestic violence."

As of this writing, at least 30 states have enacted domestic violence legislation, which may be the basis for women's turning to the courts for sole custody awards. States are being encouraged to enact more specific links between domestic violence and custody awards. For instance, effective January 1, 1991, judges in California (Civil Code Sections 4600, 4608) must consider allegations and evidence of a history of domestic violence in cases of child custody. However, no directives on how or to what extent they must consider it are provided; each judge must use her or his own discretion in evaluating, or even considering, the evidence. It should also be noted that it took California legislators five attempts over a course of several years to agree on the legislation, in spite of gender-neutral language. The legislation was supported in part by advocates for battered women and abused children; its strongest opponents were fathers' rights groups. This step, not the first of its kind in the nation, incorporates the consideration of family violence as part of the definition of "in the best interests of the child." Discussions of the best interests of the child and the negative effects of family violence on children's growth and development can be found elsewhere in this volume.

Some of the changes in custody determinations are not due solely to the efforts of advocates in the field of domestic violence. Rather, a combination of interests and forces—including the fathers' rights movement, the emergence of changes in women's life-styles and economics, the breakdown of rigid sex roles, and the custody issues related to them all—led to the courts' consideration of other custody patterns. One result has been the opening of judicial minds to aspects of domestic life not previously considered, including allegations of violence. Before this time, allegations of domestic violence or child abuse would not have been raised by attorneys, who were reluctant to bring up what were thought to be irrelevant issues. Paradoxically, the move toward greater sex role equality and equality of treatment by the courts and legislatures has also resulted in a loss of power by women in their traditional domain: At one time, nothing was as certain as the role of the mother in the upbringing of her child.

The Issue of Control and Custody

Many writers cite issues of control as part of the continuing battle between parents, both before and after marital dissolution, and mothers are often blamed for not cooperating and for creating difficulties (Hetherington, 1979;

Kelly & Wallerstein, 1982; Teyber & Hoffman, 1989). Some psychiatrists and, to a lesser extent, psychologists have even taken the position that women who allege abuse ought not to be given custody, because they are actually manipulating the system and are using the allegations because they are "vindictive or delusional" (Gardner, 1989; Green, 1986). Gardner (1989), in fact, goes so far as to recommend that a mother who reports child abuse and believes in her child's report should lose custody and have limited visitation, to be withdrawn if she continues to support the child's unfounded report. These views are alarming, especially at a time when the extent of the epidemic of child abuse is beginning to be acknowledged by our judicial branches, children are finally being listened to and believed, and research is upholding the credibility and validity of children's testimony (Goodman, Bottoms, Herscovici, & Shaver, 1989). Many true reports may be classified as unfounded because of the difficulties inherent in meeting standards of proof when a crime is committed against a child in the family. In the first study to include a large nonclinical sample of parents engaged in custody disputes, the rate of false and unfounded reports was not significantly higher than that found when custody was not an issue (Thoennes & Tjaden, 1990).

Whereas most mothers may be at a disadvantage in custody situations, financially and emotionally, battered women are in an even more disadvantaged position (Chesler, 1986). For the mother, the concern is how to report or handle abuse that occurs during custody. According to Gardner and his followers, if she supports her child's allegations she should be denied custody. If she fails to act, she betrays her child's trust and allows the abuse to continue. Further, this quandary applies not only to abuse of the child but to her own abuse as well. The battered woman may not be treated as powerful and effectual compared with the aggressive, more controlling abuser. Walker (1989a) suggests that the woman's fear of and/or anger with her partner may work against her own advocacy in the courtroom. Neither the passive, ineffectual demeanor common to a woman during abuse nor her emerging empowering anger is helpful to her when she presents her case to the court. The controller, who can remain calm yet assertive, unfortunately may be perceived by the court to be a more viable parent.

Often, the court will not consider past domestic violence in a family custody dispute. In addition, if the battering per se is not considered, but the woman's history of attempting to cope with the violence is introduced (e.g., psychological counseling, use of tranquilizers, leaving the home and returning), the batterer may actually appear to be more stable even though in fact he created the destructive environment. Some mothers who are victims may be concerned that if they remove themselves from the abusing

situation the father may retaliate. If the mother again fails to protect the child from the father's abuse herself, with him on support and vis-à-vis the child, the father may win of majority and move from

The custody decision itself is often made with the abusing father. She is often intimidated, as has been described in the literature. A major point of the domestic violence is the man's need to regain or reassert his "property." The children and the woman may find herself in a situation where the father has control of the children rather than the mother. Threats and/or actual violence, in fact, statistics from the National Institute of Justice, 1986). They focus on the full range of abuse, both reported and unreported. The women often perceive that law enforcement is not needed to fear the loss of custody, thus it does not show up on

The woman who has been battered is often intimidated into making a decision that she wishes and may be unable to make. She may feel it is better to have visitation than to assert her interests if she feels this actual danger. The fear of losing custody, later kidnapping by the abuser in the abusing relationship (1986) cites a substantial number of women have sought and won custody, allow their ex-mates to take custody. In some ways they might shield their children. Project and Neighborhood Violence: a mother may pursue custody of her father from contact with her children for limited periods of time, three years. Two issues that arise are, legally and in daily life

situation the father may retaliate by hurting the children, and therefore the mother again fails to protect her children. If the mother has been the victim of the father's abuse herself, she must now consider the problem in dealing with him on support and visitation issues until her children reach the age of majority and move from the home (Stahly, 1990, 1991).

The custody decision itself does not cut the mother off from involvement with the abusing father. She will continue to find him abusive and intimidating, as has been described elsewhere in this volume. If control is the major point of the domestic violence, separation may actually increase the man's need to regain or reassert his authority position and control his "property." The children and visitation become central control issues. The woman may find herself in a relationship with the battering man in which control of the children rather than physical violence becomes the basis of terrorization. Threats and/or occasions of violence may also continue. In fact, statistics from the National Crime Victims Survey show that the amount of abuse after marital dissolution is even greater than predissolution, with nearly 70% of violence reported postseparation (U.S. Department of Justice, 1986). These statistics are especially noteworthy because they focus on the full range of crimes citizens experience, both reported and unreported. The woman who has been abused and who does not perceive that law enforcement or the courts can help her without her needing to fear the loss of her children may not report the violence, and thus it does not show up on any traditional measure of crime.

The woman who has been continually abused may be so terrorized that she is intimidated into making custody arrangements contrary to her wishes and may be unable to assert her legitimate claims for fear of later retaliation. She may feel it is better to give up some support or property or visitation than to assert herself and her children's best economic interests if she feels this action will increase their physical and psychological danger. The fear of losing custody of her children, legally or through later kidnapping by the abuser, may leave the woman no choice but to stay in the abusing relationship (Stahly, Oursler, & Takano, 1988). Chesler (1986) cites a substantial number of cases in which violent, misogynist men have sought and won custody of their children. Further, some women allow their ex-mates to take custody of their sons in the hope that in this way they might shield their daughters (San Francisco Domestic Violence Project and Neighborhood Law Centers, personal communication). One avenue a mother may pursue is to obtain protective orders restraining the father from contact with her and her home. Usually, however, these orders are for limited periods of time, such as from six months to a maximum of three years. Two issues then emerge: What happens at the end of that period, legally and in daily life? And if the father disregards the order, will

law enforcement really be there to help her eject him from her home and vicinity? Additionally, when the mother tries to protect herself her actions may be construed as interference with the father's visitation rights.

The battered woman is faced with a double bind in her initial decision to leave the situation or stay. If she is the primary target of the man's violence and has no safe shelter for herself and her children, she may perceive only two options: Stay in the violent home or relinquish control of the children to the batterer. The decision she makes initially may eventually lead to her losing her children. She may be perceived by the children as the parent least willing to fight for them; the batterer may suggest to them that she is not interested in their welfare. Children in custody disputes often want to place blame; with the batterer's encouragement, they may blame their mother. When a mother has been terrorized into submission, she may be perceived as the less influential and powerful parent; she may be seen as ineffectual, despite her interests in protecting the children and herself. Ironically, her children, especially her sons, may identify and align themselves with the powerful and aggressive father model. The result of this pattern may be aggression and abuse by sons toward the mother and ultimately other women as well. In a study of the effects of family violence on college students' attitudes toward women, Stahly (1983) found that male students who had observed their fathers battering their mothers held significantly more negative attitudes toward women than other males, including those who had been abused by their own mothers. These misogynist attitudes may ultimately result in failure to establish intimate relationships, thereby perpetuating male dominance and violence.

A contrary pattern may also emerge, in which the children align with the mother for protection from the aggressive father. Following divorce these children may fear visitation as a time when they are unprotected. In this pattern, the mother's actions to protect the children may be counter-productive if the court places credence in the Gardner (1989) "parental alienation" theory and theories that trivialize the father's violence and blame mothers for children's reasonable fears. Even children who do not get caught in the middle of the destructive alliance with either parent may be in a bind. If the father uses visitation as an occasion to abuse the mother further, the children may be put in the untenable position of feeling some responsibility for the continuing abuse and yet wanting some relationship with the father. Does the child now have to give up visitation with dad to protect mom? In a system of supervised and monitored visitation this theoretically would not happen. Unfortunately, many courts trivialize the violence and view supervision as an infringement of a father's rights. Even when courts are persuaded to require supervision, given the dearth of facilities and monitors and the lack of funds available from courts and

institutions to support visitation themselves. The end result is that the batterer wins against the woman or transfers

Challenging

There are virtually no published data on the effects of divorce, custody, and domestic violence on children. Case histories and many articles conjectures about the issue. Case history data, suggests that in custody challenges, "good enough" mothers win 70% of the time, often to men's children. She further hypothesizes that mothers who are most likely to institute custody challenges are the errant mother and retain sole custody.

There are no published data on the characteristics of the marital violence study examined 150 random cases from a Southern California district court in December 1988 (Suchanek & Stahly, 1988). In custody challenges and outcomes, previous case history data, including previous case history data, indicate that women who were violent toward the women (which violence toward the women of a restraining order) were significantly more likely to win custody disputes. These allegedly violent women were more likely to win custody of sons than of daughters and/or spousal support. Women were more likely to win a custody challenge if they were not a factor considered. Women were less likely to win than were fathers. A limitation of this small exploration is the persistence. A number of anecdotal reports of the battering man in pursuing a custody challenge using legal as well as extralegal means among battering men, they might win.

Threats of kidnapping and/or violence may be significant factors in custody disputes (Stahly et al., 1988). In a pilot study with child custody, in which 94

institutions to support visitation plans, too often the parents must fend for themselves. The end result is that too often the violence continues, either against the woman or transferred to the child directly.

Challenging Custody Decisions

There are virtually no published studies dealing specifically with divorce, custody, and domestic violence. However, there are anecdotal and case histories and many articles, including those discussed above, with conjectures about the issue. Chesler (1986), while presenting primarily case history data, suggests that in a sample of several hundred cases of custodial challenges, "good enough" mothers lost these challenges about 70% of the time, often to men who were abusive of the women and the children. She further hypothesizes that it is abusive, misogynist fathers who are most likely to institute custodial challenges in attempts to punish the errant mother and retain sole control over their offspring.

There are no published data comparing the rates of custodial disputes by characteristics of the marital relationship. However, a recent exploratory study examined 150 randomly selected files of marital dissolution from a Southern California district courthouse between January 1983 and December 1988 (Suchanek & Stahly, 1991). Characteristics predicting custodial challenge and outcome were coded, and findings supported the previous case history data, including the possible role of control and misogyny in custodial challenges by battering men. Dissolution cases in which violence toward the woman had been asserted (usually in support of a restraining order) were significantly more likely to include custody disputes. These allegedly violent fathers were also more likely to fight for custody of sons than of daughters, and were more likely to be in arrears in child and/or spousal support. The notion that violent fathers are more likely to win a custodial challenge was not supported, but the violence was apparently not a factor considered by the court, given that they were no less likely to win than were fathers with no allegations of violence. One limitation of this small exploratory study is the lack of a measure of persistence. A number of anecdotal cases cite the long-term persistence of the battering man in pursuing and harassing the woman (Stahly, 1991), using legal as well as extralegal means. If such persistence is common among battering men, they might win custody ultimately.

Threats of kidnapping and/or custody battles and the continuation of violence may be significant factors in keeping women in violent relationships (Stahly et al., 1988). In a pilot study of battered women's experiences with child custody, in which 94 women participated, batterers' threats to

Table 14.1 Frequency of Custody Problems Reported by Shelters

Problem	Number	%
Batterer threatens child kidnapping	33,852	34
Batterer kidnaps child	10,687	11
Batterer threatens custody action	22,813	23
Batterer files custody action	7,168	7
Batterer wins full custody in spite of evidence of physical abuse of child	2,997	3
Batterer wins full custody in spite of evidence of sexual abuse of child	2,262	2
Batterer wins full custody/no child abuse	1,844	2
Batterer wins joint custody	19,850	20
Batterer wins joint custody in spite of evidence of physical abuse of child	7,881	8
Batterer wins joint custody in spite of evidence of sexual abuse of child	3,682	4
Batterer receives unsupervised visitation in spite of evidence of physical abuse	12,401	12
Batterer receives unsupervised visitation in spite of evidence of sexual abuse	6,970	7
Batterer uses visitation as occasion for verbal abuse of woman	24,719	25
Batterer uses visitation as occasion for physical abuse of woman	9,512	10
Batterer uses threat of kidnapping to force woman to return	21,121	21
Batterer uses threat of custody action to force woman to return	19,236	19
Woman goes into hiding because of court order that fails to protect child	3,881	4
Shelter staff testifies for mother	2,004	2
Shelter staff cites evidence of physical abuse of children by mother	5,833	6
Shelter staff subpoenaed by father	1,143	1
Shelter staff cites evidence of sexual abuse of children by mother	915	1
Shelter staff believes both mother and father are unfit custodial parents	2,655	3

keep the women from leaving included hurting the children (25%), kidnapping the children (25%), and taking the children through a custody action (35%). In discussions in the literature of the reasons women stay in and/or return to violent relationships, the women's fears for their children's safety and well-being have been consistently overlooked. In this sample, 20% of the women reported returning to the batterer at least once because of his threats to hurt or take the children.

Although substantial anecdotal and clinical data are available on the problems battered women are having with child custody, no published survey data have measured the extent of the problem. Stahly (1990) recently conducted a survey of the experiences of shelter staff in order to get a first view of the extent of custodial problems encountered by women seeking shelter services (see Table 14.1). Of the 105 questionnaires distributed to shelters in California, 39 were returned and 37 provided usable data. The shelters reported serving 6,034 women and 8,550 children as residents and 14,637 women and 4,204 children as nonresident clients; they provided telephone hot line counseling to an additional 87,378 women during the one-year period beginning January 1, 1989.

Domestic Violence and Child Custody

Shelter staff were asked to report information regarding the extent of violence experienced by their clients. Additional comments added by shelter staff indicated that 34% of the women reported violence and harassment around custody of a significant number of batterers reported on by the shelter staff, 34% and 11% of the batterers had a history of threatening legal custody. Shelter staff, such actions had been taken by women won full custody. Consistent with the findings of other studies, 20% were granted joint custody. Batterers who had not directly abused women less often (1,844) than fathers (2,262). Under these circumstances, an alternative is to flee the jurisdiction knowing 3,881 battered women endangered their children's (and their own) actions and outcomes are likely to be negative and is often no longer in contact with the true occurrence of problems in custody cases is that there may be a tendency to ignore such cases, or for such cases to continue.

Also disturbing in magnitude is the fact that many shelter staff ignore violence and abuse in custody cases, the battering man used to continue verbal and emotional abuse. In custody cases, physical violence continued to have been overlooked. In spite of evidence of physical abuse (7,881) and sexual abuse (3,682) themselves embroiled in custody cases, occasions staff had testified to an additional 1,143 received subpoenas from mother. Staff did report that sexual abuse and a small proportion sexual abuse contrasts with the beliefs regarding sexual abuse and 9,557 sexually abused women staff expressed the belief that the batterer was responsible for the violence, even when granted, physical custody.

Shelter staff were asked to reconstruct from their case files and staff logs information regarding the extent of problems with custody and visitation experienced by their clients. According to the data reported as well as additional comments added by respondents, it is apparent that continued violence and harassment around issues of custody and visitation are problems of a significant number of battered women. Of the more than 100,000 women reported on by the shelter staff, 34% had children threatened with kidnapping and 11% of the batterers had actually kidnapped a child. In 23% of cases, batterers threatened legal custody action; in 7% of the cases known to the shelter staff, such actions had been filed; and in 7% of the cases the battered women won full custody. Considering both disputed and undisputed cases, 20% were granted joint custody. Disturbingly, shelter staff reported that batterers who had not directly abused their children actually won full custody less often (1,844) than fathers who were physically (2,997) or sexually abusive (2,262). Under these circumstances, a woman may feel her only alternative is to flee the jurisdiction of the court, and shelter staff reported knowing 3,881 battered women forced into hiding by court orders they felt endangered their children's (and often their own) safety. Since most custody actions and outcomes are likely to occur after the woman has left the shelter and is often no longer in contact, these figures are likely to underestimate the true occurrence of problems in the population. One limitation of these findings is that there may be a tendency for shelter staff to recall the most difficult cases, or for such cases to come to shelter staff's attention.

Also disturbing in magnitude is the tendency of the courts apparently to ignore violence and abuse in orders regarding visitation. In 24% of the cases, the battering man used court-ordered visitation as an occasion to continue verbal and emotional abuse of the woman, and in 10% of the cases, physical violence continued. The best interests of the child seem also to have been overlooked in the courts' granting of unsupervised visitation in spite of evidence of physical abuse of the child (12,401 reported cases) and sexual abuse (6,970), and joint custody in cases of physical abuse (7,881) and sexual abuse (3,682). Shelter staff may find themselves embroiled in custody proceedings; they reported that on 2,004 occasions staff had testified in support of the mother's petition, and an additional 1,143 received subpoenas from the father to testify against the mother. Staff did report that some mothers were physically abusive (5,833) and a small proportion sexually abusive (915) of their children (this contrasts with the beliefs regarding fathers that 21,587 were physically abusive and 9,557 sexually abusive of their children); in 2,655 cases, the staff expressed the belief that neither parent was fit.

Shelter staff expressed a wide range of frustrations. Supervised visitation, even when granted, proved less than satisfactory. A number of

BATTERING AND FAMILY THERAPY

specific problems were cited, including difficulty in finding a trustworthy monitor of visits; the placement of financial responsibility for monitors on mothers; the practice of ordering the mother to monitor visits, thus placing her in physical danger; and the practice of allowing fathers to "veto" monitors suggested by the mother, thus sabotaging the arrangement. In this last situation the judge may order unsupervised visitation because "the parties cannot agree." Even when supervised visitation is satisfactory, few courts continue it beyond a few months, with the father's "good behavior" under supervision taken as evidence that he can now be trusted alone with the children in spite of credible evidence of past physical and/or sexual abuse.

The shelter staff cited other problems as well, such as the economic inequities that allow the father to make a better "self-presentation" in court, the refusal of court personnel and evaluators to take domestic violence seriously, the appointment of psychologists or psychiatrists to evaluate the family who have no understanding of domestic violence and tend to blame the woman, and the refusal of child protective services agencies to respond when allegations of abuse occur within the context of a custody dispute. The criminal and family courts also seem to work at odds with each other. As one shelter worker summed it up:

No cooperation between criminal court and family law—criminal stay-away order overridden by visitation orders. Judges do not have knowledge of domestic violence, its effects on kids, or typical behavior of batterers, restraining order violations not acted upon, lawyers have not a clue as to how to protect women and kids, court psychiatrists continue to treat these cases the same as any other and make orders and recommendations that assure the batterer that he can continue to harass, punish, control and abuse his ex-wife and their kids. Battered women are not believed despite criminal convictions [of the batterers]. Kids are not listened to. Professional experts on domestic violence are blocked from testifying, examining or recommending in court.

Responses by the Courts

23/ Although public and professional reactions to the statistics on domestic violence have focused attention on custody decisions, and legislators have responded with changes in statutes to allow for the admissibility of evidence of domestic violence in custody matters, there is scant mention of domestic violence in published court opinions. The reason for the lack of cases may at first appear perplexing, but it may be related to the fact that fewer cases are being appealed and settlements being reached, so that

Domestic Violence and Child

judicial decisions are not a have been extremely reluctant visitation totally. A review changes in attitudes of court

In 1980, the Pennsylvania child was in direct harm. F (1980), not only was there n parties in the presence of restriction requiring the pre the time the child was picked courts had changed their att vania courts denied a father postdissolution visitation ca to cite a long pattern of phy: abuse of the mother was not the father had entered the m and the child hostage for m violation of a protective ord shot the mother while she v intoxicated and therefore si intoxication and his behavi strongly disagreed, stating [and] his constant course of his moral deficiency."

In Alabama, in *Sanders* home when the father beat viously sought help from a abuse. The court terminated from prison.

In some states in which d courts have removed child: their best interests. Two cas v. *Kimmel* (1986), the mothe an abusive stepfather was gr and placing him with his na mother had left the stepfath and the boy against the abus mother allowed the stepfath abusive behaviors. The cour emergency attention in orde

However, sometimes the domestic violence legislatio

judicial decisions are not available for discussion. Traditionally, judges have been extremely reluctant to terminate a parent's rights and to prohibit visitation totally. A review of a few recent cases is illustrative of some changes in attitudes of court officers.

In 1980, the Pennsylvania courts refused to limit visitation unless the child was in direct harm. For example, in *Dena Lynn F. v. Harvey H. F.* (1980), not only was there no restriction placed on interaction between the parties in the presence of the child, but the court refused to place a restriction requiring the presence of another adult when the parents met at the time the child was picked up for visitation. However, by 1983 the same courts had changed their attitudes and decisions. In that year, the Pennsylvania courts denied a father visitation in *Hughes v. Hughes* (1983) in a postdissolution visitation case. In this case, the mother's attorney was able to cite a long pattern of physical abuse against the mother. However, mere abuse of the mother was not the only aspect cited by the court. In this case, the father had entered the mother's apartment postseparation and held her and the child hostage for more than eight hours. All that time, he was in violation of a protective order granted the mother. On another occasion he shot the mother while she was holding the child. He claimed that he was intoxicated and therefore since he had not harmed the child directly, his intoxication and his behavior should not be held against him. The court strongly disagreed, stating that "his reckless and wanton disregard . . . [and] his constant course of abuse directed at the child's mother confirms his moral deficiency."

In Alabama, in *Sanders v. Sanders* (1982), two children were in the home when the father beat their mother to death. The mother had previously sought help from a shelter based on the father's long history of abuse. The court terminated the father's parental rights upon his release from prison.

In some states in which domestic violence legislation has been enacted, courts have removed children from abusive environments to safeguard their best interests. Two cases from Minnesota are illustrative. In *Kimmel v. Kimmel* (1986), the mother's failure to protect herself and her child from an abusive stepfather was grounds for removing the child from her custody and placing him with his natural father, who had not sought custody. The mother had left the stepfather and secured a protective order for herself and the boy against the abuse. Contrary to the provisions of the order, the mother allowed the stepfather to return to the home, where he resumed his abusive behaviors. The court found that the child required immediate and emergency attention in order to secure his safety.

However, sometimes the courts do not adhere to the spirit of new domestic violence legislation, as in *Bates v. Bates* (1990). Here, the court

found no reason to invoke provisions of the Arkansas Domestic Abuse Act if the mother had not first exhausted all remedies available at law. The court found that the mother should have sought protection against the father's actual as well as threatened physical abuse and harassment through the prosecuting attorney or on her own by obtaining a peace bond. The court further noted that she should have had the father arrested if his violence was so great. The court concluded that if the mother was too afraid to ask for assistance at law, the Domestic Abuse Act could be of no assistance to her (this attitude is addressed in many chapters in this volume). This court was clearly adopting the very attitudes that the act had been designed to eliminate, and had not yet been educated about the current state of knowledge about domestic violence.

The 1980s saw the beginnings of change in court attitudes and actions in domestic violence in custody cases. Today, visitation may still be seen as a right of both parents and of the child, so that he or she can have a relationship with each of the parents, but this might yield to the welfare or best interests of the child. For many years, the courts evaded the issue of which standard of proof was required to terminate or restrict visitation rights. In *Barron v. Barron* (1982), the New Jersey court articulated the standard as "clear and convincing" evidence. The use of this high-level standard showed the importance of parental relationships, which should be terminated only with "extraordinary proscription." What remains unclear from the cases and statutes cited above is the type of evidence that can be considered sufficient to establish a clear and convincing set of facts. How much abuse, noted by which witnesses, with what type of psychological profiles and effects on children, are all questions yet to be answered by the courts or legislatures. Indeed, the courts appear ready to act *only* when there has been a very long history of abuse that has been documented by medical and shelter staff, and where the child has already been damaged by the abuse between the adult parents. Preventive mental health issues and the impact of development within a violent home are not yet part of these cases. "It seems evident from these few cases that only in the most serious situations will a court completely deny a parent visitation" (Bessenvey, 1989).

Conclusions

Until recently it was assumed that the problems of battered women were primarily problems of empowerment and leaving. Most of the efforts were directed toward these goals. What we have highlighted in this chapter is that in custody decisions the battered woman's vulnerability to the batterer's aggression will continue until the woman's children reach majority. The

implications for the woman's position are substantial, with the threat to the background. The number and evidence of the magnitude and value of Justice, 1986).

Some battered women have fled and becoming part of a caught with contradictory evidence it better to force a woman to be jeopardized than to terminate the actions to protect themselves violating court orders. Such caution on the mothers; judges then cannot have to focus on the violence is that these women are cited protective actions, which focus interests of the children.

Although there are growing effects of domestic violence and two areas remain almost entirely address the special circumstances disputes. The concept of "the right to live in a violence-free harassment from the father. The deal with the divorcing family mother and the effects of such needs are for effective intervention strategies that protect both child rights to the degree it is safe and

implications for the woman's physical well-being and care for the children are substantial, with the threat of violence and intimidation constantly in the background. The number of cases of postseparation violence is evidence of the magnitude and validity of these concerns (U.S. Department of Justice, 1986).

Some battered women have taken recourse in dramatic means, such as fleeing and becoming part of underground networks. The courts then are caught with contradictory evidence and exceedingly difficult decisions. Is it better to force a woman to deal with a batterer even though her safety is jeopardized than to terminate the batterer's parental rights? Some women's actions to protect themselves and their children have resulted in their violating court orders. Such cases prompt courts to focus punitive actions on the mothers; judges then can deal only with disobeyed orders and do not have to focus on the violence and the entire picture. A common result is that these women are cited for contempt and "punished" for their protective actions, which focuses attention on the women and not the best interests of the children.

Although there are growing bodies of research literature detailing the effects of domestic violence and the effects of divorce on children, these two areas remain almost entirely separate. Further research is needed to address the special circumstances of domestic violence in child custody disputes. The concept of "the best interests of the child" must include the right to live in a violence-free environment without continuing threat of harassment from the father. The courts and the array of professionals who deal with the divorcing family must stop trivializing violence against the mother and the effects of such violence on children. The most pressing needs are for effective interventions and alternative custody and visitation strategies that protect both children and parents and preserve all parties' rights to the degree it is safe and reasonable for the mothers and children.

Creating an Awareness --

Justice for Kids works with the media to create an awareness of the growing epidemic of domestic violence and its impact on children.

Through dissemination of helpful information to the media, **Justice for Kids** hopes to educate the public about the growing trend to remove children from good, fit mothers -- often a result of a mother's attempt to collect child support and more recently, in what appears to be a move by the far right to create a more patriarchal society.

Justice for Kids studies the increasing amount of information available on the adverse affects on children who are removed from the care of their mothers. As new information becomes available, **Justice for Kids** will collect it and forward it to the media, as well as other advocates for children.

For more information write to:
Justice for Kids
Dana Rayl West, Founder
2939 Van Ness St. #401
Washington, DC 20008
or call: 202-363-3306

*my
own
little
grassroots
group.*

Justice for Kids

A Caring Network to . . .
Reclaim Our Children

Because every child's life matters

What is Justice for Kids?

Justice for Kids is a group formed to provide support for mothers and children who want to be reunited after being separated by the courts.

Justice for Kids wants to give children a voice in a system which seldom slows down long enough to comprehend the adverse impact it can have on a child's life.

Justice for Kids works to protect the rights of mothers and their children to be reunited by advocating training for judges and by trying to increase public awareness of the injustices which are occurring in today's courtrooms. The courts rarely listen to a child's wishes and everyday many children are being removed from the custody of good, fit mothers.

A Child's Preference

Justice for Kids works to ensure that a child's preference is heard and weighs heavily in a custody decision. Though many states require a child's preference be taken into account when a custody decision is rendered, judges are seldom held accountable for ignoring the child's preference, unless the case is appealed. Appeals take months, sometimes years and a lower court's decision is seldom overturned. Even six months is a long time in the life of a child who has been separated from his or her mother.

Domestic Violence and Children

Justice for Kids also works to educate the public as to how domestic violence impacts children, particularly as to how batterers are using the courts and children to continue their abusive behavior.

Children are often used by batterers to strike out at their mothers. Batterers know the cruelest thing they can do to a mother is to take her child from her. Recent trends in custody cases show how successful batterers are in carrying out their threats to take the children.

Studies show that more than half of the men who batter women also batter their children. Regardless of whether a child is hurt physically, children suffer serious emotional damage when they witness their mother being battered either physically or emotionally. Often a child is more aware of what is really taking place in a contested custody case than the judges are. Little wonder our children have such low esteem for the very institutions which are supposed to protect them.

Justice for Kids encourages states to require that every judge who makes any decision regarding the life of a child be trained in domestic violence issues.

Understanding a Child's Real Pain

Children who are separated from their mothers (or another primary caregiver) can suffer serious emotional and medical problems.

Unfortunately, too many so-called court appointed experts often find it lucrative to render a bogus diagnosis for either a child or the mother, thereby being assured of yet more referrals from satisfied attorneys.

Justice for Kids wants to shed light on the real pain many psychological experts are creating for children and their families. By demonizing mothers, many mental health experts are, in fact, creating serious emotional problems for children. Many of the so-called "experts" are part of a dysfunctional system that is actually destroying families.

Justice for Kids works to return to a time when it will be unthinkable to remove a child from a fit, loving mother.

HOW TO CONTACT THE RESOURCE CENTER

PHONE: (800) 527-3223.

FAX: (702) 784-6160.

MAIL:

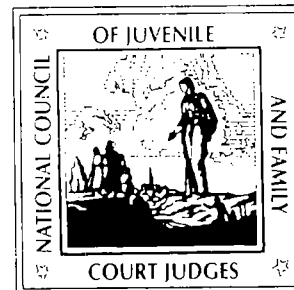
Resource Center on Domestic
Violence: Child Protection and Custody
NCJFCJ
P.O. Box 8970
Reno, Nevada 89507

DOMESTIC VIOLENCE RESOURCE NETWORK

- National Resource Center:
(800) 537-2238
- Battered Women's Justice Project:
(800) 903-0111
- Health Resource Center on Domestic Violence:
(800) 313-1310

MISSION STATEMENT

The mission of the Resource Center on Domestic Violence: Child Protection and Custody, is to provide access to the best possible source of information and tangible assistance to those working in the field of domestic violence and child protection and custody. The resource center will chart a future in which child protection and custody cases involving family violence are handled in a manner which recognizes the complexity of the legal and psychological dynamics and provides protection and relief for all victims in the family.



Family Violence
Project of the National
Council of Juvenile and
Family Court Judges

Louis W. McHardy, Executive Director

Family Violence
Project of the National
Council of Juvenile and
Family Court Judges

*These
people
are
great.*

Resource Center on
Domestic Violence:
**Child
Protection
and Custody**

THE RESOURCE CENTER:

Established in 1993 when the U.S. Department of Health and Human Services provided funding for a state-of-the-art network of four domestic violence resource centers, the resource center offers a wide range of technical and training services. The first ever resource center on Domestic Violence: Child Protection and Custody serves judges, court workers, advocates, lawyers, child protective workers, law enforcement personnel and other professionals.

The assistance of the resource center is just a toll-free call away. Calls are handled by experienced professionals who provide up-to-date, accurate information and technical assistance. Staff members have access to state-of-the-art computer and database technology to assist in the delivery of optimal assistance.

The resource center is operated by the Family Violence Project of the National Council of Juvenile and Family Court Judges (NCJFCJ). Since 1937, NCJFCJ has served as the nation's only membership organization specifically for juvenile and family court judges. The Family Violence Project was established in 1987 to develop, test and promote improved court responses to family violence.

TECHNICAL ASSISTANCE

The resource center features a staff with diverse professional and educational backgrounds working together to provide the best in technical assistance.

Staff members work with each caller to assess their needs and tailor assistance to meet those needs.

Available technical assistance includes:

- Customized information packets,
- General phone information,

- Program materials,
- Access to publications, video and audio tapes,
- National experts database,
- Legal case law and state statute research,
- Resource, working and training materials, and
- *Synergy* newsletter distributed three times each year.

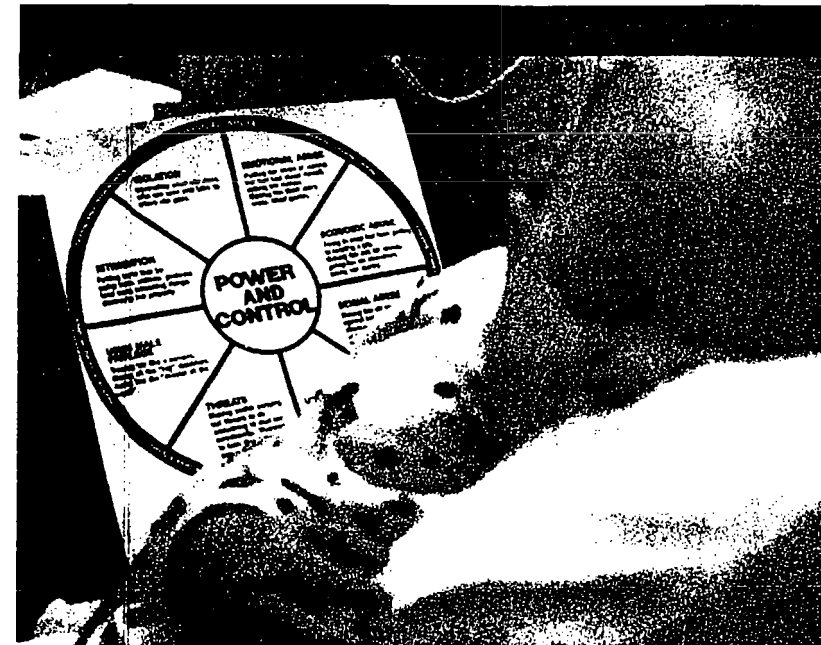
TRAINING ASSISTANCE

The NCJFCJ and its Family Violence Project bring many years of quality, national-level training experience to the resource center. Staff members work in conjunction with those in the field to develop training on the impact of domestic violence on children and child protection and custody in the context of family violence. Staff work cooperatively with callers to develop and provide training appropriate to the unique needs of each community or professional group. The resource center also works in conjunction with national experts to develop and provide training materials.

POLICY DEVELOPMENT

Services for battered mothers and the impact of domestic violence on children are an emerging area of scholarship, research, public policy and the law. The resource center will provide leadership to improve services and court practices by:

- Convening annually a multidisciplinary **Panel of Experts** to provide input into resource center priorities and assist in the development of policy recommendations;



- Developing **Special Projects** to address needs in the field;
- Gathering experts and consultants in **Policy Working Groups** to tackle specific complex issues.

The resource center's efforts will be aimed at advancing professional knowledge and practice.

PUBLICATIONS

The Family Violence Project has created a number of leading family violence publications, all of which are available through the resource center. These publications provide comprehensive suggestions of model court practices and legislation in family violence. A publication list is available. In addition, the resource center houses a library of video tapes available for loan or in some cases, purchase.

*Domestic
Violence &
The Courtroom
Understanding
The Problem ...
Knowing The
Victim*

Domestic violence
abuse knows
no age,
socioeconomic,
religious, racial,
gender or
educational
barriers.



AMERICAN JUDGES

FOUNDATION, INC.

Forms of Emotional Battering

Social and Sexual Prejudice: Added to all of the other forms of emotional battering that a victim suffers from, he or she also lives in a society that perceives the victim as helpless, second class, emotionally immature and often irrational. This means that as a victim struggles to break free from an abusive situation or relationship, he or she has to battle social, financial and cultural pressures that may prevent the victim from breaking free from the batterer. Although we often pay more attention to the physical and sexual abuse, more often these prejudices provide the context in which repeated abuse occurs.

Insults: Constant or extreme criticisms that injure the personal, emotional, sexual and professional image. Insults can greatly undermine a person's self-confidence and eventually render the victim emotionally incapacitated.

Rejection: Direct or indirect statements that create feelings of unworthiness. Constant rejection teaches a victim that he or she is unworthy of receiving loving behavior. Rejection can be used as punishment for not cooperating with an abusive partner. Abusers may also employ rejection in an attempt to justify their anger towards the victim.

Emotional Threats and Accusations: Direct or indirect statements made in an attempt to cause emotional or physical harm to the victim. This includes lying about the victim's behavior, attitude or emotional state.

Emotional Blackmail: A statement or behavior that uses fear, guilt, insecurity or confusion to trap a victim into giving the abuser power over him or her.

"Crazy-Making": This behavior distorts reality and destroys the possibility of honest communication. Demonstrated in the classic movie, *A Clockwork Orange*, this is a very effective device to increase confusion and insecurity in the victim.

Possessive and Punitive Behavior: Perceiving another person as physical property or an emotional extension of himself or herself. Behavior includes jealousy, limiting freedom, creating isolation, denying a person's capabilities or opportunities to develop. Many times it includes using shame and guilt to prevent a victim from getting the deserved support and protection.

Basing Relationships on Unrealistic Expectations: This includes an assumption by the abuser that he or she knows what is best for the victim. Denying someone the opportunity to discover and define himself or herself prevents the possibility of a mutually beneficial and realistic relationship.

Threats to Harm or Take Away Children: One of the most common reasons given for resuming an abusive relationship is the fear that the abuser will act on the threats of taking the children from the victim. Studies show that batterers have been able to convince authorities that the victim is unfit or undeserving of sole custody in approximately 70% of challenged cases.

Financial Blackmail: A batterer often controls the victim's finances, denying access to money. Financial battering may range from not allowing the victim to earn money to preventing education or access to work. If the victim is currently working, the abuser will make threats to destroy the means of earning a living.

Insults

Rejection

Isolation

Emotional Threats

Possessive Behavior

Emotional Blackmail

Financial Blackmail

Unrealistic Expectations

Physical Harm

Crazy Making

14. Adele Harrell, National Council of Juvenile and Family Court Judges, *A Guide to Research on Family Violence* 28 (1993).
15. Lawton Chiles, Report of the National Commission to Prevent Infant Mortality, *Death Before Life: The Tragedy of Infant Mortality* 16 (1988).
16. Hearings on Women and Violence, Committee on the Judiciary, U.S. Senate, *Ten Facts About Violence Against Women*, at 78 (August 29 and December 11, 1990).
17. Model Code, *supra* note 8, at v.
18. Mental health professionals express concern that children from homes with domestic violence have a tendency to identify with the aggressor and lose respect for the victim. Laura Crites and Donna Coker, *What Therapists See That Judges May Miss: A Unique Guide to Custody Decisions When Spouse Abuse is Charged*, Judges J. (Spring 1988).

Moreover, one of the major national studies of domestic violence found that men who had witnessed their fathers hit their mothers were three times more likely to hit their wives than those who had not seen such abuse in the home while growing up. Murray A. Straus et al., *Behind Closed Doors: Violence in the American Family*, [Hereinafter *Behind Closed Doors*] (1980). Another study found only one historical variable—witnessing domestic violence—to be strongly associated with men's later use of violence against female partners. Gerald Hotaling and David Sugarman, *An Analysis of Risk Markers in Husband to Wife Violence: The Current State of Knowledge*, 2 *Violence and Victims* 1, at 11 (1986).

In general, domestic violence witnessed at home by children has been found to often be repeated later in life. Ellen C. Herrenkohl et al., *Perspectives on the Intergenerational Transmission of Abuse*, in *The Dark Side of Families: Current Family Violence Research* 305 (David Finkelhor et al. eds., 1983); Alan Rosenbaum, and K. Daniel O'Leary, *Children: The Unintended Victims of Marital Violence*, 51 *Am. J. of Orthopsychiatry* 692, 693-694 (1982).

Domestic violence has been found in 20 to 40 percent of the families of chronically violent adolescents. Jeffrey Fagan and Sandra Wexler, *Family Origins of Violent Delinquents*, 25 *Criminology* 643, 651 (1987). Seventy-five percent of boys who witness domestic violence have been found to have demonstrable behavior problems. Peter G. Jaffe et al., *Promoting Changes in Attitudes and Understanding of Conflict Resolution Among Child Witnesses of Family Violence*, 18 *Canadian J. of Behavioral Science Review* 356-366 (1987).

19. In 1982, the U.S. Civil Rights Commission, in its report *The Federal Response to Domestic Violence*, concluded that children in spouse abuse situations suffer at least as much as other family members. The 1984 report of the U.S. Attorney General's Task Force on Family Violence stated that children who "live in the homes where parents are battered carry

the terrible lessons of violence with them into adulthood."

In 1990 a concurrent resolution (H. Res. 172) was unanimously passed by both the U.S. House of Representatives and U.S. Senate. It expressed the sense of the Congress of inadequate recognition of the effects on children who witness domestic violence and the emotional and physical harm to children who live in violent households. It suggested that "for the purposes of determining child custody, credible evidence of physical abuse of one's spouse should create a statutory presumption that it is detrimental to the child to be placed in the custody of the abusive spouse."

20. See, e.g., N.D. Cent. Code § 14-05-22.3 (1993); *In re Jon M.*, 179 Cal. App. 3d 156 (1986).
21. Older children have been found to be frequently assaulted when they intervene to defend or protect their battered parent. Elaine Hibberman and Kit Munson, *Sixty Battered Women*, 2 *Victimology: An International Journal* 462 (1977-78). Another study found that 63 percent of all American males between the ages of 11 and 20 who are incarcerated for homicide were convicted of an offense involving the killing of their mother's batterer. H. Ackerman, Hazelden Foundation, *The War Against Women: Overcoming Female Abuse* 2 (1985).
22. An example of such a unit is the Family Violence and Sexual Assault Unit of the Philadelphia District Attorney's Office.
23. Creation in all states of Unified Family Courts was a key recommendation in the ABA report, *America's Children At Risk: A National Agenda for Legal Action*, [hereinafter, *America's Children*] 54 (American Bar Association Presidential Working Group on the Unmet Legal Needs of Children and Their Families 1993).
24. The Santa Clara County, CA court has a model protocol tailored specifically to domestic violence intervention.
25. Washoe County, NV provides a "court school" educational program for victims of domestic violence that offers assistance in preparing for court hearings, identifying necessary remedies, and learning about court order enforcement procedures.
26. See, Judge Leonard P. Edwards, *Reducing Family Violence: The Role of the Family Violence Council*, 3 *Juv. & Fam. Ct. J.* 43, at 1 (1992).
27. Peter Jaffe et al., *Children of Battered Women: Issues in Child Development and Intervention Planning* (1990).
28. See, Judge Cindy S. Lederman, *Dade County Domestic Violence Court: A Responsible Approach to the Treatment of Family Violence*, in *Defending Battered Women in Criminal Cases*, Section L (American Bar Association, Section of Criminal Justice and Division for Professional Education 1993).
29. *Aloha Nui Na Kamalili (With Great Love for the Children)*, curricula available from the Family Peace

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FAMILY VIOLENCE: A MODEL STATE CODE

NATIONAL COUNCIL OF JUVENILE & FAMILY COURT JUDGES

MODEL CODE ON DOMESTIC AND FAMILY VIOLENCE

*Drafted by the
Advisory Committee*

*of the
Conrad N. Hilton Foundation
Model Code Project
of the
Family Violence Project*



National Council of Juvenile and Family Court Judges
Louis W. McHardy, Executive Director

CHAPTER 4

FAMILY AND CHILDREN

Sec. 401. Presumptions concerning custody.

In every proceeding where there is at issue a dispute as to the custody of a child, a determination by the court that domestic or family violence has occurred raises 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.

COMMENTARY

Support for the presumptions incorporated in this section, that domestic violence is detrimental to the child and that it is contrary to the child's best interest to be placed in sole or joint custody with the perpetrator thereof, is extensive. This section compels courts, attorneys, custody evaluators, and other professionals working with cases involving the custody of children to consider the impact of domestic and family violence on these children. This mandate is not limited to courts issuing orders for protection but includes courts hearing divorce, delinquency, and child protection cases.

Sec. 402. Factors in determining custody and visitation.

1. In addition to other factors that a court must consider in a proceeding in which the custody of a child or visitation by a parent is at issue and in which the court has made a finding of domestic or family violence:

(a) The court shall consider as primary the safety and well-being of the child and of the parent who is the victim of domestic or family violence.

(b) The court shall consider the perpetrator's history of causing physical harm, bodily injury, assault, or causing reasonable fear of physical harm, bodily injury, or assault, to another person.

2. If a parent is absent or relocates because of an act of domestic or family violence by the other parent, the absence or relocation is not a factor that weighs against the parent in determining custody or visitation.

COMMENTARY

This section was constructed to remedy the failure of many custody statutes to give courts direction related to appropriate consideration of domestic and family violence in contested custody cases. Paragraph (a) of subsection 1 elevates the safety and well-being of the child and abused parent above all other "best interest" factors in deliberations about custodial options in those disputed custody cases where there has been a finding of abuse by one parent of the other. It contemplates that no custodial or visitation award may properly issue that jeopardizes the safety and well-being of adult and child victims.

Paragraph (b) compels courts to consider the history, both the acts and patterns, of physical abuse inflicted by the abuser on other persons, including but not limited to the child and the abused parent, as well as the fear of physical harm reasonably engendered by this conduct. It recognizes that discreet acts of abuse do not accurately convey the risk of continuing violence, the likely severity of future abuse, or the magnitude of fear precipitated by the composite picture of violent conduct.

Subsection 2 recognizes that sometimes abused adults flee the family home in order to preserve or protect their lives and sometimes do not take dependent children with them because of the emergency circumstances of flight, because they lack resources to provide for the children outside the family home, or because they conclude that the abuser will hurt the children, the abused parent, or third parties if the children are removed prior to court intervention. This provision prevents the abuser from benefitting from the violent or coercive conduct precipitating the relocation of the battered parent and affords the abused parent an affirmative defense to the allegation of child abandonment.

Sec. 403. Presumption concerning residence of child.

In every proceeding where there is at issue a dispute as to the custody of a child, a determination by a court that domestic or family violence has occurred raises a rebuttable presumption that it is in the best interest of the child to reside with the parent who is not a perpetrator of domestic or family violence in the location of that parent's choice, within or outside the state.

COMMENTARY

This section articulates a rebuttable presumption that the residence of the child in the context of domestic or family violence should be with the non-perpetrating parent in the location chosen by that parent. This presumption builds on the one enumerated in section 401. It is designed to defeat any assertion by a perpetrator of domestic or family violence that custody and residence with the abused parent should only be presumptive if the abused adult remains within the jurisdiction of the marital domicile. It recognizes that the enhanced safety, personal, and social supports, and the economic opportunity available to the abused parent in another jurisdiction are not only in that parent's best interest, but are, likewise and concomitantly, in the best interest of the child.

Sec. 404. Change of circumstances.

In every proceeding in which there is at issue the modification of an order for custody or visitation of a child, the finding that domestic or family violence has occurred since the last custody determination constitutes a finding of a change of circumstances.

COMMENTARY

This section provides that in proceedings concerning modification of an order for custody or visitation of a child, a finding by the reviewing court that domestic or family violence has occurred constitutes a finding of a change of circumstances.

Sec. 405. Conditions of visitation in cases involving domestic and family violence.

1. A court may award visitation by a parent who committed domestic or family violence only if the court finds that adequate provision for the safety of the child and the parent who is a victim of domestic or family violence can be made.

2. In a visitation order, a court may:

(a) Order an exchange of a child to occur in a protected setting.
(b) Order visitation supervised by another person or agency.
(c) Order the perpetrator of domestic or family violence to attend and complete, to the satisfaction of the court, a program of intervention for perpetrators or other designated counseling as a condition of the visitation.

(d) Order the perpetrator of domestic or family violence to abstain from possession or consumption of alcohol or controlled substances during the visitation and for 24 hours preceding the visitation.

(e) Order the perpetrator of domestic or family violence to pay a fee to defray the costs of supervised visitation.

(f) Prohibit overnight visitation.

(g) Require a bond from the perpetrator of domestic or family violence for the return and safety of the child.

(h) Impose any other condition that is deemed necessary to provide for the safety of the child, the victim of domestic or family violence, or other family or household member.

3. Whether or not visitation is allowed, the court may order the address of the child and the victim to be kept confidential.

4. The court may refer but shall not order an adult who is a victim of domestic or family violence to attend counseling relating to the victim's status or behavior as a victim, individually or with the perpetrator of domestic or family violence as a condition of receiving custody of a child or as a condition of visitation.

5. If a court allows a family or household member to supervise visitation, the court shall establish conditions to be followed during visitation.

COMMENTARY

Subsection 1 permits the award of visitation to a perpetrator of domestic violence only if protective measures, including but not limited to those enumerated in subsection 2 of this section, are deemed sufficient to protect the child and the abused parent from further acts or threats of violence or other fear-engendering conduct. The Model Code posits that where protective interventions are not accessible in a community, a court should not endanger a child or adult victim of domestic violence in order to accommodate visitation by a perpetrator of domestic or family violence. The risk of domestic violence directed both towards the child and the battered parent is frequently greater after separation than during cohabitation; this elevated risk often continues after legal interventions.

Subsection 2 lists the protective conditions most routinely imposed on visitation by the perpetrator of domestic and family violence. It is not intended to be exhaustive, nor does this subsection contemplate that each provision should be imposed on every custody order.

Subsection 3 recognizes that it may be necessary to withhold the address of the adult victim and children from the perpetrator and others in order to prevent stalking and assault of adult and child victims in their undisclosed residence. Research reveals that one of the most effective methods of averting violence is denying the abuser access to the victim, which can be facilitated by preserving the confidentiality of the victim's address.

Subsection 4 prohibits a court from ordering a victim of domestic or family violence to attend counseling related to the status or behavior as a victim as a condition of receiving custody of a child or as a condition of visitation. It does not preclude the court from ordering other types of counseling, such as substance abuse counseling or educational classes.

Subsection 5 requires a court to establish conditions to be followed if the court allows a family or household member to supervise visitation. When those supervising visitation are furnished clear guidelines related to their responsibility and authority during supervision, they are better able to protect the child should the perpetrator engage in violent or intimidating conduct toward the child or adult victim in the course of visitation.

Sec. 406. Specialized visitation center for victims of domestic or family violence.

1. The insert appropriate state agency shall provide for visitation centers throughout the state for victims of domestic or family violence and their children to allow court ordered visitation in a manner that protects the safety of all family members. The state agency shall coordinate and cooperate with local governmental agencies in providing the visitation centers.

2. A visitation center must provide:
 - a. A secure setting and specialized procedures for supervised visitation and the transfer of children for visitation; and
 - b. Supervision by a person trained in security and the avoidance of domestic and family violence.

COMMENTARY

Supervised visitation centers are an essential component of an integrated community intervention system to eliminate abuse and protect its victims. Visitation centers may reduce the opportunity for retributive violence by batterers, prevent parental abduction, safeguard endangered family members, and offer the batterer continuing contact and relationship with their children. This section requires a state to provide for the existence of visitation centers but does not mandate that the state own or operate such centers, nor that the centers be operated at public expense. See Appendix III.

Sec. 407. Duty of mediator to screen for domestic violence during mediation referred or ordered by court.

1. A mediator who receives a referral or order from a court to conduct mediation shall screen for the occurrence of domestic or family violence between the parties.
2. A mediator shall not engage in mediation when it appears to the mediator or when either party asserts that domestic or family violence has occurred unless:
 - (a) Mediation is requested by the victim of the alleged domestic or family violence;
 - (b) Mediation is provided in a specialized manner that protects the safety of the victim by a certified mediator who is trained in domestic and family violence; and
 - (c) The victim is permitted to have in attendance at mediation a supporting person of his or her choice, including but not limited to an attorney or advocate.

COMMENTARY

This section requires mediators who receive referrals or orders from courts to screen for domestic or family violence between the parties. Screening must include an assessment of the danger posed by the perpetrator, recognizing that victims of domestic violence are at sharply elevated risk of as they attempt to end the relationship, and utilize the legal system to gain essential protective safeguards. Subsection 2 articulate a practice standard for the mediator who discovers that domestic or family violence has occurred. See Appendix III.

Drafters note: Drafters must look to general provisions concerning mediation in their state laws and insert exception as provided in sections 311 and 408.

The Model Code provides alternative sections concerning mediation in cases involving domestic or family violence. Both of the sections provide directives for courts hearing cases concerning the custody or visitation of children, if there is a protection order in effect and if there is an allegation of domestic or family violence. Neither of these sections prohibits the parties to such a hearing from engaging in mediation of their own volition. For the majority of jurisdictions, section 408(A) is the preferred section. For the minority of jurisdictions that have developed mandatory mediation by trained, certified mediators, and that follow special procedures to protect a victim of domestic or family violence from intimidation, section 408(B) is provided as an alternative.

Sec. 408(A). Mediation in cases involving domestic or family violence.

1. In a proceeding concerning the custody or visitation of a child, if an order for protection is in effect, the court shall not order mediation or refer either party to mediation.

2. In a proceeding concerning the custody or visitation of a child, if there is an allegation of domestic or family violence and an order for protection is not in effect, the court may order mediation or refer either party to mediation only if:

- (a) Mediation is requested by the victim of the alleged domestic or family violence;
- (b) Mediation is provided by a certified mediator who is trained in domestic and family violence in a specialized manner that protects the safety of the victim; and
- (c) The victim is permitted to have in attendance at mediation a supporting person of his or her choice, including but not limited to an attorney or advocate.

COMMENTARY

Subsection 1 makes it explicit that referrals to mediation by a court in the context of domestic or family violence, not only mandates for participation, are impermissible. Judicial referrals are compelling and often viewed by litigants as the dispute resolution method preferred by the court. Also see commentary following section 311.

Subsection 2 authorizes courts to require mediation or refer to mediation when there is an allegation of domestic or family violence only where there is no protection order in effect and the three enumerated conditions for mediation are met. First, the court should not approve mediation unless the victim of the alleged violence requests mediation. The second requisite condition for court-approved mediation in the context of domestic violence contains two components: that mediation be provided in a specialized manner that protects the safety of the victim and that mediators be certified and trained in domestic and family violence. Guidelines have been generated by mediators, scholars, and advocates. Paragraph (c) of subsection 2 reflects the policy recommendations, promulgated by the collaborative studies of mediators, advocates, and legal scholars, that at the victim's option, he or she may have another party present during mediation. This person may be the victim's attorney, an advocate, or some other person of the victim's choosing.

Sec. 408(B). Mediation in cases involving domestic or family violence.

1. In a proceeding concerning the custody or visitation of a child, if an order for protection is in effect or if there is an allegation of domestic or family violence, the court shall not order mediation or refer either party to mediation unless the court finds that:

(a) The mediation is provided by a certified mediator who is trained in the dynamics of domestic and family violence; and

(b) The mediator or mediation service provides procedures to protect the victim from intimidation by the alleged perpetrator in accordance with subsection 2.

2. Procedures to protect the victim must include but are not limited to:

(a) Permission for the victim to have in attendance at mediation a supporting person of his or her choice, including but not limited to an attorney or advocate; and

(b) Any other procedure deemed necessary by the court to protect the victim from intimidation from the alleged perpetrator.

COMMENTARY

Subsection 1 authorizes a court to order or refer parties in a proceeding concerning custody or visitation of a child only under two conditions, that mediation is provided by a certified mediator who is trained in domestic and family violence and procedures are provided that protect the victim from intimidation.

Subsection 2 enumerates the procedures that must be followed by a mediator to protect the victim from intimidation. Paragraph (a) reflects the policy recommendations, promulgated by the collaborative studies of mediators, advocates, and legal scholars, that at the victim's option, he or she may have another party present at mediation. This person may be the victim's attorney, an advocate, or some other person of the victim's choosing. Paragraph (b) authorizes the court to impose any additional procedure deemed necessary to protect the victim from intimidation.

Sec. 409. Duties of children's protective services.

1. The state administrator of children's protective services shall develop written procedures for screening each referral for abuse or neglect of a child to assess whether abuse of another family or household member is also occurring. The assessment must include but is not limited to:

(a) Inquiry concerning the criminal record of the parents, and the alleged abusive or neglectful person and the alleged perpetrator of domestic or family violence, if not a parent of the child; and

(b) Inquiry concerning the existence of orders for protection issued to either parent.

2. If it is determined in an investigation of abuse or neglect of a child:

(a) That the child or another family or household member is in danger of domestic or family violence and that removal of one of the parties is necessary to prevent the abuse or neglect of the child, the administrator shall seek the removal of the alleged perpetrator of domestic or family violence whenever possible.

(b) That a parent of the child is a victim of domestic or family violence, services must be offered to the victimized parent and the provision of such services must not be contingent upon a finding that either parent is at fault or has failed to protect the child

COMMENTARY

This section underscores the premise that protection of the abused child and the non-perpetrating parent should be the guiding policy of child protective services agencies. Subsection 1 requires the state's administrator of child protective services to develop both an assessment tool and investigation procedures for identification of violence directed at family or household members in addition to the child alleged to be at risk. Identification of adult domestic or family violence through careful intake screening and preliminary risk assessment, followed by thorough investigation, is essential if parents are to be afforded the life preserving assistance necessary for effective parenting and child protection.

Paragraph (a) of subsection 2 codifies the premise that when a parent or parent-surrogate has abused a child or poses a continuing risk of abuse or violence towards anyone in the family or household, and the agency concludes that safety can only be accomplished if those at risk live separate and apart from the perpetrator, the agency should either assist the non-perpetrating parent in seeking the legal exclusion of the perpetrator from the home or itself pursue removal of the perpetrator from the home. The perpetrator should be removed rather than placing the abused child or children in foster care or other placement. This provision does not require that a perpetrator be removed from the home if both the child and the victim of domestic violence can be adequately protected by other interventions. Paragraph (b) of subsection 2 requires that the agency make services available to parents of abused children under the supervision of the agency, who have been victimized by domestic or family violence. This subsection requires that services for parents victimized by domestic or family violence are to be undertaken whether or not the abused parent is found to bear any culpability for the abuse of a child under the supervision of the agency; findings of neglect, abuse, or any failure to protect by the parent victimized by domestic or family violence are not a prerequisite for service.

LEVEL 1 - 6 OF 18 STORIES

Copyright 1995 The New York Times Company
The New York Times

September 15, 1995, Friday, Late Edition - Final

SECTION: Section A; Page 34; Column 1; Editorial Desk

LENGTH: 525 words

HEADLINE: Showdown for Legal Services

BODY:

Equal justice for all may be an American ideal but not to the Republican-controlled Congress, where measures advanced ominously this week to abolish the Legal Services Corporation, the federally financed program to help poor people with legal problems.

The corporation, which was created in 1974, managed to survive previous attacks on its mandate and financing during the Reagan and Bush Administrations, aided by powerful Democratic friends in Congress and some Republicans, like former Senator Warren Rudman of New Hampshire. But its continued existence is now in jeopardy. Not satisfied with the disabling funding cut already approved by the full House, or pending provisions in both chambers that would greatly restrict the types of cases that may be handled, the Republicans who control the House and Senate are moving to dismantle the program entirely.

The House voted in July to slash the corporation's budget from \$400 million a year to \$278 million. By an 18 to 13 straight party-line vote on Wednesday, the House Judiciary Committee approved a measure pushed by Representative George Gekas of Pennsylvania that would carry the demolition further. It would break up the corporation and its expert network of poverty-law specialists and replace them with a more bureaucratic, fragmented and inefficient system of small block grants to fiscally hard-pressed states. Some states have shown little interest historically in providing civil legal services that empower the poor, and may not bother to apply for the dwindling amounts of money allotted. In the Senate, meanwhile, a similarly unworthy dismantling scheme proposed by Senator Phil Gramm of Texas has passed the Appropriations Committee and is due to hit the Senate floor perhaps as early as today. It would cut funding even more, to \$210 million, and funnel it through block grants.

The program's critics complain that the corporation uses the courts to push "a liberal agenda." But, clearly, what is driving the attack is their own ideological opposition to what poverty lawyers do, which is to protect the legal rights of the poor. This mostly entails handling mundane eviction, divorce and installment credit cases. Only on rare occasions do legal services lawyers bring the class action lawsuits that so offend the powerful enemies of the program, but which serve a valuable function in holding government agencies accountable.

At a moving news conference, leaders of the bar were joined by religious leaders and Legal Services clients in calling for the preservation of the Legal Services Corporation. The group included two victims of domestic violence, whose lives were dramatically transformed for the better by virtue of



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The New York Times, September 15, 1995

having the sort of access to the justice system that Republicans seem determined to foreclose.

Senator Alfonse D'Amato of New York, and other Republicans whose poor constituents stand to be badly hurt by the latest assault on legal services, should fight for amendments to the pending Senate bill that would prevent the worst from happening. If efforts at moderation do not succeed, President Clinton must stand ready with his veto pen.

LANGUAGE: ENGLISH

LOAD-DATE: September 15, 1995



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Massachusetts Lawyers Weekly

November 27, 1995

SECTION: WBA WOMEN'S BAR ASSOCIATION OF MASSACHUSETTS; President's Message; Pg. B9

LENGTH: 345 words

HEADLINE: Fundraising Success Has Been Transforming

BYLINE: BY JANE E. SENDER

BODY:

The Women's Bar Association's Sixth Annual Gala on Thursday Nov. 9, 1995 was a wonderful success.

Our two Leila J. Robinson awardees, Margaret Burnham and Marianna Pierce, gave moving, inspirational speeches to nearly 400 guests gathered at the Park Plaza.

The financial success of the WBA's yearly fundraising gala in recent years has truly transformed us. We are able to do so much more than ever before to promote the interests of women lawyers and women in Massachusetts.

In 1995, a great deal of our energies went into our public-policy efforts. We provided invaluable assistance to members of the Governor's Counsel as they deliberated the merits of a controversial Supreme Judicial Court nominee. We lobbied our senators in Washington on the cutbacks to the Legal Services Corporation. We lobbied state government regarding the assault on affirmative action and on needed domestic-violence legislation. Internally, WBA board member and former state senator Shannon O'Brien led a lively and informative panel entitled "State House 101."

The WBA's pro bono efforts doubled in 1995. In addition to our Framingham Project, which provides pro bono legal services to incarcerated women, we initiated, in conjunction with the Women's Bar Foundation, the Family Law Project, which provides pro bono legal services to divorcing women victimized by domestic violence.

This year has also been a banner year for networking and career development activities. The WBA provides senior women lawyers a monthly forum to discuss topics from rainmaking to retention in law firms. We held a joint program with the American Corporate Counsel Association at which Boston Globe columnist Joan Vennochi gave us tips on how to deal with reporters. We also held programs on the judicial nominating process, navigating the Board of Bar Overseers and job-hunting techniques.

We've been busy, productive and influential, thanks to the commitment and creativity of so many of our members. If you are not member, please call us at (617) 695-1851 and join our efforts.



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LOAD-DATE: December 08, 1995



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LEVEL 1 - 3 OF 18 STORIES

Copyright 1996 The New York Times Company
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May 6, 1996, Monday, Late Edition - Final

SECTION: Section A; Page 14; Column 1; Editorial Desk

LENGTH: 451 words

HEADLINE: Legal Services Survives, Barely

BODY:

The budget bill signed by President Clinton last week after months of bargaining between the White House and Congressional Republicans deals two blows to the American ideal of equal justice. It slashes funding for the Legal Services Corporation -- the 21-year-old federally financed program that helps poor people with their civil legal problems. It also imposes restrictions that will further impede the program's effectiveness.

President Clinton cited his opposition to the gutting of Legal Services when he vetoed an earlier version of the budget bill last December. But the Republicans were not moved to rethink their approach. In the end, Mr. Clinton -- apparently satisfied that he had won important concessions elsewhere in the bill -- swallowed a 30 percent cut in Legal Services' budget, from \$400 million to \$278 million.

These cold figures need to be understood in human terms, as First Lady Hillary Rodham Clinton, a former chairwoman of the Legal Services Corporation, noted recently in her syndicated newspaper column. "What that means," she wrote, "is that somewhere a couple and their young children will have to sleep in an unheated car or on the street because of an unlawful eviction; a woman will be forced to cower in her bedroom, a victim of domestic violence; and a child will go to school hungry because his father refuses to pay child support."

The number of cases handled by the already underfunded program may fall by as many as 500,000, even as the number of poor people in America eligible to receive help is growing. Increased pro bono work by private lawyers, though welcome, is not a realistic way to fill the gap.

Congress also insisted on provisions that weaken the ability of Legal Services lawyers to adequately represent their clients. Among other things, they would be barred from filing class-action lawsuits. Such suits are a tiny part of Legal Services' work. But they are a practical way to resolve significant issues that affect large numbers of poor people, like rules governing eligibility for Medicaid, housing and disability benefits. Other legislative restrictions prohibit Legal Services attorneys from challenging illegal or unconstitutional changes in state welfare rules, and severely limit the freedom to represent client interests before legislative bodies and in administrative rule-making proceedings.

These sad defeats amount to a victory of sorts. The bill stops short of the outright abolition of Legal Services pressed by some Republicans in the first



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The New York Times, May 6, 1996

flush of their party's takeover of Congress. Unfortunately, to the many impoverished Americans who will now be shut out of the legal system, that will not provide much comfort.

LANGUAGE: ENGLISH

LOAD-DATE: May 6, 1996



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LEVEL 1 - 2 OF 18 STORIES

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The Daily Record

June 24, 1996, Monday

SECTION: Pg. 13

LENGTH: 569 words

HEADLINE: More Belt-Tightening for State Legal Services Organizations Maryland Legal Services Corp. Forced to Reduce Grants to Grass-Roots Providers of Attorneys to Indigent, Due in Part to Lower Interest Rates

BYLINE: By Jane Bowling; Daily Record Legal Affairs Editor

BODY:

Facing a continuing decline in funding, the organization responsible for disbursing money to Maryland nonprofits that provide civil legal help to the poor announced Friday it has again been forced to cut most of its annual grants by 5 to 10 percent.

In addition, Maryland Legal Services Corp. said two programs it had funded in the past -- Lawyers Clearinghouse and Baltimore County's Sexual Assault Domestic Violence Center Inc. -- will receive no money from its coffers in fiscal year 1997.

"These were very hard decisions affecting good programs and essential client services," said Robert J. Rhudy, MLSC's executive director. Funding has dropped largely because of the decline in interest on lawyer trust accounts, known as IOLTA, that makes up most of its budget. ?

"If we see a clear, sustained upswing in IOLTA dollars over the next few months," Rhudy said, "we may be able to slightly increase grants for the second half of this fiscal year."

The state-level MLSC funding cuts come at a time when legal services programs for the indigent already face a drastic cut in federal assistance.

Congress cut the national Legal Services Corp. budget to \$ 278 million for fiscal 1996 from last year's \$ 415 million. That translated to a \$ 1.4 million loss to Maryland's Legal Aid Bureau -- a 34 percent drop in its federal funding.

MLSC's board of directors approved grants to 29 programs totaling \$ 3.5 million last week. The group had a grant budget of \$ 3.7 million during fiscal year 1996, and IOLTA income has fallen approximately 35 percent from its 1992 high of \$ 5.2 million.

The decrease is attributed primarily to persistent low interest rates paid by Maryland banks on IOLTA accounts. In 1991, the average rate was 5.25 percent, Rhudy said, and today it's only about 2.2 percent.

"We understood interest falling on IOLTA as interest overall went down, but



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banks in general have not increased their interest on IOLTA as other interest rates have begun increasing," he said.

He said MLSC Chair Herbert S. Garten, of Baltimore's Fedder & Garten, is meeting with leaders of major banks to urge they give more support to the IOLTA program.

The two programs cut out of this year's funding list were good programs, but they carried a lower priority than others, Rhudy said.

Lawyers Clearinghouse, which was funded so that low-income citizen groups like community associations could access legal assistance, was made part of the Maryland Association of Nonprofit Organizations, Rhudy said. The program will continue with money received through that group.

The Baltimore County domestic violence center, on the other hand, too closely duplicated the services offered by another MLSC grant recipient, House of Ruth, Rhudy explained.

Two other programs saw their funding cut substantially. The Maryland Public Interest Law Project, which gives law students a chance to work with low-income clients, will receive only \$ 30,000 -- 46 percent less than last year's \$ 55,500.

The Mid-Shore Council on Family Violence and Maryland Public Interest Law Project will lose 27 percent of its MLSC funding under the 1997 budget. Its grant is \$ 17,000 compared with last year's grant of \$ 23,328.

"Despite all our efforts in Maryland, we are continuing to fall further behind," Rhudy said. "Our federal and state constitutions did not intend justice to be for sale only to those who can afford the bill."

LANGUAGE: ENGLISH

LOAD-DATE: June 24, 1996



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THE ARIZONA REPUBLIC

July 23, 1995 Sunday, Final Chaser

SECTION: PERSPECTIVE; Pg. D3

LENGTH: 790 words

HEADLINE: ELIMINATING LEGAL SERVICES WOULD BE UNJUST

BYLINE: By Mark DeMichele

BODY:

Etched above the entrance to the U.S. Supreme Court is the phrase: Equal Justice Under the Law. But if the U.S. House of Representatives approves a measure to severely cut or eliminate funding for the Legal Services Corporation, those words may read: Unequal Justice Within the Budget.

As a citizen and a business leader, I am concerned about next week's House vote regarding Legal Services Corporation, which provides civil legal services for the poor through hundreds of non-profit, locally governed organizations, including a half dozen in Arizona. I am troubled from both an ethical, human perspective and a financial, business perspective by attempts to balance the budget at the expense of justice.

Denying the poor access to the legal system will not balance our budget; it will only cause eventual cost and burden to our society as those we distance from the legal system become hopelessly entangled in that system.

Several months ago, I expressed these concerns at a fund-raising dinner presented by Arizona Community Legal Services. Despite receiving support from Legal Services Corporation, Arizona Community Legal Services and its sister organizations are underfunded and understaffed. For every low-income individual, elderly couple or struggling family they help, two are turned away. They are left with no representation to help with serious concerns like domestic violence and access to food or shelter. If the House approves cuts to Legal Services Corporation, even more poor clients - mostly single women with children - will be turned away.

If legal services were wasteful, inefficient or unnecessary, it would be appropriate to review its federal funding. This is not the case. Legal Services Corporation, in Washington, spends only 3 percent of its annual appropriation on administration. The rest goes to our local organizations, which use virtually all of their funds to provide free, civil legal assistance to the poor. Rather than being a welfare program or a system of handouts, these organizations help keep individuals off welfare by helping them achieve self-sufficiency and making them aware of their legal options.

Legal Services Corporation was created in the 1970s because Americans realized that a society where a portion of the population does not have access to the legal system will be fraught with social problems. Recent events have



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THE ARIZONA REPUBLIC, July 23, 1995

served to underscore the danger of diminishing faith in our system of government. If people believe they have no method of recourse, they may eventually fight back - if not through the courts, then in the streets.

As it exists today, Legal Services helps ensure a peaceful society through orderly resolution of disputes. It works because programs are controlled locally; because recipient organizations leverage federal funds with community donations; and, because it delivers faith in our justice system. It creates a climate where business and individuals can succeed, where economic development and community growth can prosper.

When I was beginning my business career, I was moved by the remarks of Gov. Nelson Rockefeller. Upon opening community legal services offices in New York in the 1970s, he stated, "In our society, the right to counsel is as indispensable as the right to fair trial, and both must be protected if our system of justice under law is to flourish."

More than two decades later, it would serve us to remember those words. If we begin dismantling the system that provides legal services for the poor, we begin dispensing with our system of justice.

A 1993 American Bar Association survey concluded that 71 percent of civil legal problems of low-income citizens are not addressed. While Arizona has one attorney for every 305 in the general population, there is only one legal services attorney for every 8,000 poor people.

Some might argue that if these programs are only helping a portion of those in need, why not get rid of the legal services programs and leave it to the legal profession to take care of the problem?

This misses the point. Although lawyers are the vehicle that provide legal services, they cannot bear the full burden of responsibility for equal justice. We all have a responsibility to ensure that no person is denied their rights. The fact that only a portion of the needy can be served under the present funding system does not justify eliminating it. Rather, it challenges us to keep the Legal Services Corporation, and to find additional means to support this vital service.

On behalf of our entire community, please call Arizona's congressional representatives today to let them know that you value equal justice and support Legal Services Corporation.

LANGUAGE: ENGLISH

LOAD-DATE: July 25, 1995

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Copyright 1995 The Austin American-Statesman
Austin American-Statesman

July 24, 1995

SECTION: Editorial; Pg. A10

LENGTH: 439 words

HEADLINE: Budget choppers do no good by slashing legal aid funds

BODY:

The budget choppers and moral police in Congress are joining forces this time to target the Legal Services Corp., a federal program that provides millions for free legal aid to poor people.

The former seek to balance the federal budget through gutting the program. The latter claim the corporation promotes societal woes by contributing to single-parent households because it provides divorces for poor women. Critics also invoke the 'L' word -- liberal -- to justify a proposed 33 percent funding cut. They claim the corporation provides money for liberal lawyers to foment social change through the court system.

Critics of the program are misguided, at best. Their proposal would result in more, not fewer, people on public assistance. And the moral arguments hold no weight.

Last week, the House Appropriations Committee approved a bill that would slash legal services funding from \$400 million to \$278 million. That would result in a \$10 million funding loss for Texas. The proposal, which also would place more restrictions on how legal aid funds could be used locally, should be opposed when the House of Representatives votes on the issue this week.

If approved by the House, millions of poor Americans would have no means of legal representation. Over the years, the Nixon-era program has helped keep families from being evicted, helped battered women obtain divorces and helped workers gain legal benefits. Rather than adding more people to public assistance, the free legal services have helped people like Crystal Neal, featured in an Austin American-Statesman article on legal services cutbacks, become self-sufficient.

Central Texas legal aid supporters say attorneys already are forced to turn people away because of last year's 3.8 percent funding cut.

The Legal Services Corp. provides the majority of funds for the Legal Aid Society of Central Texas. About 190,000 Central Texans spanning a 15-county area qualify for free legal services, according to the society. Last year, attorneys handled 10,000 cases, ranging from domestic violence, child welfare and housing issues.

The Senate, which has not taken up the issue, presented a budget resolution that also calls for a legal-services funding cut. Its cut is more modest -- a 33



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Austin American-Statesman, July 24, 1995

percent reduction in next year's budget, followed by a five-year spending freeze. The House bill would eliminate legal-services funding at the end of five years.

In the balanced-budget game, Congress surely can find worthy targets to cut. The Legal Services Corp. has received bipartisan support in the past. It should continue to receive it in the future.

LOAD-DATE: July 28, 1995



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Los Angeles Times

August 4, 1995, Friday, Home Edition

SECTION: Metro; Part B; Page 9; Op-Ed Desk

LENGTH: 713 words

HEADLINE: JUSTICE FOR ALL -- IF THEY CAN AFFORD IT;
LEGAL AID: LOW-INCOME PEOPLE WOULD LOSE RECOURSE TO THE LAW IF THE HOUSE CUTS THIS PROGRAM.

BYLINE: By LEONARD S. JANOFSKY and ROBERT D. RAVEN, Leonard Janofsky and Robert Raven are both past presidents of the American Bar Assn. Janofsky practices law with the firm of Paul, Hastings, Janofsky, and Walker in Los Angeles and Raven with the firm of Morrison & Foerster in San Francisco.

BODY:

An old joke ends with a lawyer saying to his client, "Well, how much justice can you afford?" There is nothing funny, however, about the reality that individuals face when something vital to their lives depends on resolving a legal dispute. When one side of a legal dispute -- whether a business, a government agency, or a well-off individual -- can afford legal help and those on the other side cannot, the American ideal of "equal justice under law" becomes an empty slogan. This happens in California often enough to trouble the consciences of civic and business leaders and ordinary citizens, as well as judges and lawyers.

Yet, the authorization and appropriations bills introduced in the House of Representatives propose to make matters dramatically worse. They would severely restrict or eliminate federal funding for legal aid to low-income people. Funding for the Legal Services Corp., the largest funding source for legal aid, stands at \$400 million for the current fiscal year (after a recent 3% cut) -- which is about \$10 per low-income person. The Legal Services Corp gives grants to 325 independent, nonprofit legal-services programs across the country. These programs handle 1.5 million legal matters each year for people who are too often closed out of the justice system. The human needs served are basic: preventing domestic violence, avoiding homelessness, helping people climb out of poverty, and otherwise caring for the legal needs of poor children and seniors.

The pending proposals would, at best, allow the program to continue only with severe restrictions on funding -- including private funds. But the reasons offered for these radical proposal make no sense.

To make government more efficient? No. The Legal Services Corporation spends less than 3% of its budget on administration. The remainder goes not to government at all, but to nonprofit corporations run by local boards of directors. Legal-aid programs are especially efficient because they attract dedicated lawyers to work for less than market rates. Why should we fire the least expensive, most self-sacrificing lawyers in the state? Certainly not for efficiency.



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Los Angeles Times, August 4, 1995

Then there's the claim that there is too much litigation. Whether this is true, it is not a result of legal aid. For every hour legal-aid programs spend on litigation, they spend four hours teaching people how to take care of their legal problems without a lawyer, and another three hours counseling clients or negotiating with potential adversaries. Legal-aid lawyers often avoid litigation or end it early with a negotiated resolution. The elimination of legal-aid programs would increase the worst categories of litigation -- defaults and one-sided, unfair losses.

The bills complain about legal-aid programs' use of class actions and about legislative and administrative advocacy. But a class action may be the most cost-effective form of litigation: Why are 100 lawsuits better than one, where 100 people have suffered from the same illegal practice? Similarly, if legal problems affecting hundreds or thousands can be solved by legislative or administrative representation, much more costly litigation can be avoided. This could not be a valid reason to eliminate legal aid. On the contrary, the civil-law enforcement that programs accomplish by using these techniques may be among the most important and efficient work they do.

Proponents of the budget bill also criticize legal-aid lawsuits against the government. When legal-aid programs do use their scarce resources to sue the government, it is usually because bureaucrats have broken the law. Contrary to the House leadership's usual posture, on this issue they want to take the side of bureaucrats against private individuals.

Regrettably, it is tempting to regard these proposals as a calculated exercise in the politics of "us" vs. "them." Low-income people are, indeed, an unpopular political constituency. But no group or political constituency will be well-served if our justice system becomes even more closed to people who cannot afford to pay. Funding for legal-aid programs should be increased, not eliminated, and the Legal Services Corporation should be preserved as the most efficient vehicle for delivering and supervising this funding.

LANGUAGE: ENGLISH

LOAD-DATE: August 5, 1995



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Pennsylvania Law Weekly

August 14, 1995

SECTION: NEWS IN BRIEF; Pg. 31

LENGTH: 934 words

HEADLINE: Ramo Becomes First Woman To Lead ABA

BYLINE: Compiled from the reporting of Shannon P. Duffy of Pennsylvania Law Weekly and The Associated Press.

BODY:

CHICAGO -- A New Mexico lawyer who says she once couldn't find work because of her sex became the American Bar Association's first female president last week.

Roberta Cooper Ramo of Albuquerque took the gavel from outgoing president George E. Bushnell Jr. and said it was "a moment not really about me but about women and history and American lawyers."

She recalled her grandmother, a Wyoming suffragist, who got dressed up one day to see President Theodore Roosevelt when he visited her town.

"My grandfather said 'it's just for men,' and she said 'not any more,'" Ramo recalled.

Now, she said, when people see important women in the law such as Supreme Court Justices Sandra Day O'Connor and Ruth Bader Ginsburg, "the power of their actions and intellect . . . opens minds to the simple fact that the essential qualities of greatness for a life at the law -- knowledge, a razor-sharp intellect, humor and a compassionate heart -- know no gender."

She also spoke in favor of a resolution approved last week by the ABA's policy-making Board of Governors that endorsed affirmative action in the form of "legal remedies and voluntary actions" intended to eliminate race and sex discrimination.

"Affirmative action the reality, not the myth, has been an enormous success in America," she told reporters.

Detroit Mayor Dennis Archer told his fellow delegates, "Although I am qualified I have needed affirmative action to demonstrate my ability We are not talking about reverse discrimination. We are not talking about quotas."

Ramo told reporters she will use her position as head of the 117-year-old organization to combat domestic violence, educate school children about the Constitution and support continued funding of the Legal Services Corp., which provides legal help for the poor.



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She announced a new program starting next month called "I'm the People," in which lawyers will go to schools to teach children about the Constitution, the Bill of Rights and rulings by the Supreme Court.

"You cannot have meaningful democracy if people don't understand the responsibilities as well as the rights of being an American citizen," Ramo said.

Earlier this year, the ABA formed a commission that is expected next August to recommend ways for communities to head off domestic violence.

Last year the Legal Services Corp. represented 52,000 domestic violence victims, she said.

"I am very distressed that . . . there are those in the Congress who do not understand how key to American democracy the right to civil justice is," she said.

Ramo, a graduate of the University of Chicago law school, once had a job providing legal services to poor people in North Carolina. Now, she is a member of New Mexico's largest law firm, where her practice includes real estate, health care and probate work.

LANGUAGE: English

LOAD-DATE: August 21, 1995



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The New York Times

September 14, 1995, Thursday, Late Edition - Final

SECTION: Section B; Page 12; Column 5; National Desk

LENGTH: 583 words

HEADLINE: House Panel Opts to Kill Agency Giving Legal Advice to the Poor

BYLINE: By STEPHEN LABATON

DATELINE: WASHINGTON, Sept. 13

BODY:

The House Judiciary Committee voted today to abolish the Legal Services Corporation, which provides lawyers for poor people in a wide array of civil cases like landlord-tenant disputes, domestic-violence cases or legal battles affecting the homeless, the mentally handicapped and migrant workers.

By a vote of 18 Republicans to 13 Democrats, the committee voted to eliminate the agency, which this year had a budget of \$415 million, and replace it with \$250 million in block grants next year to the states. The bill would also impose significant new restrictions on lawyers who are paid from the block grants, barring them from filing class-action lawsuits and challenges to the constitutionality of any laws.

The legislation is expected to reach the House floor as early as next week. Similar legislation, sponsored by Senator Phil Gramm, Republican of Texas, would provide \$210 million in block grants. It is expected to be introduced on the floor of the Senate this week. President Clinton, whose wife was once the chairwoman of Legal Services, has threatened to veto the legislation.

With little notice, Legal Services has been put on the list of Federally supported programs slated for drastic cuts or possible elimination by the Republican Congressional leaders. But unlike the Corporation for Public Broadcasting and the National Endowment for the Arts, which are also targets of cutbacks or cutoffs, Legal Services is being rent by three political forces: fiscal austerity, efforts to overhaul welfare and a powerful new hostility in Washington to lawyers that has inspired conservative lawmakers to promote an agenda aimed at limiting lawsuits brought by the poor and injured.

Conservatives in Congress have long argued that lawyers financed by Legal Services have impeded an overhaul of the welfare system. In a handful of suits, lawyers sponsored by Legal Services have successfully challenged state restrictions imposed on welfare recipients.

The Christian Coalition has also lobbied Congress heavily against the corporation, arguing that it has undermined family values by giving poor people lawyers in divorce cases.



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The New York Times, September 14, 1995

"This is a tremendous step toward reforming the ineffective Federal legal assistance program," said Representative George W. Gekas, Republican of Pennsylvania, the principal sponsor of the Judiciary Committee legislation. "The Legal Services Corporation has clearly outlived its usefulness. It's time to try something new."

But the corporation's supporters say that welfare cases represent only a fraction of the work it has done and that the success of those cases demonstrates that the agency has not undertaken frivolous suits. Moreover, the supporters say that block grants would fail to assist the poor because many states have shown no interest in assisting indigent clients in civil suits.

"What is proposed now would be devastating to tens of millions of economically disadvantaged people, half of whom are children," said Roberta Cooper Ramo, president of the American Bar Association. "Without access to civil justice, the American dream is a cruel joke."

Of the 1.7 million cases handled by Legal Services lawyers last year, 33 percent involved family matters like child support, spouse abuse and divorce. Twenty-two percent involved housing, 16 percent involved welfare and other Government benefits and 11 percent involved consumer issues. The remainder dealt with education, employment, health care and individual rights.

LANGUAGE: ENGLISH

LOAD-DATE: September 14, 1995



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"Friendly Parent" Provisions in Custody Determinations

by Joan Zorza*

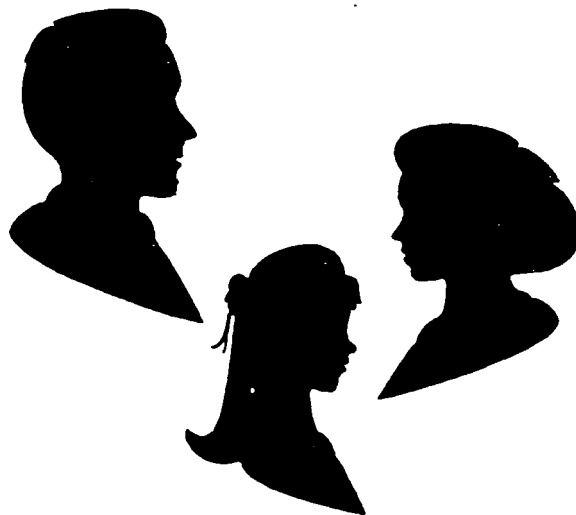
I. Introduction

In recent years, a number of state legislatures have enacted so-called "friendly parent" provisions as part of their states' custody statutes.¹ These provisions typically make each parent's receptivity towards sharing parental responsibility a factor for courts to consider in making child custody decisions. Friendly parent provisions create numerous problems for women and children because they encourage courts to punish parents who object to joint custody or visitation and because they tend to be invoked more often against women.

II. Joint Custody and Friendly Parent Provisions

Although the friendly parent provision is sometimes stated in terms of how supportive a custodial parent is in giving visitation to the noncustodial parent,² most often, friendly parent provisions accompany an explicit or implicit legislative preference for a joint custody arrangement. California's statute, for example, begins by stating:

The Legislature finds and declares that it is the public policy of this state to assure minor children of frequent and continuing contact with both parents after the parents have separated or dissolved



their marriage, and to encourage parents to share the rights and responsibilities of child rearing in order to effect this policy ³

Florida has a similar provision, but follows it with an explicit presumption in favor of joint custody.

The court shall order that the parental responsibility for a minor child be shared by both parents unless the court finds that shared parental responsibility would be detrimental to the child ⁴

There are many reasons why a mother may object to joint custody. When the mother does virtually all of the

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¹ See, e.g., CAL. CIV. CODE § 4600; COLO. REV. STAT. § § 14-10-124(1.5)(f), (h), and (k); FLA. STAT. ch. 61.13; MICH.

COMP. LAWS ANN. § 25.312(3)(j); MO. REV. STAT. § 452.375; MONT. CODE ANN. § 40-4-223; and NEV. REV. STAT. § 125.480(3)(a).

² E.g., MONT. CODE ANN. § 40-4-223 and NEV. REV. STAT. § 125.480(3)(a).

³ CAL. CIV. CODE § 4600(a).

⁴ FLA. STAT. ch. 61.13(2)(b).

parenting, she may resent having to pretend that the child's father is contributing his fair share. In some instances, the father may abuse the child, be addicted to drugs or alcohol, or be otherwise unfit, and she may reasonably fear that giving him joint custody might endanger the child. Or the father may use visitation as an occasion to beat the mother up, making her afraid to share custody or even to give him unsupervised visitation. Because joint decisionmaking is a part of joint custody, the mother may be reasonably afraid of having to meet with the abusive father to make decisions about the child.

Although the standard for child custody has traditionally been the child's best interests, in recent years, some states have enacted statutes that make joint custody the presumptive or preferred custodial arrangement.

Laws favoring joint custody arrangements effectively abolish the best interests of the child standard for making custody determinations. The best interests standard requires the judge to carefully analyze the facts to determine which of the parents is better able to parent the child given the child's particular needs. Laws favoring joint custody presume that joint custody is in the best interests of all children.⁵ The fact that joint custody is not the best arrangement for a particular child is often not enough to overcome a joint custody presumption. Usually a parent opposing it must show that joint custody is actually harmful to the child⁶ or meet a higher burden of proof than preponderance of the evidence.⁷ Depending on the exact wording or the court's interpretation of the joint custody statute, the parent opposing joint custody has a difficult to almost impossible burden to meet to successfully convince the court that joint custody will be so harmful to the child that the court should not even consider it. Many statutes make it clear that courts may impose joint custody awards even if only one parent requests it.⁸

When a friendly parent provision is added to any of these joint custody statutes, the court is encouraged to punish the parent who objects to joint custody or to frequent or unsupervised contact by the other parent. The



punishment is to give sole custody to the other, so-called "friendly" parent, who is friendly from the shared parenting perspective. As James Cook, the drafter of the since rescinded California joint custody preference law, which had a friendly parent provision, put it, the friendly parent provision adds "a new twist on an old game called keep away . . . put[ting] a new handicap on the game by requiring the court to favor the most cooperative parent."⁹

Friendly parent provisions most reward the parent who is least fit to care for the child with full custody.¹⁰ If a concerned parent opposes joint custody because the other parent is unfit, the court is very likely to award full custody to the "friendly" parent as punishment to the parent opposing joint custody. The very act of raising concern about the fitness of the other parent's parenting ability becomes a weapon against the parent who raises the concern. Where the concerns are justified but not recognized by the court, friendly parent provisions punish the children as well as the concerned parent opposing involvement by the unfit parent.

Although there is much evidence suggesting that joint custody does not usually work, especially when it is imposed on parents over one or both of their objections,¹¹

⁵ Joanne Schulman & Valerie Pitt, *Second Thoughts on Joint Custody: Analysis of Legislation and Its Impact for Women and Children*, 12 GOLDEN GATE U. L. REV. 538, 552 (1982).

⁶ *Id.* at 557.

⁷ See, e.g., MICH. COMP. LAWS ANN. § 727.23(b) (Supp. 1981), which provides that a parent can avoid a joint custody order only if the parent can establish by clear and convincing evidence that it is not in the child's best interests.

⁸ See, e.g., HAWAII REV. STAT. § § 571.46-46.1; MICH. COMP. LAWS ANN. § 722.23(5)(a); MO. REV. STAT. § 452.375(4); N.H. REV. STAT. ANN. § 458.17.

⁹ Joanne Schulman & Valerie Pitt, *supra* note 5, at 554.

¹⁰ *Id.* at 551.

¹¹ *Id.*; see also FRANK F. FURSTENBERG, JR., & ANDREW J. CHERLIN, *DIVIDED FAMILIES: WHAT HAPPENS TO CHILDREN WHEN PARENTS FAIL* 33-38 (1991); Susan Steinman, *Joint Custody: What We Know, What We Have Yet to Learn, and the Judicial and Legislative Implications*, 16 U.C. DAVIS L. REV. 739 (Spring 1988); Shirley A. Reece, *Joint Custody: A Cautious View*, 16 U.C. DAVIS L. REV. 775 (Spring 1988); Sheila J. Kuehl, *Against Joint Custody: A Dissent to the General Bullmoose Theory*, 27 FAMILY & CONCILIATION COURTS REV. 37 (Dec. 1987); Gina Kolata, *The Children of Divorce: Joint Custody Is Found to Offer Little Benefit*, N.Y. TIMES, Mar. 31, 1988, at B13.

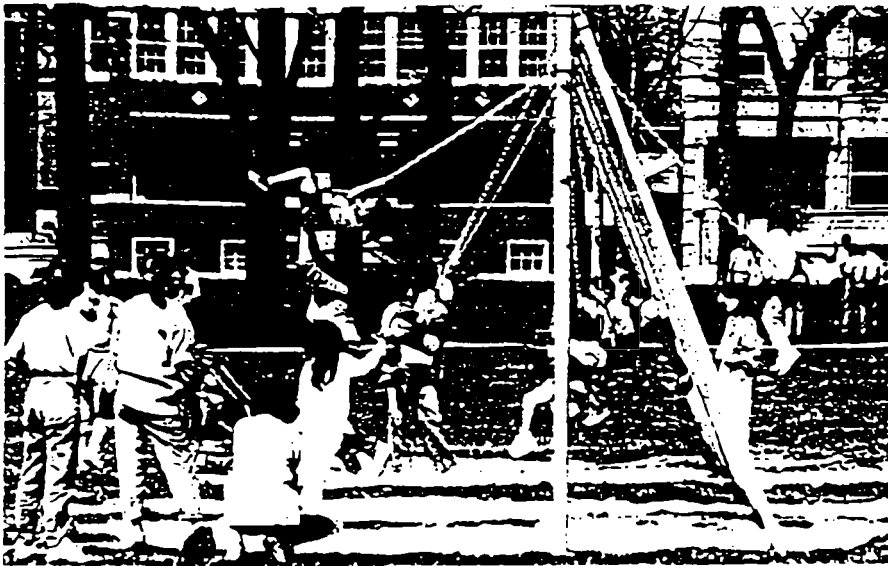


photo by Robert Serafin

Because of gender bias against women, mothers are far more likely to be blamed for any breakdown in visitation or custody arrangements.

mental health professionals have been sadly silent in opposing either joint custody preferences or friendly parent provisions, whether before legislatures or in individual custody cases, on the erroneous assumption that they are not harmful to children. Friendly parent provisions are merely seen as the inducement to reach the goal of joint custody, which is assumed to be beneficial. Yet studies have found that the majority of children in court-imposed joint custody do poorly¹² and are more depressed and disturbed than children in sole custody.¹³ Even when parents genuinely chose joint custody, children are no better off.¹⁴ Furthermore, the very use of the term "joint custody" results in much lower child support awards, but even these lowered amounts are not more likely to be paid.¹⁵ The net impact is that the mothers who bear the real burden of raising children in joint custody arrangements are far worse off economically, which again hurts the children.¹⁶

Attorneys report to the National Center on Women and Family Law that judges generally prefer joint custody and friendly parent provisions, presumably because they make their jobs much easier. Judges hardly need to look

at what the particular child needs or how capable each parent is relative to the other in parenting. Instead, parents are effectively forced to accept some kind of joint custody arrangement; the parent who does not agree to joint custody or who contributes to the breakdown of the joint custody is threatened with the complete loss of custody. Indeed, most mothers are forced to agree to joint custody or to bargain away enormous amounts of needed financial support to avoid a joint custody arrangement. This gives the party requesting joint custody an unconscionable bargaining lever over the parent opposing it.¹⁷

Even when a state has neither friendly parent language in its custody statutes nor any appellate court decisions favoring a friendly parent analysis, many judges still act as if their state's laws have such a provision. Indeed, such assumptions are so widely accepted and the consequences of raising an objection to using friendly parent analysis so frightening, that few lawyers dare object when judges read friendly parent provisions into the law. Yet these provisions effectively chill the right of any parent to raise even the most meritorious claim.

III. Gender Bias and Friendly Parent Provisions

Because of gender bias against women, mothers are far more likely to be blamed for any breakdown in visitation or custody arrangements. This is true even though most fathers withdraw from parenting over time after divorce, despite being fully encouraged to share in parenting responsibilities.¹⁸ As various gender bias studies of the courts have shown, women are believed less often than men, their concerns are trivialized more often, and they are held to a much higher standard of conduct, all factors that penalize them in any court hearing.¹⁹ As

¹² Gina Kolata, *supra* note 11; Nancy D. Polikoff, *Joint Custody: Only by Agreement of the Parties*, THE WOMEN'S ADVOCATE, Jan. 1983.

¹³ Sheila J. Kuehl, *supra* note 11, at 37.

¹⁴ *Id.*

¹⁵ Nancy D. Polikoff, *supra* note 12.

¹⁶ *Id.*

¹⁷ Joanne Schulman & Valerie Pitt, *supra* note 5, at 550.

¹⁸ FRANK F. FURSTENBERG, JR., & ANDREW J. CHERLIN, *supra* note 11.

¹⁹ See GENDER AND JUSTICE IN THE COURTS: A REPORT OF THE SUPREME COURT OF GEORGIA BY THE COMMISSION ON GENDER BIAS IN THE JUDICIAL SYSTEM 227-240 and n.6 (Aug. 1991), citing similar gender bias findings by the Arizona Coalition on Minorities and Women in the Law, Colorado Gender Bias Task Force, Florida Gender Bias Task Force, Maryland Special Joint Committee on Gender Bias in the Courts, Michigan Task Force in Gender Issues in the Court, and the New Jersey Supreme Court Task Force on Women in the Courts.



photo by Sharon Date

Friendly parent provisions encourage men to control women using the most powerful weapon, threat of the loss of custody of their children, for even daring to articulate their opposition to men's involvement with coparenting or visitation.

a result, judges invoke the friendly parent analysis more often when fathers claim that their visitation or parenting rights have been interfered with or denied than when mothers make the same allegations. These judges trivialize a mother's claim by ignoring it, discounting it by declaring that the mother lacks credibility, or actually turning her complaint into the "proof" that she is unstable, manipulative, or vindictive. Often they conclude that mothers are being hostile because, after separating from their husbands, they finally stop covering up with the children for their fathers' inadequate parenting.²⁰

The fact that friendly parent provisions are strongly favored by father's rights groups is hardly surprising. Friendly parent provisions greatly increase the chance that fathers will win custody. This is true despite the fact that mothers have traditionally been the primary caretakers of their children and care more about custody than fathers.

Some family law practitioners in friendly parent jurisdictions have reported to the National Center on Women and Family Law that they know of no case in which a judge has declared a father to have been "unfriendly," yet mothers in these same courts are frequently losing custody based on their "unfriendly" behavior.²¹ Since few fathers ever help validate the mother's role, judges who hold mothers to a higher standard discriminate against them unfairly.

Friendly parent provisions encourage men to control women using the most powerful weapon, threat of the loss of custody of their children, for even daring to articulate their opposition to men's involvement with coparenting or visitation. Courts are encouraged to blame the apparently faulting parent without ever looking at why a breakdown of visitation or joint custody occurred, or even if a real breakdown did occur. The fact that a custody arrangement might be harmful to the children becomes all but irrelevant. The parents are assumed to be so nearly equal in their parenting abilities that courts lose sight of the fact that children are often penalized by awarding custody to the "friendly" parent based on the allegation that the other parent, generally the mother, is not friendly.

Further contributing to the bias against women, particularly in courts that impose friendly parent provisions, is the fact that divorced men are highly negative about their former wives and characterize them as deviant. This surprising devaluation of former wives occurs even among the normal, nonclinical population of remarried fathers who are positive about themselves and their new wives.²² Yet courts seem unaware that men's criticisms of their former wives are detrimental to children, especially in post-divorce, coparenting relationships.²³

IV. Friendly Parent Provisions and Battered and Abused Women and Children

For battered women and families where the father physically and/or sexually abuses a child, friendly parent provisions are extremely dangerous. Friendly parent provisions guarantee the abuser contin-

²⁰ *Id.* at 39.

²¹ The National Center on Women and Family Law knows of cases where judges have concluded that mothers were being "unfriendly" when they told their children that their father had decided not to see them this weekend. Most of these mothers had lied in the past and said things like, "Poor daddy loves you so and wants so badly to see you, but he has to work all and so he will not be able to see you." One mother who had pretended that the birthday presents she bought for her daughter were from both parents was found to be "unfriendly" and

"poisoning" her daughter to her father when, after her husband stopped paying all child support, she told the girl this year's presents were only from her. In not one of these cases was the father faulted for his inadequate parenting.

²² David Schuldborg & Shan Gusinger, *Divorced Fathers Describe Their Former Wives: Devaluation and Contrast in WOMEN AND DIVORCE/MEN AND DIVORCE: GENDER DIFFERENCES IN SEPARATION, DIVORCE, AND REMARRIAGE* 61, 62, & 70 (Sandra S. Volgy, ed., 1991).

²³ *Id.* at 62.



ued contact with his victim. They even encourage abusers to continue to use the children as pawns in custody fights, because even false claims of denied access to the children frequently result in the abuser winning custody. Given that domestic violence occurs in approximately half of all marriages,²⁴ escalates after couples separate,²⁵ and that abusive men frequently lie and manipulate the courts to control or punish women,²⁶ friendly parent provisions make battered women extremely vulnerable.

While many mental health professionals have been arguing for years that parents are far more likely to abduct their children when they have only minimal access to them, the reality is just the opposite. Parents who have the most frequent visitation are far more likely to abduct their children.²⁷ Half of all abductions occur during court-or-

dered visitation, and fathers abduct their children mainly to hurt mothers.²⁸ Men who batter women are far more likely to abduct their children.²⁹

Because friendly parent provisions guarantee batterers continued contact with their victims,³⁰ they increase the risk that the abusers will continue to batter their victims. Consequently, they subject children to bad role models that perpetuate the cycle of violence.³¹ They also reinforce learned helplessness in the victimized parent by encouraging her to suppress her complaints for fear that she will lose custody if she flees, denies her abuser visitation, or complains about his abusiveness in court. Even when state statutes have language making evidence of spousal abuse a factor in custody decisions, the spousal abuse and friendly parent provisions may at best cancel each other out. When such cases come back to court, as these cases frequently do, the old wife abuse incidents are not seen as a defense to the current, "unfriendly" allegation.

V. Conclusion

Friendly parent provisions cause numerous problems. The primary caretaker parent gets much better treatment in custody disputes in states that do not have these provisions. Kentucky recently passed a law prohibiting "modification of custody orders . . . solely on the basis of which parent is more likely to allow visitation."³²

Attorneys practicing before judges who use the friendly parent analysis should raise objections, including pointing out that the analysis may be gender-biased. Advocates should also remind the court that the standard for custody is still the best interests of the child, and that the friendly parent provisions of the law are at most only one factor to be considered in determining custody. □

²⁴ R. LANGLEY & R. LEVY, WIFE BEATING, THE SILENT CRISIS 11-15 (1977).

²⁵ MILDRED DALEY PAGELOW, FAMILY VIOLENCE 43 (1984).

²⁶ David Adams, *Identify the Assaultive Husband in Court: You Be the Judge*, BOSTON BAR J., July/August 1989, at 23-24.

²⁷ Rebecca L. Hegar & Geoffrey L. Grief, *Abduction of Children by Their Parents: A Survey of the Problem*, 36 SOCIAL WORK 421, 423-24 (1991).

²⁸ *Id.* at 424.

²⁹ *Id.*; PETER G. JAFFE, DAVID A. WOLFE, SUSAN KAY WILSON, CHILDREN OF BATTERED WOMEN 109 (1990); Geoffrey L. Grief & Rebecca Hegar, *Parents Whose Children Are Abducted by the Other Parent: Implications for Treatment*, 19 AM. J. OF FAMILY THERAPY 215, 221 (1991).

³⁰ Joanne Schulman & Valerie Pitt, *supra* note 5, at 555

³¹ *Id.*

³² KY. REV. STAT. § 403.340(3)(d).

➤ This material was posted in electronic form in the LegalAid/Net forum, on the HandsNet information and communications network, on November 19, 1992.

Bruce
Dennis
Lyn
FYI
Debbi

To: Barbara Woolley, Deputy Director, Office for Women's Initiatives and Outreach,
Fax: 456-6218
From: Joan Entmacher, Women's Legal Defense Fund
Re: Child Support and Welfare
Date: June 17, 1996

1. Child Support Reform: It Isn't Just a Welfare Issue

So far, the Administration has proposed child support reform as part of welfare reform. There are connections between the two issues; child support can help women get off and/or stay off welfare. However, child support reform is much more than a welfare issue. More than half of the caseload of state child child support enforcement agencies consists of non-AFDC cases. Those women desperately want a system that works, and many already feel their cases take second place to recovering welfare payments. Women don't see child support reform as only, or even primarily, a welfare issue; it shouldn't be framed that way.

The reforms proposed by the Administration, starting with the welfare bill in the 103rd Congress, would improve enforcement for all children. (These reforms include establishing new state and federal case registries, and new state and federal new hire registries; requiring states to centralize the collection and disbursement of child support; requiring greater use of income withholding and other proven collection techniques such as license suspension and administrative liens; requiring states to adopt uniform rules for interstate enforcement; and simplifying the establishment of paternity). These measures have broad bipartisan support. A separate child support bill, H.R. 3465, has been introduced; a message from the Administration that Congress should move on child support, and not hold it hostage to debates over welfare and Medicaid, would be welcomed by women.

2. Child Support Reform as a Welfare Issue: Don't Blame Mothers for Nonpayment of Child Support!

Child support enforcement is one of the few areas in welfare reform which emphasizes the responsibility of absent male parents. Women at all income levels have experienced problems collecting child support. A message that says: "We need to get tough with mothers on welfare because it is their fault that fathers aren't paying child support," does not conform to the experience of women. Women will not go back to a time of an institutionalized double standard and discrimination against children born out of wedlock.

3. Improving Child Support Enforcement in Welfare Cases: Non-Cooperation is not the Problem

* Since 1975, mothers applying for AFDC have been required to cooperate in child support enforcement, unless they have good cause not to (good cause is defined to include domestic violence, or the conception of a child as a result of rape or incest). Welfare agencies are responsible for determining whether or not a mother is cooperating with child support enforcement, and in most states welfare agencies do the initial child support enforcement interview.

This system has not worked well. However, the GAO, academic researchers, and child support agency directors agree that the problem is with the system, not with uncooperative mothers. In many cases, the welfare office does a poor job interviewing clients; it has other priorities, and often does not know what the child support agency needs. Even if the information is collected, it may not get to the child support agency; the GAO found that one in six cases simply fell through the cracks. And, even if it gets there, the information may not be used in a timely way. Many states have greatly increased their establishment of paternity and support -- without imposing new requirements or tougher sanctions on mothers -- through systemic reform: providing welfare workers with better training on child support enforcement, the appropriate forms, and a linked computer system, or co-locating child support and welfare agencies, so a child support worker can do the intake interview.

Unfortunately, pending welfare reform proposals focus on tougher enforcement of cooperation requirements, not systemic reform. They would give child support agencies the responsibility for determining cooperation, and would allow states to define cooperation and good cause. Some states are already experimenting in these areas -- with or without waivers -- and some of the potential problems are becoming apparent. Endorsing "get tough" proposals, and encouraging states to move forward prematurely, would put many women and children at risk.

4. Having Child Support Agencies Determine Cooperation: The Problem of Domestic Violence Must Be Addressed

Most child support workers, by inclination, training, and job description, are not social workers. They don't work with families in a holistic way; they collect money (or try to). Most freely admit that they know very little about domestic violence, and don't want the responsibility for dealing with it. Unfortunately, if they have responsibility for determining cooperation, the responsibility will be unavoidable. Even if the responsibility for determining "good cause" for non-cooperation is given to welfare agencies, child support agencies will have to know what the good cause exception is, inform all applicants about it, and be knowledgeable enough about domestic violence, and the signs of abuse, to be able to identify and refer cases when a woman has not raised the issue herself, but might have good grounds to do so.

A recent case in Maryland highlights the problem. A woman applied for AFDC benefits for her new baby. She had left the baby's father because of his many acts of violence toward her and her other children (which was under investigation by Child Protective Services). She was not told about the "good cause" exception, but was simply told that to get benefits, she had to give the father's name. She did. She had had no contact with the father for about a year, but after he received notice of the hearing, he started driving by her house and threatening her. She called to report it to the agency, and to ask if she could be excused; she was told that nothing could be done, and that if she failed to appear, she would be arrested. She only learned about the "good cause" exception when she contacted the "Legal Forms Helpline" of the Family Law Center of Maryland; followup calls by an attorney at the Center confirmed that ignorance of the exception and the process for claiming it was widespread.

See note

5. Having States Define Cooperation: Don't Punish Women Who Are Cooperating, but Cannot Provide the Information Required.

As discussed in paragraph 3, the way many states interview women to get information about child support is seriously inadequate. They fail to ask specific questions, and if women cannot provide the information at the time, they fail to follow up. Women who do call with additional information find it hard to get through, or learn later that the information failed to get into the file. States should try to get more specific information than they do now. The problem is that some states have decided to make providing specific information an absolute requirement, and sanction women who are cooperating, but are unable to provide the information.

Massachusetts adopted a law which required all persons seeking public assistance (including recipients who had qualified under its old law) to provide the name and social security number of the putative father, or two other pieces of information from a limited list. The law required that the information be verifiable; thus, providing last known address or last known employer was insufficient. Lack of knowledge was no excuse. About 1,800 families had their benefits reduced under the policy, including women who had made extensive efforts of their own to locate the father, and women who had provided the father's address and employer when they first applied for AFDC, but which the state had not used. A preliminary injunction against the policy was issued by a Superior Court Judge in Massachusetts, who ruled that it discriminated against women and non-marital children, and violated due process because there was no rational basis for sanctioning women who are cooperating, but who cannot provide the information. Even Governor William Weld conceded that in applying the law to women whose children were born before the law took effect, the state may have made a mistake; litigation continues over its application in the future.

Virginia requires all women, except in documented cases of rape, to name the father of the child. Victims of domestic violence must provide the father's full name; however, if they succeed in establishing good cause, they need not provide the additional information which other women must provide to qualify. Even if the State believes a woman's statement that she does not have the required information, she will be sanctioned. Initially, only her share of the grant will be cut; after six months, the entire family will lose AFDC. Virginia applies its policy to children born years before; one of the plaintiffs in the lawsuit challenging the Virginia policy had her child 13 years ago, and applied for AFDC in 1994 when she had to leave work because of a disability.

Virginia's insistence that battered women name the father is a serious problem. Even without her further cooperation, the state may attempt to proceed on its own. This is a risk that will discourage many victims of domestic violence from seeking assistance they need to survive on their own -- or put them at risk if they do.

I would be happy to provide additional information.

CHILDREN OF DOMESTIC VIOLENCE

Children of domestic violence are at heightened risk for abuse during the pendency of criminal investigation and prosecution. Therefore, specific safety strategies should be employed to protect these children and their battered mothers.

Risks Posed to Children.

Reported child abuse fatalities increased last year by more than 10% over the number reported in 1990. Over the last 7 year period, child abuse deaths increased 54%. Sixty percent of these deaths resulted from physical abuse (National Center, 1992). How many of these deaths occurred in the context of domestic violence? Virtually all of them. Data reveal that serious child abuse almost always post-dates the infliction of serious abuse of mothers by fathers or male partners (Stark & Flitcraft, 1988).

Between 50 and 75% of the men who batter their wives or female partners also abuse their children (Walker et al., 1982). Every hour as many of 115 children are abused by fathers, mothers or caretakers in this country (National Committee for the Prevention of Child Abuse, 1986). Where a male perpetrator is identified, as many as 70% of the injuries inflicted on children are likely to be severe (Bergman et al., 1986).

More than 40 children are abducted by a parent each hour in this country. Most of these abductions are perpetrated by fathers or people acting on their behalf, including step-mothers and relatives (Finkelhor et al., 1990). More than 54% of these abductions occur in the context of domestic violence (Greif and Hegar, 1992).

Female children are at elevated risk of sexual assault in the context of domestic violence; girls whose fathers batter their mothers are 6.5 times more likely to be sexually assaulted by their fathers than are girls from non-violent homes (Bowker, Arbitel and McFerron, 1988).

There are also significant risks to children in witnessing domestic violence, and virtually all children who live in the circumstances witness the abuse of their mothers by their fathers (Pagelow, 1989). Boys who witness the violence of their fathers towards their mothers are at elevated risk for perpetrating domestic violence in their adulthood. Boys who have witnessed are three times more likely to hit their wives than those who have not. The sons of the most violent fathers may have a rate of wife beating 1,000 greater than the sons of non-violent fathers (Stark & Flitcraft, 1985). Data further suggest that girls who witness maternal abuse may tolerate abuse as adults more than girls who do not (Hotaling & Sugarman, 1986). And there are short-term consequences, as well. One-third of the children who witness the battering of their mothers demonstrate significant behavioral and emotional problems, including psychosomatic disorders, stuttering, anxiety and fears, sleep disruption, excessive crying and school problems (Jaffe et al., 1990; Hilberman & Munson, 1977-78).

Children who call the police for assistance to protect their mothers, children who intervene in a violent assault, and children who may be witnesses in any criminal prosecution are at elevated risk for retaliation by the perpetrator. Retaliation may be directed either at punishing the child or dissuading the child or mother from cooperation in prosecution.

The good news is that these negative effects may be diminished if the child benefits from intervention by the justice system and domestic violence programs (Giles-Sims, 1985).

Safety Strategies for Children.

All of the safety strategies employed on behalf of battered women may be, likewise, used to protect children who are victims or witnesses of domestic assault. Thus, arrest whenever there is authority to do so, conditions on release, no-contact orders, civil protection orders, weapons seizure, safe and confidential housing, preservation of confidential addresses and telephone numbers, and safety planning all are available to protect children in the context of domestic violence. These strategies should be used vigorously.

There are additional safety strategies that can be employed for children. These include:

- **Child abuse reporting.** The investigating officer and the prosecutor should carefully evaluate whether the criminal incident involved violence against the children. Often children intervene to attempt to protect their mothers. Sometimes they are injured, but not always. In the crisis of the moment, the mother or children may have forgotten that they attempted to protect the mother and were assaulted by the father.

If the investigator or prosecutor inquires about violence towards children and discovers that it occurred, additional charges should be filed against the perpetrator for child assault and a report should be made to Childline. These professionals should also advise the battered women of the importance of obtaining safe shelter so that the children are not abused again. This may mean obtaining an exclusion order or relocating. A referral should be made to community advocates and domestic violence programs to assist the woman in considering these options. The investigator or prosecutor might note that there will be an investigation by CPS pursuant to his report and that the CPS worker will look favorably upon the mother's initiative should she follow through on the referrals made by the investigator. A mother's pursuit of safety options will likely avert any placement of the children out of the home.

- **School and child care access.** Children are at risk of abduction from school and childcare, particularly after intervention by law enforcement or initiation of protection order proceedings. Therefore, it is critical that conditions on release, no-contact orders, and protection orders specify that the perpetrator is barred from contacting the children and is not allowed access at school or childcare facilities. Violation of these stay-away orders may thus result in revocation of bail or arrest.

Sometimes it is necessary for children to be relocated to confidential locations. When this occurs, it is critical that the enrollment of the child in a particular school district remain confidential. Thus, orders protecting a child from paternal access at school may also include a statement that the school district is not to disclose either the enrollment or withdrawal of the child from a district.

- **Supervised access.** In circumstances where wife assault and child abuse are not severe and where the risk of paternal abduction is low, visitation with the father may be appropriate. However, when prosecution is pending, unsupervised access may permit the perpetrator to threaten retaliation for cooperation with prosecution, abduct the child to prevent prosecution, or so substantially accelerate the child's conflict of loyalties that he or she experiences great emotional turmoil. To protect the child against abuse, abduction or distress, it may be critical to require that paternal access be supervised at least during the pendency of prosecution and often also after disposition. In circumstances of severe assault either on the woman or the children, visitation should be barred during prosecution and awarded after disposition only if it is in the best interests of the child, if visitation can be structured to prevent recurring abuse of the mother and the child and after the perpetrator has completed a comprehensive course of counseling related to his violence.

As in protection strategies for abused women, some safety strategies for children can only be initiated by law enforcement or the prosecutor and others by the mother in consultation with advocates and civil attorneys. It is critical that the prosecutor carefully evaluate and then initiate all appropriate

protective strategies. The prosecutor should also assist the battered woman in accessing advocacy services so that she may seek other protective measures on behalf of her children and herself.

Effective safety strategies will both protect the case and the victims of domestic violence.

Prepared by Barbara J. Hart, Esq., PCADV, May, 1992

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CHILDREN OF DOMESTIC VIOLENCE: RISKS AND REMEDIES

This paper will examine two issues - the risk to children posed by domestic violence and strategies for intervention to protect children from violent homes and their battered parents. It is imperative that the legal, medical and child abuse prevention communities join together to identify children at risk and to employ strategies that will both protect and heal the innocent victims of domestic violence, especially those most powerless, the children from violent homes.

Risks posed to children from violent homes.

1. Child abuse. Men who batter their wives are likely to assault their children. The battering of women who are mothers usually predates the infliction of child abuse (Stark & Flitcraft, 1988). At least half of all battering husbands also batter their children (Pagelow, 1989). The more severe the abuse of the mother, the worse the child abuse (Bowker, Arbitell, and McFerron, 1988).

Abuse of children by a batterer is more likely when the marriage is dissolving, the couple has separated, and the husband/father is highly committed to continued dominance and control of the mother and children (Bowker, Arbitell, and McFerron, 1988). Since woman and child abuse by husbands and fathers is instrumental, directing at subjugating, controlling, and isolating, when a woman has separated from her batterer and is seeking to establish autonomy and independence from him, his struggle to control and dominate her may increase and he may turn to abuse and subjugation of the children as a tactic of dominance and control of their mother (Stark and Flitcraft, 1988; Bowker, Arbitell, and McFerron, 1988).

Older children are frequently assaulted when they intervene to defend or protect their mothers (Hilberman and Munson, 1977-78). Daughters are more likely than sons to become victims of the battering husband (Dobash and Dobash, 1979). Woman abuse is also the context for sexual abuse of female children. Where the mother is assaulted by the father, daughters are exposed to a risk of sexual abuse 6.51 times greater than girls in nonabusive families (Bowker, Arbitell, and McFerron, 1988). Where a male is the perpetrator of child abuse, one study demonstrated that there is a 70 percent chance that any injury to the child will be severe and 80 percent of child fatalities within the family are attributable to fathers or father surrogates. (Bergman, Larsen, and Mueller, 1986). Data gleaned by PCADV from newspaper clippings in 1990 reveal that every three days a woman or child is killed in the Commonwealth by a batterer/father (Yupcavage, 1991).

Mothers who are battered may be more likely to physically abuse their children than are non-battered women (Walker, 1984; Roy, 1977; Gayford, 1975).

2. Child abduction. Battering men use custodial access to the children as a tool to terrorize battered women or to retaliate for separation. Custodial interference is one of the few battering tactics available to an abuser after separation; thus, it is not surprising that it is used extensively.

Each year more than 350,000 children are abducted by parents in this country; that is, 40.4 children are abducted per hour. Fifty four percent of these abductions are short-term manipulations around custody orders, but 46 percent involve concealing the whereabouts of the child or taking the child out of state. Most of these abductions are perpetrated by fathers or their agents. Fully 41 percent occur between the separation of the parents and the divorce. Yet another 41 percent happen after the parents are separated or divorced for more than two years. Three of ten of the abducted children will suffer mild to severe mental harm as result of the abductions (Finkelhor, Hotaling, and Sedlak, 1990). More than half of these abductions occur in the context of domestic violence (Greif and Heger, 1992).

3. Observation of violence against mothers. The majority of the children from violent homes observe the violence inflicted by their fathers upon their mothers; most research suggests as many as 90 percent of children from violent homes witness their fathers battering their mothers (Pagelow, 1990; Walker, 1984). One study demonstrated that some fathers deliberately arrange for the children to witness the

violence (Dobash and Dobash, 1979), and other empirical work suggests that the violence occurs only when the children are present (Wallerstein and Kelly, 1980). Children witnessing the violence inflicted on their mothers evidence behavioral, somatic, or emotional problems similar to those experienced by physically abused children (Jaffe, Wolfe, and Wilson, 1990). Boys become aggressive, fighting with siblings and schoolmates and having temper tantrums. Girls are more likely to become passive, clinging, and withdrawn (Hilberman and Munson, 1977-78). Male children who witness the abuse of mothers by fathers are more likely to become men who batter in adulthood than those male children from homes free of violence (Rosenbaum and O'Leary, 1981).

Research has only begun to examine the relative effects on children of witnessing parental violence as contrasted to being a victim of child abuse. It appears that children who are both witnesses of their fathers' violence toward their mothers and victims of child abuse experience the most profound adverse effects. But the children who only observe the violence perpetrated on their mothers manifest similar behavioral and emotional sequelae (Hughes et al., 1985). In comparing children not exposed to violence as contrasted to children who witness violence and children who both witness and are abused, data suggest that the latter two groups are most comparable and have heightened behavioral and emotional distress as compared to the former (Hughes et al., 1989).

4. Separation violence. Many professionals believe that the most effective thing that a battered mother can do to protect her children is to leave the battering husband. As a culture, we believe that if women leave, they will be safe, as will their children. Leave-taking alone does not protect battered women and children. Safety is only assured by strong legal and community protections.

Research confirms that battering men often escalate violence to re-capture battered women and children who have sought safety in separation. Battered women seek medical attention for injuries sustained as a consequence of domestic violence significantly more often after separation than during cohabitation; as many as 75 percent of the visits to emergency rooms by battered women occur after separation (Stark and Flitcraft, 1988). One investigation demonstrated that about 75 percent of the calls to law enforcement for intervention and assistance in domestic violence occur after separation from batterers (Langen & Innes, 1986). Another study revealed that half of the homicides of female spouses and partners were committed by men after separation or divorce (Barnard, et al., 1982). A study in Philadelphia showed that one quarter of the women killed by their partners were killed after separation and a significant number were killed while trying to separate from the assailant (Casanave & Zahn, 1986).

The following recent Pennsylvania tragedies highlight the experience of battered women and their children after separation and in their attempts to be free from life-imperiling violence.

- Last year on Father's Day three children were murdered by their father as he exercised unsupervised visitation rights; rights which the surviving and grieving mother strongly resisted to no avail. The court in central Pennsylvania awarded unsupervised visitation to the father in an apparently sentimental gesture so that he could be with the children on Father's Day. He had just returned from a drug and alcohol treatment program. An order of protection had been entered against him. The father had attempted to reclaim his wife, to recapture her and bring her back into relationship. When she resisted, he took the ultimate revenge and killed their children.
- In May of 1990 in Montgomery County, a man, against whom a protection order had been entered in favor of his wife and children, killed his son and stepdaughter after kidnapping them and holding them hostage the day after he learned of his wife's intention to file for divorce.
- In 1992 a battered woman, her children and her mother were killed in Pennsylvania as they attempted to escape from a batterer husband. The battered woman had packed her car with the personal items of those fleeing. All were killed in or nearby the car.

The risk to children in the context of domestic violence is substantial. Yet, the risk is virtually invisible. For example, the most recent edition of the journal of the Family Law Section of the

American Bar Association, which contains an annual survey of family case law across the country, is silent about the risk that domestic violence poses to children. The editors chose not to include the cases and commentary which address this issue. Similarly, medical publications, while identifying the danger of domestic violence to women, have not squarely addressed the nexus between domestic violence and child maltreatment. While the impact of domestic violence on women has "come out of the closet" over the course of the last fifteen years, the impact and risk of domestic violence for children remains a closely held secret.*

Strategies to protection children from violent homes.

Having identified the jeopardy to which children may be exposed in the context of domestic violence, it is imperative that professionals identify strategies to safeguard against these risks.

1. Risk identification and safety planning. A critical strategy for child protection is protocol development by the medical, legal and social service communities to help women recognize that they may be battered and that their children may be at risk for abuse. Once battered women have identified the abuse inflicted on them and the risk for child abuse, they can then design strategic plans to avert violence whether they elect to remain in residence with the batterer or separate from him. To accomplish this, professionals must consistently identify domestic violence and talk about safety planning with battered women clients/patients.** Informed battered women who are engaged with professionals in evaluating strategies to safeguard themselves and their children will best be able to make decisions that protect their children. In fact, there is strong evidence that battered women's efforts to utilize community resources to end the violence are greater when child abuse is present, demonstrating that battered women may be most motivated to change their circumstances when they conclude that it is critical to protect their children from the risks of abuse (Bowker, 1988). Research further reveals that child abuse, whether by fathers or mothers, is likely to diminish once the battered mother has been able to access safety services and achieve separation from the violent father (Giles-Sims, 1985; Walker, 1984).

2. Supervised visitation centers. The second strategy is a very practical and feasible solution -- supervised visitation centers. Much of separation violence is an attempt to coerce reconciliation. Since battering husbands/fathers have limited access to battered wives to attempt to compel reconciliation, they often choose the visitation arena as a place in which to attempt coerced reconciliation or to penalize the battered partner for refusal to reconcile. As a consequence, visitation must be a very protected circumstance both for the children from violent homes and battered women.

Supervised visitation centers must be available at no cost to children from violent homes in every county in this Commonwealth. We have to look outside of Pennsylvania for a model; the Domestic

* The good news is that endeavors to transform the consciousness of professionals and to engage them in collaborative initiatives to identify effective intervention strategies to protect children from violent homes have begun. The Pennsylvania Bar Association and its auxiliary sponsored a documentary last year entitled *Children of the Lie* about children in the context of domestic violence. The Pennsylvania Coalition Against Domestic Violence produced the documentary. It is an excellent tool for professional and community education. PCADV also produced a video for children from violent homes entitled *Scenes from a Shelter: Talking About Domestic Violence*, utilizing the medium of puppets to help children understand their experience and learn ways of non-violent, cooperative family relationships. For further information about rental or purchase of *Children of the Lie* and *Scenes from a Shelter: Talking About Domestic Violence*, contact Sabina Mitnaul, PCADV, 1-800-932-4632, 2505 N. Front Street, Harrisburg, PA 17111. *Scenes from a Shelter* will not be available for order until December 1992.

** A tool for personalized safety planning is available from PCADV for \$2.50. PCADV is available to assist professional organizations in the development and implementation of training programs for safety planning. Contact Chris Link at 524 McKnight Street, Reading, PA 19601 to obtain this document and information about training opportunities.

Abuse Intervention Project of Duluth, Minnesota began a supervised visitation center project several years ago. The facility offers supervised exchange, on-site visits and monitored visits, as well as education and counseling for fathers on parenting and the impact of domestic violence on children. Services and education are accommodated in a spacious and attractive, but secure, environment. Participants in the program are referred by the courts or child protective services. The center is open twice a week, one weekend day and one day and evening during the week. The program safeguards battered women and children from violence and child abduction, while providing fathers access to their children in an environment where they can begin to learn and practice appropriate parenting.

3. Safety planning for unsupervised visits. Planning for unsupervised visits can help children not only manage fear and anxiety, but can also enable them to develop safety skills and realistic safety plans to minimize the risk of violence during visitation. The process of safety planning further allows children of battered women to understand and manage the multitude of conflicting feelings they may be experiencing associated with visiting their fathers. It is critical that professionals help children identify safety issues and build problem-solving, safety skills. Safety planning for unsupervised visits may be initiated by professionals but should always be undertaken in consultation with the non-abusing parent.

Any safety plan must be realistic. The plan should be simple. It must be age-appropriate. The child must be competent to undertake the strategies designed. Perhaps only children above 8 years of age can be active participants in safety strategies.*

Conclusion.

Too often professionals do not identify domestic violence in the lives of female clients and are uncertain about remedial strategies even if abuse is identified (Hansen & Harway, 1992). Other professionals seek to penalize and blame battered women for failing to protect their children (Erickson, 1991). The inadequacy of these professional endeavors endangers and isolates mothers and often interrupts the potential for strong alliance between mothers and children in the pursuit of safety. Professional initiatives to empower women so that they can seek lives free of violence and achieve the legal authority to protect their children and themselves from recurrent violence are preferred. Early intervention by professionals can avert the risks posed to children and their mothers in the context of domestic violence and can assist women in establishing stable and secure households independent of battering men. Prevention efforts may offer children the best hope for violence-free and loving families.

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* For further information regarding safety planning for children during visitation, an article entitled "Safety Planning for Children: Strategizing for Unsupervised Visits With Batterers" is available from PCADV for \$2.50. Please address requests to Chris Link at 524 McKnight Street, Reading, PA 19601.

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Table 1. Behaviors associated with domestic violence witnesses *

Infants	Toddlers	School-age children	Teenagers
Injury to body	Injury to the body	Injury to the body	Injury to body
Poor health	Frequent illness	Frequent illness	Loss of childhood
Fretful sleep pattern	Shyness, withdrawn behavior	Psychosomatic complaints	"Perfect" child or "caretaker"
Lethargy	Low self-esteem	Hitting, stealing, lying	Helplessness
Physical neglect (diaper rash, sores)	Reluctance to be touched	Nightmares	Anger at the abused parent (loss of respect)
Vaginal or rectal discharge (often associated with sexual abuse)	Difficulty in pre-school or daycare (e.g., aggressiveness, biting, hitting, difficulty sharing)	Eating disorders	Identification with aggressor
Excessive crying	Poor speech development	Repetitive self-abuse	Isolation (fearful of bringing friends home)
	Separation difficulties (clinging, yelling, hiding, shaking)	Nervous disorder (e.g., stuttering, tics)	Delinquent behavior (e.g., running away)
	Excessive fantasy in play	Lack of motivation	Difficulty with siblings
		Poor grades	Heightened suicide risk (thoughts of doing away with self or parents)
		Depression	Drug/alcohol abuse
		Need to be perfect	Sexual-acting out
		Withdrawal	
		Attention-seeking	
		Sophisticated knowledge of sex	
		Drug-alcohol abuse	
		Regression (e.g., thumb-sucking, bed-wetting)	
		Protective of mother	
		Assuming parental role with younger siblings	
		Difficulty with siblings (displaced anger)	
		Identification with aggressor	



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Common Misconceptions Regarding Child Custody

There are several misconceptions that are contributing to the injustices in the custody courts and the bias against mothers. These are widely promoted in the media by fathers' rights groups, some successful women, and some lawyers who stand to gain more financially from men than women clients.

1. Misconception #1: Fit mothers always get custody. A mother can be fit and loving, have been the primary or even only caretaker of the child, and still lose under the present system.

Most state statutes do not recognize the parent who has been the primary caretaker of the child as a major reason for granting custody. Further, it's not only career women who are losing; stay at home mothers are losing as often. Yet, the media has incorrectly presented the argument that women, if they want custody, will just have to decide which they want most, a career or motherhood. Men don't have to make this decision.

2. Fathers are not the underdogs in contested custody. Studies show that mothers more often lose in these cases, 70-84% of the time. This is in spite of the fact that mothers overwhelmingly continue to be the primary caretakers of their children, whether they work or not.

What skews the statistics may be that many men do not contest custody, either because they consider their wives the caregivers, or that it is not their lifestyle. However, when tested, (contested), the above statistics hold.

3. It's a false assumption that the nurturing type of father is the one who usually goes for custody. Batterers, from our sixteen years of experience with this issue, are overwhelmingly the usual ones to contest. According to the American Judges Foundation, Inc.: "Studies show that batterers have been able to convince authorities that the victim is unfit or undeserving of sole custody in approximately 70% of these challenged cases."

4. It's a false assumption that if a woman can't afford a lawyer one will be appointed. This is only true in criminal cases, not civil (custody) cases. Many women, who themselves are victims of violence and their children who share their fate, are unable to protect either their children or themselves, because legal help for them is an impossibility. They can represent themselves, but judges often treat self representatives shabbily. Women are not getting *due process*.

5. Recently there has been an attempt to blame father absence as the cause of crime, poverty, drop outs, drug abuse, mental illness, delinquency and suicide. It is more likely that these ills are caused by the presence of bad fathers, fathers who batter their wives and physically or sexually abuse their children. It's mother absence, which is becoming so common, that is a much more serious problem.

6. Joint custody is particularly appealing to fathers' groups, often because it's a way to avoid child support. Joint physical custody, moving a child back and forth from one home to another, has caused serious stress and depression in children. Some states are even allowing fathers to use the amount of visitation requested to reduce child support. It doesn't mean they will necessarily fulfill that visitation, only that their child support will be reduced,.



THE WOMEN'S VOTE

February 1996



A Newsletter: Covering issues relevant to women

What is *the* most important feminist issue?

By Beth Owen

In a world created by the media, the most popularized feminist issues are: economic opportunity, choice, child care, sexual harassment and, on occasion, rape. Yet, *the* feminist issue of the 90's and beyond, for reasons I'll present here, is **contested child custody**. It has become the preferred weapon to oppress women, to set back every gain they've made. It's effective because nothing in this world matters more to a woman than her child.

Contested custody encapsulates every single feminist issue. Women are jailed for attempting to protect their children from abusive fathers. They're made financially destitute by fathers successfully using the courts to harass them. Fit and loving mothers no longer have any right to children they chose to bear and for whom they have been the primary caregivers. Further obliterating the mother's role, in some states even third unrelated parties can gain custody.

The largest segment of men who go for custody are batterers. According to the American Judges Foundation, Inc.: "Studies show that batterers have been able to convince authorities that the victim is unfit or undeserving of sole custody in approximately 70% of these challenged cases." Statistics of fathers gaining custody go as high as 84%. Many women are not able to get due process because they

can't afford the thousands of dollars for lawyers' up front fees. A lawyer can be appointed in a criminal case, not in civil (custody) cases. In covert court operations abusive fathers are frequently granted custody to children they are physically and or sexually abusing in spite of hard evidence of this abuse.

A woman, battered by her husband, leaves with her child. In a majority of cases the child has also been abused, or will be soon. The husband, as a means to control his wife, goes for custody. The courts then, instead of protecting mother and child, ally themselves with the abuser giving him custody. This is not an isolated phenomenon but is epidemic.

Often a woman and her child will flee from family violence to another state. Whereupon, in her absence, the husband will go into court saying she is depriving him of access to his child. She will then be considered a felon, extradicted to the husband's state, put in jail and her child turned over to the husband.

Tyranny always plays the same tune: oppression and injustice. But let me begin by describing the contested custody scene.

If two divorcing parents walk into court, each attempting to get custody, they have an equal claim to their child. Sounds fair, doesn't it? However, let me add, this is the case even if they've never been married and the father of the child has never lived with the child or supported him or her.

If someone asked you what standard you'd use to decide who should get custody, how would you answer?

You might respond "the fit parent who contributed most to the child in terms of nurturance" I doubt you would base your opinion on some future, unproven record of child care.

You might also say, "Continuity is desirable for the stability of the child; his long term familiar lifestyle should be maintained. You perhaps would note that mothers are still, in the overwhelming number of cases, the main caretakers of children, whether they work or not.

As for the chief criterion for determining custody, "the best interests of the child," your logical question might be, "How is this defined? Whose values determine these 'best interests'?"



The Women's Vote
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Susan B. Anthony

You'd assume that mothers almost always get custody, and that only an unfit mother would lose.

You'd also feel confident that custody of young children would go to their mothers.

Unfortunately, you would not be the judge in custody matters, and these opinions of yours would not be the ruling concerns of judges.

First, let's dispose of three widely held assumptions: 1) That mothers usually get custody, 2) That a mother must be unfit to lose, and 3) That babies and young children are given to the mother if she is fit.

Historically fathers almost always got custody, up until this century. However, for a few decades, in the 1920's, 30's, 40's and 50's, mothers were generally granted custody, only because fathers were discouraged from attempting it, and usually a mother had to be declared unfit to lose. All this changed in the '60s, in a backlash to the women's movement. Women's legitimate right to equality was turned back against them. This is how it came to be that a mother can be declared fit and loving and still lose.

"Domestic Violence results in more injuries to American women than all the rapes, muggings and automobile accidents combined." ("Family Violence packet National Council of Juvenile and Family Court Judges)

"50-75% of men who batter wives or female partners also abuse their children." (from Children of Domestic Violence. Manual National Council of Juvenile and Family Court Judges)

The general public has the notion that mothers usually get custody. This can be true when a case is not contested. Fortunately, a number of men are too decent to pursue custody, when, in fairness, they know their wives have been the caregivers. And many men don't want custody, as raising the children has not been a significant part of their lifestyle. However, when cases are contested, the father has a far better chance than the mother of winning. Statistics vary from 70% to 84%.

Even in uncontested cases, women are often bullied or terrorized into accepting decisions that are the worst for their children, for example, joint custody when it is not mutually agreeable. A couple of physical joint custody scenarios that come to my mind are, one in which a 1 1/2 year old girl spends two weeks with her mother and two weeks with her father. In another case, a four year old child, who's been living all her life with her mother and stepfather, is now required by the court to spend one year with her mother and one year with her natural father, to whom her mother was never married.

Most states, with provisions that the tender age of children (up to age 7), should be a consideration in giving them to their mothers, have removed these. Hence, even nursing infants are by no means assured of their mothers' milk. Infants and young children are often given to the father, although generally his new wife, his mother, or a hired hand will take care of them.

In an attack on working women, the media has incorrectly presented the argument that women will just have to decide which they want most, a career or motherhood. In actuality most state statutes do not recognize the parent who has been the primary caretaker of the child as a major reason for granting custody. Further, it's not only career women who are losing; stay at home mothers are losing as often.

Betty Friedan has described some of the mistakes women have made in their zeal for rights. "In the early days of the American movement, we fell into a trap when we said, 'No Alimony!' because housewives who divorced were in terrible straits. We fell into another trap by accepting no fault divorce without provision for a mandatory economic settlement."

What we have now is the trap of equal right to custody, which is really no fault custody. However, this equal right is arbitrary, not based on who has been the child's primary caregiver.

The disastrous effects on mothers and children is a national secret. The facts are smothered by lies and myths. The prevailing power of men is so thoroughly integrated into all our society's institutions, including the courts, that women themselves are often not aware of it unless they find themselves divorced and/or in a custody challenge. Psychoanalyst, Karen Horney, wrote: "I do not want to be misunderstood as having implied that all disaster results from male supremacy or that relations

Women can exercise political power. They constitute 52% of voters



" A Great Light"
woodcut by Susan MacMurdy

between the sexes would improve if women were given the ascendancy...At any given time, the more powerful side will create an ideology suitable to help maintain its position and to make this ideology acceptable to the weaker one...It is the function of such an ideology to deny or conceal the existence of a struggle.... This is why we have so little awareness of the fact that there is a struggle between the sexes. It is in the interest of men to obscure this fact, and the emphasis they place in their ideologies has caused women also to adopt those theories."

Secrecy is a strategy - and we must focus a bright light on every custody court in the country to reveal their disgraceful secrets.

An illustration of judicial gender bias is revealed by a tactic sometimes used by fathers. It is to keep a child after visitation, go to court and make false allegations against the mother and in this manner often successfully gain custody. On the other hand, if a mother prevents a child's return to the father to protect him or her from abuse, she risks being charged with kidnapping and facing a jail sentence.

Another strategy that sounds so fair and egalitarian, often to the feminist ear, is joint custody. Joint custody, is a backlash to the attempts to enforce child support.

Frequently men are told by their attorneys that if they have sole custody, joint custody or significant visitation (the percentage of visitation being equal to the amount of child support required) they will pay no child support or very little. Instead their ex wives will often, with their 72 cents to the man's dollar, if they work, pick up this slack.

Most important, however, joint physical custody, doesn't work. One wouldn't send a puppy back and forth between houses, so why a child?

In the '80's the strategy of men was that if women could be just like men, in the interests of equality in the marketplace, then men could be just like women in the nursery. Androgeny was the strategy of the '80's; men could be mothers. We were told the word mother is a verb not a noun. In the '90's the strategy is all out war, some of it underground such as fathers' rights organizations that pretend to be for child rights. The fathers movement's approach is to take no prisoners, except the child. The goals of their war against women are to render the mothers financially destitute, take their children from them, and preferably never let them see the children again. The status of all women is mortally affected by these draconian tactics against women and children. Could there be a feminist issue of more importance than this?

Recently there has been a specious attempt to blame father absence as the cause of crime, poverty, drop outs, drug abuse, mental illness, delinquency and suicide. It is more likely these ills are caused by bad fathers, those who beat their wives and physically or sexually abuse their children. It is mother absence, which is becoming so common, that is a much more serious problem.

A triumvirate that sustains the power of men and represses women includes: the legislatures, the courts and the media. The legislatures pass laws supporting the ideologies and interests of men. The courts, with their male values and power, often buttressed by case law promoted by fathers' groups, translate these laws and case law into decisions favorable to men. The media (another institution dominated by the interests of men), continually promotes and indoctrinates the public into the ideologies of men.

The hidden agenda in this misogynist age is to destroy women. What better and more effective way than to win in the battlefield of contested child custody?

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**NATIONWIDE OVERVIEW OF THE RELATIONSHIP BETWEEN ABUSES TO MOTHERS
AND CHILDREN AND CHILD CUSTODY**

Since the best explanations are usually by example, what follows on these pages are some cases representative of a number of issues. (See Table of Contents) Even though only a few states are mentioned under each issue, every state is involved in all of these.

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Backlash to Child Support



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**NATIONWIDE OVERVIEW
OF
THE RELATIONSHIP BETWEEN ABUSES TO MOTHERS AND CHILDREN AND
CHILD CUSTODY**

As National Coordinator of the Committee for Mother & Child Rights, Inc. I've found myself in a kind of Ann Landers role in the custody area. Like Ann, I find that the best teachers are the people themselves, in our case the mothers. The following are a few of the typical custody scenarios of fit and loving mothers we hear about daily: The people cited are real. Only their names are omitted for reasons of privacy. All states are involved in these situations and the preponderance here of one state over another is only because the cases chosen are particularly representative of an issue.

Physical abuse of a child by a father who has custody:

A Minnesota mother whose battering husband got custody: He fractured the skull of one child and he and his female partner abused the children by holding pillows over their faces until they passed out.

An Arizona mother who was never married to, nor did she live with the boy's father: The father was not on the birth certificate, and never had a relationship with the child, although he is the biological father. A few years ago, in the state of Washington, he declared the child dead, so he wouldn't have to pay child support. This man, who seriously battered the mother of the child, now has custody. The seven year old child surreptitiously telephones his mother, telling her of his father's beatings with a board with a nail at the end. The mother has taped conversations with the father saying he "enjoys" beating the child. Iowa, where the mother lives, had an opportunity under the Uniform Child Custody Jurisdictional Act to rescue this child but failed to do so, even though the child testified to police and CPS worker about his abuse.

In Mississippi A child is seriously and continuously beaten by a father; yet custody is continued with him. The child is too afraid to state the abuse to the court, because he knows his father always wins and he will have to go home with him.

Two little boys in a Georgia case, physically abused by their father, wrote poignant notes to the judge after their mother lost custody of them. "I feel sad because I can't see my momma. I want to live with momma because we used to trick or treat. I cry for momma," wrote one. The other child wrote: "I want to talk to the judge. I want to say that I want to live with my mom because she takes care of us and mom gives us birthday parties. I miss my mom." He followed this with two faces, an unsmiling face saying "with dad" and a smiling one "with mom".

Wyoming: Mother lost custody to ex who is physically abusive to child.

One solution: Children, when they're abused and there is documented evidence of this, should be able to have their own legal counsel, and not a Guardian Ad Litem, as these often tend to rubber stamp the judge who may already have been of no help in protecting the children. Criminal action should be taken by the lawyer on behalf of the child through the district attorney where the abuse occurred.. These should not be family court matters, as they are criminal and should so be treated.

Another solution: Protocol for judges needs to be written in stone: e.g. judges must state the reasons for their decisions and why evidence was not considered. Often, however, documented evidence is not even admitted.

Sex abuse:

A **California** mother finds out her child is being sexually abused by the father. There is medical and psychological proof. Yet the judge refuses to listen to the evidence and orders custody to the father and supervised visitation only to the mother. The mother is not allowed to take the child to the doctor to see if abuse is continuing.

In **West Virginia**, Linda's husband had oral sex with his daughters. The only evidence is her children's statements to a psychologist and to their mother. She is fighting visitation to the father..

A **Pennsylvania** mother's husband was convicted of sexually abusing their child and went to jail. Now he is out. He first got supervised visitation of child he molested. Then he got overnight visitations, and now he is seeking sole custody.

In **Illinois**, Kathy's three boys were sexually abused by their father. Yet DFS and the court still insist they visit with their father.

To protect her child from documented sexual abuse, Sharon, an **Ohio** mother, went underground for seven years. She was found, sent to jail and the child was turned over to the perpetrator. In phone conversations with the child, Sharon finds her rapidly going downhill in the two months she has spent with her abuser.

Although molestation was confirmed and the child's father was convicted of sexually abusing his oldest daughter, he has custody of the two younger ones in **Indiana**. The children chained themselves to the courthouse in a vain attempt to prevent their removal to their father's custody. The mother is allowed no visitation until further order of the court. Once a week she talks to her kids by phone.

A **Maryland** grandmother finds out her grandchildren are being sexually abused on visitation with their father and his parents. Then it is revealed that her daughter suffered domestic violence and rape regularly during her marriage. The husband seeks and has a good chance of obtaining custody.

Two **Pennsylvania** mothers independently reported their discovery of their husbands' involvement in child pornography. Both women lost custody.

One Solution: Order DNA testing if appropriate. Judges frequently punish mothers for raising the charge of sex abuse even if there is medical, psychological and the testimony of the child to police, teachers, etc. to buttress the charge.

Battering:

An Idaho battered mother commented, "The next time he gives me flowers it will be on my grave."

In another case of a battering husband, after the wife left with her child, he made several attempts to have her killed. The mother got custody four times in Texas. Fearing for her life and for the child's safety, the mother, who has dual citizenship, U.S. and German, fled to Germany with the child. Here she also was twice granted custody, with her husband present at the second trial. Then back in Texas, the American husband conducted a public campaign pretending he didn't know where his child was. It was called the "Where is Christy?" campaign. With the \$40,000 he collected in public baskets, he went to Germany and kidnapped the child. In the meantime he had gone for custody in Texas *ex parte*, pretending he didn't know where his child was. The mother is still desperately trying to rescue the child, who is still with the father living in a trailer, neglected and personally dirty, and is now quite brainwashed by this very disturbed man. In the meantime, this custodial father has burned the mother's clothes and the trailer in which she was living in Texas.

In Virginia, Diane's husband, alcoholic and abusive, split her head open, kept dynamite in the house. She lost her house and now is threatened with loss of her children.

In Texas, Mary was working in the kitchen cutting up vegetables when her husband physically assaulted her. He'd had a long history of domestic abuse. With no intent to use it, she threatened him with the knife in self defense. He is now going for sole custody of their children.

In Wisconsin, a batterer has joint custody. The kids have to spend every other weekend with him. They scream when that time comes.. He threatened to kill 6 year old son and his mother. The father has a criminal record. He injured a child in a DUI and spent six months in jail.

In Wisconsin, an emotionally and sexually abusive husband threatened the children's mother that she would never see kids again. He is a teacher and this is what has happened. She was a stay at home mother.

The following is a Massachusetts case. It is a classic example of domestic violence and its relationship to batterers seeking custody. This is from a letter written by the mother's now, second husband's sister:

"James (the first husband) brought a long criminal record and history of violence to his marriage with Kimberly. This criminal past includes convictions for assaulting three police officers, pointing a shotgun at another person, numerous assault and battery cases, permitting another to operate while intoxicated, harassing telephone calls, three counts of indecent assault and battery, assault with intent to commit rape on a minor, and numerous convictions for DUI in Georgia and Massachusetts. A prior girlfriend (after Kimberly left him) later testified that he had stalked, beaten, and choked her to unconsciousness and had attempted to kill her on two occasions. A police officer testified that his own son had told him James had improperly touched him..." "The father's own therapist testified 'that the father couldn't control his own sexual desires'. From the start, James brutally beat, threatened, and emotionally abused Kimberly, beginning on her wedding night. At her divorce trial, Kimberly testified she had been brutally beaten numerous times during the four years she lived with her husband. Police records confirm many of the beatings, including while Kimberly was pregnant with Jimmy. On one occasion, while Kimberly

was pregnant she was beaten and kicked about the face and stomach causing her to be hospitalized. After Jimmy was born his father would place the baby next to the mother and proceed to beat the defenseless mother unconscious. Kimberly continually attempted to leave James and successfully did so in September 1990 taking her 2 1/2 year old son, Jimmy with her. While the beatings stopped, the threats of terror and murder continued. On March 7, 1993 James went to the police and falsely stated that Kimberly had threatened to kill her child. ... (DSS never substantiated this false claim.) As a result of this, however, DSS placed the child with Kimberly's mother in law in Georgia. The separation from his mother so traumatized Jimmy he could no longer speak clearly and hid under furniture." In contrast to her ex husband, "Kimberly does not suffer from depression. She has no criminal record. She has no history of drug or alcohol abuse. She has no psychiatric admissions and has no D.U.I. arrests. Kimberly was steadily employed and respected by her fellow employees and clients. Kimberly does hurt from the abuse her little boy is suffering. In February 1994 Kimberly secretly taped (in Georgia) the child's attorney describing how 'Dorothy, (the mother in law) had turned on Kimberly and was 'very negative towards her'. In this taping, the child's attorney further disclosed to Kimberly that the child was living in a very bad situation and she didn't know how much longer she could leave the child with the grandmother. Fifteen months later the child's attorney has continued to allow this little boy to live in a bad situation, all in an effort to deprive the mother of her child."

"During the custody trial, the terrified mother carried herself with dignity holding steadfastly to her faith in her creator and the American system of justice. It seems that the Judge had a different system of justice for this oppressed woman. In issuing her Custody Order, the Judge found that Kimberly was an unfit mother and declared that one of her reasons was that she 'didn't cower in fear from the father.' The young mother stated after the trial, "I did what I had to do for my baby. I gained courage from staring at my country's flag while continuously praying to God. They gave me the strength I needed.' The result was that the child continues to live with the mother in law; the father has six days a month including overnight stays, providing his twenty-five year old girlfriend, pregnant with their second child, be the supervisor or anybody else that his mother approves. The Judge was unbelievably less concerned with Kimberly's rights as a mother and gave Kimberly two hours per week provided she could find a professional supervisor (at a cost to her of \$240 per week) and the supervisor would have to be approved by the court. and no overnight visits." During the trial "Kimberly testified in court that the investigator had openly declared that he hated her. Upon hearing this the husband's attorney (a Massachusetts State Legislator) told the young mother that the court investigator's hatred of her was a good decision and asked God to bless the man. In his closing statement this Massachusetts State Legislator addressed the Judge and said, 'I listened to this terrible testimony of the beatings, Judge. I said to myself, you know this is awful, awful stuff here, and it really is awful stuff. No question about it. And I said to myself, what does that show? It shows that the woman is an individual who does not make good judgments.' "... "In the twenty seven months of separation from her child, Kimberly has had less than twenty hours of visitation with her little boy. and not longer than two hours at any one time and no overnights."

Rebecca lost custody to a batterer in Utah. She heads a group of similarly afflicted mothers there.

In California, ex battering husband kept 11 year old son while on visitation with him in Washington state. The mother, an attorney herself, hasn't been able to get him back or see him. He's now 15.

In California, Debbie got a restraining order against abusive husband. He got a visitation order to see their child that night.

From Hawaii we hear a success story: "My custody 'battle' is over and I kept physical custody of my son and I am allowed to leave Hawaii. But it has been two years of agony and worry. During

the trial we were not allowed to bring up the physical abuse. It never occurred to me, after what my husband did to me when I was pregnant, that there would -- or could -- be a question of custody to him. This entire experience with the courts has made me feel that things are not only not getting better for women, I think they're getting worse. My husband walked away with all the property we had and no alimony payments. He makes almost \$60,000 a year and I was at home with our child. I owe my attorney \$20,000 (my husband does not have to pay any of it). As my attorney said, 'They gave you custody of your child and then took away any means you had of supporting that child!' But the important thing is that it's over..."

From **Florida**: "My little girls were taken last Friday and put with my husband, a very violent, controlling and demanding man-----all because they did not want to be alone with him or visit him at all. The court called this non-compliance. They drug them out of the courtroom screaming for their mommy. My husband had threatened to do this to me if I tried to get help from his violence. My little girls need your help."

A woman in **New Hampshire**, who had been a victim of domestic violence and now there is neglect and evidence of sexual abuse of the baby on father's part, writes: "I am presently in the process of a divorce and custody battle. My 3 1/2 year old baby boy is presently in the temporary custody of his father. I would have to say visitation is nearly impossible even though I am supposed to be allowed to visit my son by court order. He decides who if anyone I can bring with me, and if he's going to be there at all to allow me to visit my own baby. When I do get to visit him I am harassed, among other things, and somehow he is still controlling me and my life."

A formerly battered woman in **Missouri** writes regarding her children's visitation with their father that he is assaulting his new wife, according to the children, and that "They would feel safer with daddy if a policeman were present to keep him from hurting his new wife."

One Solution: States should have custody statutes like Delaware and Louisiana which disallow or restrict custody and/or visitation to batterers and child abusers. However, even those states sometimes fall short of enforcing their own laws in the courts.

Interstate:

Yesterday I heard from a mother, in **Texas**, married to a batterer who is mentally ill (diagnosed Multiple Personality Disorder) and extremely violent. The mother tried to escape from **California** to protect her children and herself. This man got custody ex parte in a state in which neither had residency, **Arizona**. The FBI found the children in Texas, jailed the mother, and gave the boy, age 5, to his father.

In **California**, Georgia was told by her twin boys they were being severely abused by their father. She immediately left with them for **Illinois**. Now she is wanted as a felon in California and will be extradited and jailed there.

A woman engineer sought employment for a year in **California**. She finally got a job in neighboring **Idaho**. She was told by the judge that if she doesn't move back to the initial state within six months, she will lose custody to the child's father. The father has been declared a sociopath by the court appointed psychologist. He, the father, is violent when drunk, which is daily. The mother, in the meantime, is ordered to send the child to him in California for a week's visitation each month. The child is 18 months of age.

T. called. Her case is the usual legal tangle that results so often when women are fleeing abuse of themselves and their children. She had been abused by her mother as a child and then, as we all have heard about the cycle that often occurs, she married a sexual abuser. When she found

out he was not only battering and raping her but was sexually abusing her children, she fled to the home she knew, her mother's. Hoping that her mother had changed, she found otherwise and had to flee again this time to a third state. The original state that had given her custody was Virginia.

In another interstate case, live in boy friend battered mother and sexually abused twin girls. She got permission from the Arizona commissioner to go to Virginia because of a better job. Yet the children were picked up and returned to abuser because a paternity action and visitation had been initiated in Arizona, although a custody order transfer had been initiated in Virginia.

Originally in Arkansas, Karen's psychologist husband, who has custody, moves from state to state to try to remove her from her children's lives. She continues to follow in a vain attempt to rescue her children, because he's abusive and neglectful to children. This means for her constantly finding new employment.

In New Jersey, Grace's ex husband was criminally prosecuted for sex abuse of her child; yet she was not allowed to move to the Carolinas.

From Texas: "I was in a 12 year abusive marriage and when I fled last year to Kansas for a better life, the Texas court, in effect, punished me. I went to a \$40,000 a year job in Kansas, and my husband had filed for a divorce and restraining order to keep the kids in Texas. On the advice of the DA and my attorney, I left with the children for Kansas. When I had to come back for court the judge said he was angry that I had left and the children were to remain in Texas because it was their home. We went through mental testing; the children talked to the Judge and even though the Judge determined that the children needed to be with me he would not allow them to live in Kansas. I had to quit my job and return to Texas. I was out of a job for 6 months and had to put up with the harassment and stalking of my husband. My attorney told me not to cause trouble and call the police. I live in fear each day because my ex uses his political power where he works to get things. He got my private phone number, had the belts on my car taken off, looks through my windows, got out of an assault charge and it goes on and on. He is now trying to start the Fathers Rights group here. My children are suffering something awful. They hate being with him and the abuse continues. I currently live on \$5.50 an hour."

One solution: A task force needs to address the UCCJA and clarify and simplify these laws which are not even understood by most lawyers and courts. A Federal law needs to be created that clearly spells out in a uniform and clear way what is to be observed by the states.

For example, a woman who seeks a safe haven from abuse for herself and her children should not be hunted down. She should not be treated as a felon faced with extradition and jail.

Mental and Emotional Abuse:

After suffering years of battering by her husband and rape by his brother, Wanda of Tennessee was hospitalized for depression. Custody of her 11 year old daughter, for whom she had been the primary caregiver, was given to the child's father, the batterer. He currently is sleeping in the same bed with the daughter.

North Dakota H.B. 1393, effective August 1, 1993, has among others a good provision regarding this issue of emotional abuse: "A victim of domestic violence may not be denied custody because she/he suffers from the effects of the abuse."

A woman in Maryland has lost custody of her child to the man who date raped her.

A Colorado mother, a teacher, writes: "The verbal abuse escalated to where I felt like I was the most worthless person on the face of this earth. Everything I did was wrong. I could not even wash the dishes the correct way. Every problem in the world was my fault. It was my fault that his mother died of lung cancer, that he couldn't go to his brother's wedding (we couldn't afford it), that he moved to Colorado, that he got a job he didn't like. you name it. It was my fault. After a while, I really began believing what he was saying to me...." "In March of 1991, my baby boy Kyle was born. He is the light of my life. Soon after Kyle was born, though, the abuse from Jim became worse, and he began physically abusing me. Jim would knock me against the wall, hit me, and throw things at me. He has also thrown me down a flight of stairs. Jim was into tiakwondo and would tell me that he could snap my neck and kill me, and no one would ever know it was him (Jim was a very big man, 220 pounds; I weigh about 105). When he would throw me around, he would always tell me that it was my fault because I made him mad." She lost custody.

In South Dakota, a father who has chosen to have no contact with his child for several years, suddenly has reappeared. The child is frightened because she doesn't know him.

An Oklahoma mother writes: "I'm 46 years old and have two children 7 and 9. I spent 17 years in a mentally and emotionally abusive marriage. My husband deserted us on Dec. 24, 1995 and he filed for divorce. Everything I financially had he has taken during the course of the marriage. Now he's trying to take my children by claiming I'm incompetent."

Kidnapping:

In Florida, Jennifer's husband stole her children and for that was rewarded with custody.

Pennsylvania mother, Christine's ex husband kidnapped their children and got custody. He uses drugs and mentally abuses children.

In Michigan, abuser of the mother is holding child hostage.

Fathers with Criminal Behavior who have custody:

In Kansas a convicted arsonist has custody. In a Missouri case, a battering husband admitted to driving eighty miles an hour under the influence of drugs with the child in the car. He was granted custody. There are even cases in which the father murdered the child's mother and was later given custody.

From the state of Washington, we hear: "I am involved in a very disturbing child visitation situation. My ex-husband is a person who has viciously murdered one man and has assaulted several other men and women. He has abused me emotionally/mentally and has threatened to kill me. He has abused my son (when he was 3-11 months old) physically and mentally via endangerment/neglect and has threatened to kidnap him several times. He abuses alcohol and uses drugs at least on occasion. He continues to commit illegal acts. He is currently wanted in the State of Oregon for Failure to Comply for driving offenses. Local counsellors have diagnosed him as having antisocial personality disorder (sociopathic). I am desperately trying to terminate this man's parental rights to my child--I want to protect my son!"

From **Colorado**: "Almost two years ago my estranged husband requested a visit with our daughter. He took her to his home state (**Iowa**) and refused to bring her back. I had been unable to find out where they were until a few months ago when the State of Iowa requested child support, which had been ordered through his mother. At this time I found out he was serving a prison sentence and his mother was raising our child. His mother refused to let me see our daughter and moved to another address. I attempted to seek legal assistance and with limited funds have not found an attorney yet. Legal Assistance refused to help because they do not offer assistance with cases concerning custody."

One solution: Regular screening tests should be mandated when there is evidence of alcoholism or drug use.

Babies with Fathers who have custody or overnight visitation:

In **Pennsylvania**, Melissa has joint physical custody with her ex of 7 month old baby.

In **Ohio** a three month old breastfeeding baby has to visit father on overnights.

In **New Jersey** a 1 1/2 year old girl spends two weeks with her mother and two weeks with her father.

In another case, **New Jersey**, a four year old child who's been living all her life with her mother and stepfather, is now required by the court to spend one year with her mother and one year with her natural father, to whom her mother was never married.

A **Kentucky** mother lost custody of her new baby to battering husband.

Alienation:

A recent, very common ploy is to charge the mother with alienating the child against the father often in cases in which the father has abused the child (It could be called turning the tables.) A case in **D.C.** comes to mind. However, this is something I often hear that's occurring all around the country.

There are, however, sometimes cases in which a child actually is turned against one parent by the other. In extreme cases, formerly loving children become violent to a parent they previously loved more than anyone else in the world. (Stockholm syndrome). This occurs sometimes in situations where a child identifies with the aggressor, a batterer for example. We've heard of these cases from **California** to **Maine**.

A **New Hampshire** father convinced his kids to speak against their mother to the G.A.L. Actually the father was the abusive one in the marriage. The children told a different story to every authority, but, unfortunately what they said to the GAL was what counted against the mother in court and the mother lost custody.

Gender Bias and Civil Rights:

A **Florida** mother: "I am writing this in a desperate effort to seek assistance in a court ruling that has left me financially and emotionally devastated. I believe the judge's ruling was based on a desire to appear unbiased toward the father thereby creating prejudice toward the mother, me. Considering that the judge said that he found my husband and me equally fit, sound and upstanding parents, my head still swims in shock that he would award primary residential custody

of our 6 year old female child to her male parent much of which time he must hire a stranger to care for her. I am home for my daughter every night. Please let me assure you that I am not an alcoholic; I do not take drugs, I do not have a criminal record, nor do I abuse my child. However, what the judge has condemned me to is a social stigma usually reserved for child molesters, child abusers, alcoholics, druggies and prostitutes since these are the only mothers judges sometimes do not give custody to. (*Wrong! Editorial comment*). The reasons the judge gave for his decision to take our daughter out of an established primary residence hinged on matters stunningly incidental, unsubstantiated accusations from an angry man. None of the issues cited justify this court action. The judge stated that he was acting in the best interest of the child. How can this be? My daughter has lived predominantly with me as primary custodial parent and my husband voluntarily giving me child support payments. These facts seem to have mattered little or none at all to the judge.

In addition to taking our child away from me, the judge ordered me to pay \$533.00 per month in child support to a man who makes over \$100,000 a year more than I do. If the judge had cared to review evidence submitted by me he would have seen that his ruling creates the very situation he was allegedly trying to avoid. Because of this ruling, I will now lose my home, possibly to foreclosure. I have to sell furniture and other personal effects to cover debts. I must move 70 miles away from my daughter in order to be closer to work and save commuting costs. I must sacrifice any additional visitation time with my daughter in an effort to increase my earning power to pay child support. If the judge had ruled to leave the situation as it had been, with me acting as primary residential parent, neither parent would have been financially crippled, nor would a hired employee have to raise our daughter. But most of all, a small child would have been spared this disruption ."

A **South Carolina** mother writes: "Losing custody of your children is a lot like death. You alternate between feelings of rage at the situation, disbelief, guilt over imaginary situations 'what if I had only...', extreme sorrow, depression and shame. I still find myself telling people that my ex-husband and I share joint custody now. I feel like they will look at me as if I must have been a 'bad ' mother or a derelict person. What society believes about custody battles and what is really happening in our court system are two completely different things. In telling my story to other women, I try to emphasize the fact that it could very well happen to them. And, that is what is so scary; that right now and in this country, children are taken out of the only home they have ever known for no logical reason. They are then expected to pick up the pieces of their broken lives and grow up as though nothing has happened."

A **New York** mother writes: "I have learned that in this great U.S. of A there are no such things as women's or children's rights. I have fought hard and long for too many months and I feel so defeated."

A **Colorado** judge refuses to release Colorado's jurisdiction even though neither parent resides in the state and the custodial mother has long established residency in New Mexico.

In **Colorado** a court is being used to harass the mother. The ex husband is allowed to go into court every two months regarding remodification of custody. This is a tactic used by many men to render a woman financially destitute.

A **North Carolina** mother writes: "I have been denied every basic human right and have suffered physical abuse numerous times." "My husband has already threatened to kill me and every member of my family." This is another case where the father is seeking custody and by attrition will probably get it.

A **South Carolina** mother writes: "Gender bias is alive and well, at least in our County's Family court system. Unfortunately, South Carolina has little to no resources with which to deal with this

problem. I have been beating my head against a wall trying to find someone who can help with this situation, let alone even acknowledge that it exists."

Holly is remarried, but can't move to another part of California. Ex was a batterer and she has to stay where he is or she will lose custody.

A mother is remarried to a New Jerseyite, but can't move from Arkansas because Arkansas can transfer custody to the other parent if a custodial parent moves to another state.

A California Congressman's office called regarding a mother who's faced with jail for fleeing domestic violence with her children from California to Arkansas. California will extradite her.

A Montana mother, a professional woman, a fit mother who was primary caretaker of her children, lost custody to her husband, a physician, who now resides in Alaska with the boys. The mother, who now lives in North Carolina because of her employment there, is not allowed any contact with her sons, by the father, though there are court orders to the contrary. The mother's funds are exhausted from the custody battle.

A Maryland mother lost custody because the judge said her husband, a psychologist, was better educated. She had no money to appeal.

A Louisiana mother lost custody because her financial status was poor. Of course she was not able to appeal.

A Rhode Island mother has joint legal custody. Her ex is going for custody and she has had no contact for over a year with her children.

Elizabeth writes from New Mexico, "Custody was awarded to my husband with no opinion given by the judge. "The children were placed with their father in contradiction of all the psychologists' recommendations. They were taken from a full time mother and placed in day care. They were immediately moved out of state, and this at the beginning of the school year. The youngest was to start kindergarten this year too. Going by his past actions, I do not think I can be part of these children's lives if he remains the custodial parent. I also do not think the children can thrive with him any more than I did. And I certainly think parental care is preferable to day care when it is so readily available. I am begging for any help you can give us. This ruling is so wrong, and I am so afraid for my children's future."(This case involved domestic abuse by the husband and physical and sexual abuse of the children.)

A Michigan grandmother writes: "Our legal system destroys women and children. Our daughter has tried to go back to an abusive situation but her husband is so ill it is impossible. He gets over \$1,000 a month in child support as well as free day care from the State of Michigan. The mother is able and willing to care for her own children; yet the State of Michigan pays for her children to be placed in custodial day care where there is no stimulation and according to our granddaughter 'the rod is used so that Scripture is obeyed'. If you have any advice on how Kathy can save her children please let us know what to do. We have spent thousands of dollars in legal fees. We have remortgaged our home and our daughter has used up every penny of her meager savings and huge bills still face us. Does this happen often in America? Doesn't anyone care about our children?"

I've been told that in Vermont, after a divorce when a woman wants to change her name to something different from her ex husband's, his permission has to be granted. I don't know if exceptions are made to this or not.

An **Alabama** mother was unable to get a *change of venue* even though she had pictures of her husband socializing on his boat with the judge. She lost custody and did not make out any better on appeal.

A number of professional **Connecticut** women have lost custody. In these and most contested cases women are often judged by a different and far higher standard than men. In a **D.C.** case, although both parents were professionals, the judge, who awarded custody of the children to the father, did not appear to hold the same standard for each parent. The judge wrote, in part, what sounds rather punitive: "A woman is as entitled as ...a man to put her work ahead of the other demands in her life...Having consciously or unconsciously made that decision, (the mother) must live with the consequences."

A **Nebraska** woman lost custody because she's handicapped, though not in any way that would affect the raising of her children.

A **Nevada** mother seemed to have a strong case until she testified: "Yes, I have had sex since the divorce." She lost custody.

An **Oregon** woman writes regarding her **California** cases: "As an African American, I am not unaware of the inequities of the American Legal system. I am somewhat embarrassed to admit, however, my shock when I became the victim not only of a subtle form of racism, but of unbridled sexism, as I pursued what I thought was a simple divorce spurred by domestic violence. My life has turned into a nightmare, almost overnight. Judge _____ is highly publicized for his behavior towards women in his courtroom. I have enclosed a newspaper article describing his unbelievable behavior. He currently has at least two suits pending against him. He has completely ignored the domestic violence issues surrounding my case despite the fact that both Oregon's Judge ____ and District Attorney made judicial findings of domestic violence. Judge ____ ignored the reports of the court mediator and a certified mental health practitioner concerning my son's welfare. The judge's most loathsome action was the unlawful, unconditional jail sentence he gave me for fallacious contempt charges. He allowed my ex-husband to change his plea during the hearing. He also allowed the alteration of documents already entered into evidence by my ex-husband's attorney; documents which demonstrated my innocence of this capricious charge. The record shows this inexplicable alteration."

Third party custody:

In **Delaware**, a biological mother and her ex husband, (first marriage, the biological father of the child), both lost custody to the ex husband's second wife and have to pay child support to her.

A **Vermont** mother was kicked out of the home by her husband. They'd had a child together, but he wanted custody not only of their child but a child she had previous to that marriage. And he did get custody of that non biological child also.

One solution: Primary parents, either mother or father, have first right to custody. (One might argue that the right to parent is more important than Constitutionally guaranteed property rights.)

Mothers Denied Due Process:

An Oregon mother writes: "My daughter was taken from me by the Denver courts unethically and immorally by false documents and covert information and threats. This was done in an abrupt manner because I could no longer obtain an attorney, because I ran out of money. My daughter does not know her father, and I was not married to him."

In North Carolina, a court won't allow a case to be heard, though CPS and GAL agree the children are being physically abused.

Backlash to Child Support

Kentucky mother: She writes regarding her husband's statement to her: "If you make me pay child support, I'll fight you for custody of Michael. These are words that strike terror in any parent. These were words that were spoken to me nine months after my spouse and I separated." And she continues: "Through testimony and court appointed psychological testing, it was stated that I had cared for our son since birth and this arrangement (to continue to reside with me) would be less detrimental to Michael (age 8) and should continue." (Yet this mother lost custody).



COMMITTEE FOR MOTHER & CHILD RIGHTS, INC.

WHY?

The Committee for Mother & Child Rights, Inc. is a national organization offering emotional support and guidance for mothers with child custody problems.

The inability of mothers to protect either their children or themselves is evidenced by the fact that fit mothers are losing custody upon divorce at an increasingly alarming rate. Statistics vary from mothers losing in contested cases from 51% to 84% of the time. This is particularly dismaying considering that mothers are still overwhelmingly the primary caretakers of children.

Historically fathers almost always got custody. However, for a few decades in the 20th century mothers generally got it, not by law, but because few men contested. However, in a backlash to the women's movement and the impetus to get "deadbeat" fathers to pay child support, a mother's bid for custody has been significantly challenged.

HOW CAN THIS HAPPEN?

In custody court, changes in case law and state statutes have increased a mother's need for guidance for the following reasons:

It is no longer necessary to prove a mother unfit for the father to gain custody. A mother can be declared by the court to be fit and loving and still lose. In most states the "tender years" doctrine has been rejected (that young children up to age seven remain with their mothers). Further, most state

laws mandate that the father and mother have an equal right to custody. No equity is allowed the mother for her usually far greater child care contributions. Courts largely ignore that. Focus is put on future parenting rather than the evidence of the past.

"BEST INTERESTS OF THE CHILD"

The chief criterion used by courts in determining custody is the "best interests of the child". However, most state statutes do not define "best interests".

Consequently, this phrase means whatever a particular judge decides it should mean, including in many cases which parent has the most money or prestige. In most cases the father is the more financially advantaged. Or, a judge may have a desire to put women "in their place". A number of states have done studies proving that women lawyers and women clients are discriminated against in the courts.

Contested custody has been described as having an effect on a child worse than the death of a parent. And, too often the motives are revenge, a way of continuing violence, control, sex abuse, or a method of achieving financial leverage, none of which have anything to do with the child's "best interests".

OUR POSITION

The Committee for Mother & Child Rights, Inc. was founded by four mothers who personally experienced contested custody. The organization's position is that maternity is not a woman's only destiny and that women are entitled to equal opportunities in areas in which men and

women have the same potential, e.g. when the issues are educational, economic or political equality. On the other hand, custody requires some equity to equalize the situation, considering the mother's biological and usually far more significant nurturing contributions.

At present only a few states recognize the primary caregiver in determining custody. It is our belief that if this were a criterion, most state custody statutes would be more just and better serve the interests of children.

JOINT CUSTODY

Joint custody does not work unless both parents want it. Further, joint custody is often a financial ploy to minimize the father's child support or eliminate it altogether. Once considered the trend, joint custody has generally proved a failure, so experienced courts are backing away from it.

WHAT CAN BE DONE?

One mother wrote, ***"I am eager to hear from your group for suggestions, comfort and ideas." These are the needs we hope to address.***

We are concerned with the various abuses often associated with contested custody: mental, physical and sexual. And, we are working, together with various coalitions, on these issues.

If you would like to contact us, please call: 540-722-3652,
or write to:

ElizaBeth Owen
National Coordinator
Committee for Mother & Child Rights, Inc.
210 Ole Orchard Drive
Clear Brook, Virginia 22624-1647

**VAWA CASES
UNITED STATES ATTORNEYS**

MAY 15, 1996

DIST.	US v	STATUS	SECTION
AZ	JAMES, R.	3/5/96 Indictment filed; warrant is outstanding	2261
CA/E	STEELE, RICKY	12/11/95 Sentenced to 87 months and ordered to pay \$1,018 in restitution	2261
IL/S	MORO	A complaint on the 922(g)(8) violation was filed; the state case has recently concluded and he has been found guilty on several counts including two minimum-mandatory provisions.	922(g)(8)
IA/N	HUNGATE, S.	9/95 Complaint charging with mailing threatening letters. 10/25/95 Indicted on 922(g)(8) charge and was ordered detained, pending court ordered psychiatric evaluation.	922(g)(8)
NY/E	HAYES, WAYNE	Scheduled for trial 5/13/96	2262
NY/N	CASCIANO, MICHAEL	4/11/96 Guilty verdict	2262

DIST.	US v	STATUS	SECTION
NY/S	GLUZMAN, RITA	4/18/96 Complaint filed. This is the first reported use of the statute to charge a woman with domestic violence against a man.	2261
OH/S	PAGE, DEREK	11/8/95 Indicted; 1st jury deadlocked; 4/12/96 2nd jury found him guilty; awaits sentencing	2261
OH/S	MEISNER, JEFFREY	2/26/96 Pled guilty; awaits sentencing	2262
SC	MAHAFFEY, LARRY RAY	1/23/96 Indictment	2262
SD	GOBEN, ROBERT	9/11/95 Pled guilty and sentenced to 12 months	922(g)(8)
TX/E	HORNSBY, MICHAEL	9/21/95 Pled guilty; sentenced to 60 months Case is pending appeal in the Fifth Circuit.	2261
TX/N	GRESHAM, ROGER	Trial is set for May 28, 1996	2261
TX/N	LANKFORD, WILLIAM	The first trial resulted in a hung jury. Retrial is set for May 13, 1996.	2261
VA/W	ROMINES, WILLIAM R.	Trial is pending a psychiatric evaluation report regarding the defendant's competency to stand trial.	2261

DIST.	US v	STATUS	SECTION
WV/N	PHILLIPS, EDGAR	4/1/96 Pled guilty; he has also been charged with and pled guilty to conspiracy to distribute cocaine in a separate indictment. Awaiting sentencing.	2261
WV/S	BAILEY, CHRISTOPHER	9/1/95 Sentenced to life in prison. Case is currently on appeal in the Fourth Circuit.	2261

Dana West Mtg

Tues
6/11

child's right to be heard

majority of these cases are being brought
by batterers

- Domestic violence → affect on child

- Ct orders

Custody becomes the battleground

- using various proceedings
to continue the abuse

most men have more \$ so they can
draw out the proceeding

ME

- judge sensitivity training

- court costs in custody battles

- "best interest of child"

- judge's discretion

- special training for domestic violence

try to prevent domestic policy initiatives

are not working at cross-purposes →

Child support v. domestic violence

Child support system has to have security

- legislation in Hill does not have security
in the systems so that stalker
could not have information for his
benefit

increase father involvement
Share burden of raising
Children

Involving parents in positive development

This discussion of identifying all
fathers has drawback because
In some situations you don't want
father near the ~~kid~~ kid

Welfare agency to child support agency
don't know about ^{it} exception for good
Cause

~~She~~ ^{the} ~~pro~~ case where she provided
information on father to child support
agency & father found out & threatened
her

→ Need to know you are protecting the
child & a wife from abuse

most states do not care that the father
did not pay child support when granting
custody

Over 40 states require domestic
violence to be considered in custody battle

Interstate Kidnapping Offense ^{Signed} in Dec 1993
complete defense

28 USC 1738(A)

write in
presumption
that ~~Per~~ Fed Parental Kidnapping Act
Custody not be given to abusers

National Protection Order Registry

H Con Res 172 (Rep Morella)

lot of cases, judges will not even
hear the evidence

claim it is too old

require written findings

↳ details what E was considered
(so put burden on the judge to
defend his/her decision)

also, gives you something to appeal

Mediation

is very noble notion, but works
only when both parties have equal bargaining
power. Can't work when one side is
weaker than the other.

movement to get states to move to a
joint custody model

Some prosecutors are using child abuse
statutes to go after domestic violence

→ AA have to be careful, cuz pulls in
wife, sometimes, too.

→ Leadership at National level

Sexism in the judiciary

Legal Services Corp being zeroed out
is a problem

↓
we need anecdotes on this!
go after CJS Bill

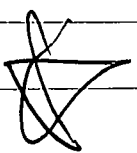
battered ~~women~~ women are going
↓ this is the only source they have

Bennett

welfare

Child support →
reduce the contact w/ the Father
(so we can improve their safety)

terrible system that keeps them
in constant center



Virginia applying for waiver for domestic
violence
→ Check that

no exception

Be careful when POTUS talks about
child support enforcement

MAIL-IT REQUESTED: JULY 15, 1996

100Y5T

CLIENT: OPD
LIBRARY: NEWS
FILE: PRESDC

YOUR SEARCH REQUEST AT THE TIME THIS MAIL-IT WAS REQUESTED:
DATE AFT 1992 AND HLEAD (REMARKS OR ADDRESS) AND DOMESTIC VIOLENCE

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LEVEL 1 - 1 OF 18 DOCUMENTS

Public Papers of the Presidents

May 17, 1996

CITE: 32 Weekly Comp. Pres. Doc. 887

LENGTH: 3535 words

HEADLINE: Remarks at a Dinner for Representative Richard Gephardt in St. Louis, Missouri

... not only catching criminals and closing crack houses, but preventing crime from occurring.

And we passed a bill that put 100,000 more police on the street, that took a serious position against domestic violence for the first time and gave the communities of this country the resources to help deal with that. It stiffened our abilities to break the serious gangs and to deal with the international threat of drugs. We passed the Brady bill. We passed a ban ...

LEVEL 1 - 2 OF 18 DOCUMENTS

Public Papers of the Presidents

February 21, 1996

CITE: 32 Weekly Comp. Pres. Doc. 347

LENGTH: 1541 words

HEADLINE: Remarks on the Unveiling of the Domestic Violence Hotline and an Exchange With Reporters

... Ellen Fisher, and your entire team for your hard work and your leadership. We are counting on you.

I want to thank all the brave women in this audience who have survived the horrors and the fears of domestic violence and who have gone on to work, like Candice, as advocates. And I want to thank the men and the women who are here today, some in law enforcement, some in other walks of life, who are here because they believe ...

... I believe that all of us, even those of you who are advocates, may well be surprised by the sheer numbers, the volume of calls.

So I ask you as you leave today to reaffirm our common commitment to an end to domestic violence; to reaffirm our common commitment to saying to people, you



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Public Papers of the Presidents

must not raise your hand in violence against members of your family in your home; and to reaffirm our commitment to get this number everywhere. I ...

... 3224.

I thank you for mentioning that.

Thank you. Thank you all.

NOTE: The President spoke at 12:38 p.m. in the Roosevelt Room at the White House. In his remarks, he referred to Candice Slaughter, domestic violence victim, and Ellen Fisher, hotline director.

LEVEL 1 - 3 OF 18 DOCUMENTS

Public Papers of the Presidents

January 23, 1996

CITE: 32 Weekly Comp. Pres. Doc. 90

LENGTH: 6102 words

HEADLINE: Address Before a Joint Session of the Congress on the State of the Union

... I challenge all of us and every American to join their efforts.

I call on American men and women in families to give greater respect to one another. We must end the deadly scourge of domestic violence in our country. And I challenge America's families to work harder to stay together. For families who stay together not only do better economically, their children do better as well.

In particular, I ...



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LEVEL 1 - 4 OF 18 DOCUMENTS

Public Papers of the Presidents

October 16, 1995

CITE: 31 Weekly Comp. Pres. Doc. 1847

LENGTH: 4441 words

HEADLINE: Remarks at the University of Texas at Austin

... men and women respect each other, when they have partnerships, when men are as involved in the homeplace as women have become involved in the workplace. It means, among other things, that we must keep working until we end domestic violence against women and children. I hope those men in Washington today pledge among other things to never, never raise their hand in violence against a woman.

So today, my ...

LEVEL 1 - 5 OF 18 DOCUMENTS

Public Papers of the Presidents

October 14, 1995

CITE: 31 Weekly Comp. Pres. Doc. 1838

LENGTH: 956 words

HEADLINE: The President's Radio Address

For too long, domestic violence has been swept under the rug, treated as a private family matter that was nobody's business but those involved. Fortunately, that's changing. In recent years, a huge public outcry against domestic violence has been rising all across the Nation. In our churches, schools, and throughout communities, we've begun to bring this problem out in the open and deal with it. Now everyone knows it is cowardly, destructive of families, ...

... Wynn, a young man who himself grew up in a home where his father abused his mother and the children. But that experience motivated him to become a police officer and to dedicate his life to preventing domestic violence. For the past 10 years, he's been educating police nationwide about the seriousness of this problem and what to do about it. And he spearheaded the creation of a special domestic violence unit in the Nashville Police Department that has helped to reduce domestic murders by 70 percent in the last 6 months alone.



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One year ago, we made a major commitment in ...

... In just a year, 25,000 of these new officers are already out there working to help make your life safer. And I've put aside \$ 20 million to train our police to effectively deal with the problems of domestic violence.

The crime bill also included the landmark Violence Against Women Act. For the first time in our history, the Federal Government is now a full partner in the effort to stop domestic violence. The Violence Against Women Act combines tough new sanctions against abusers with assistance to police, to prosecutors, and to shelters in the fight against domestic violence.

Just last week, we awarded grants to organizations in 16 different States to assist in their efforts to stop the violence and support the victims. And soon we'll establish an 800 number where women facing ...

... responsibility for ending it. So let me close today by speaking directly to the men of America, not just as President or a father or a husband but also as a son who has seen domestic violence firsthand.

We all know how much we owe to the sacrifices of the women who are our mothers, our wives, our sisters, our daughters. I was fortunate enough to be raised by a loving mother who taught me right from wrong and ...

LEVEL 1 - 6 OF 18 DOCUMENTS

Public Papers of the Presidents

October 6, 1995

CITE: 31 Weekly Comp. Pres. Doc. 1775

LENGTH: 5605 words

HEADLINE: Remarks at a Freedom House Breakfast

... a statement made by the First Lady at the Women's Conference in Beijing, where she condemned abuses of women and their little children, and especially their little girl children, throughout the world, not sparing the problems of domestic violence and street crime here in the United States.

These are the kinds of things that America must continue to do. From Belfast to Jerusalem, American leadership has helped Catholics and Protestants, Jews and Arabs to walk the streets of their cities with less fear of bombs and ...



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LEVEL 1 - 7 OF 18 DOCUMENTS

Public Papers of the Presidents

October 2, 1995

CITE: 31 Weekly Comp. Pres. Doc. 1750

LENGTH: 1906 words

HEADLINE: Remarks in Observance of National Domestic Violence Awareness Month

... homes and at work and in our lives.

This problem has been swept under the rug for quite a long while now. It's really always existed at some level or another. It is time to recognize that domestic violence can quickly and easily become criminal violent activity that affects us all, regardless of our race, our income, or our age, regardless of where we live or what we do.

You've heard about how it increases health costs and absenteeism and ...

... see all over the country now community policing lowering the crime rate. You do not have to put up with this; we can make this better. We can bring the crime rate down, and we can certainly reduce the rate of domestic violence.

But the Violence Against Women Act is really a peculiar part of the genius of the crime bill because of its commitment to raise to national prominence an issue that had never, ever been there before and because it combines tough sanctions against abusers with ...

... it to be a part of this movement, to sensitize prosecutors, to sensitize judges, to sensitize all of us in decisionmaking capacities, whether or not we had domestic abuse in our homes.

And let me finally say that as a kickoff to the National Domestic Violence Awareness Month, I signed today an Executive memorandum to ensure that our Federal Government continues to be a leader in this national effort. I've asked the heads of all the executive departments to conduct employee awareness campaigns modeled after the one that the Attorney General has put in place at the Department of Justice, to provide information and the resources to deal with domestic violence. After all, we know there must be Federal employees at work, even as we speak, who themselves are the victims of domestic violence and who are sitting there at their desks staring blankly at a piece of paper while we here proclaim victory in this fight, and they haven't even taken the first step. So we want to set a good ...

... a chance to create a better life."

Now, I hope because of all these efforts, we will all, with each breath we take, resolve that a part of that better life will be less and less and less domestic violence and abuse, until we have taken it out of the spirit and the soul and the life of the United States of America.



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Public Papers of the Presidents

Thank you, and God bless you all.

NOTE: The President spoke at 2:06 p.m. in the East Room at the White House. In his remarks, he referred to Sgt. Mark Wynn, detective, Nashville-Davidson, TN, police department; Jerry Rossi, president, Marshalls, Inc.; and Tana Sherman, survivor of domestic violence.

LEVEL 1 - 8 OF 18 DOCUMENTS

Public Papers of the Presidents

August 26, 1995

CITE: 31 Weekly Comp. Pres. Doc. 1458

LENGTH: 3673 words

HEADLINE: Remarks on the 75th Anniversary of Women's Suffrage in Jackson Hole, Wyoming

... some elements in our society to take every single issue and use it as a cause for division among our people when we need to be more divided -- united.

This conference is going to talk about education and domestic violence and grassroots economics, employment, health care, political participation. It's going to talk about a lot of things we take for granted here in this country that we think if everybody had access to it around the world ...

LEVEL 1 - 9 OF 18 DOCUMENTS

Public Papers of the Presidents

May 1, 1995

CITE: 31 Weekly Comp. Pres. Doc. 744

LENGTH: 4585 words

HEADLINE: Remarks at a Kickoff Luncheon for a Women Voters Project

... it rips up family. Hillary and I were regular visitors at a shelter for battered women and their children when we lived at home. I have talked with abused children. I know that this problem of domestic violence is a difficult one. We have begun to be aggressive with it. America must be aggressive with



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it.

We see how much of crime among our young people is still due to drugs. And it's shocking to me that, for reasons that are not ...

LEVEL 1 - 10 OF 18 DOCUMENTS

Public Papers of the Presidents

April 8, 1995

CITE: 31 Weekly Comp. Pres. Doc. 596

LENGTH: 2803 words

HEADLINE: Remarks at the National Education Association School Safety Summit in Los Angeles, California

... beautiful day. It shows you how devoted he is that he's even inside, much less giving a speech. [Laughter] Thank you, Dick Riley, for such a wonderful job as Secretary of Education and for those fine remarks. Senator Carol Moseley-Braun, I'm delighted to see you. We're a little out of place here today. It's actually a pretty good time to be in Washington, DC. The cherry blossoms are out -- and ...

... but it also put another 100,000 police on our street in community settings so we could lower crime and make people safer, because it had provisions for making our schools safer, because it had a domestic violence component for violence against women and children.

And the Secretary and I fought very hard for the Safe and Drug Free Schools Act which would provide funds to over 90 percent in our school districts to ...

... will lower the crime rate throughout our communities and throughout our country.

That's why it is important to support the work that was done in the crime bill last year. That's why it's important to support the work of people struggling to reduce domestic violence throughout our country. The schools will have violence and weapons and trouble as long as our society has them.

We can do better in the schools; to be sure we can do better. But we have to recognize it will never be a problem that is gone until we do ...



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LEVEL 1 - 11 OF 18 DOCUMENTS

Public Papers of the Presidents

March 30, 1995

CITE: 31 Weekly Comp. Pres. Doc. 507

LENGTH: 3796 words

HEADLINE: Remarks to Students at Hillsborough Community College in Tampa, Florida

... something about it -- all kinds of violent crime. I just announced last week that the former attorney general of Iowa, Bonnie Campbell, is going to head the first-ever division of the Justice Department on domestic violence, violence against parents and children. We have to do something about this.

Now, in 30 years, violent crime triples, but the police forces of the country increase by only 10 percent. You don't have to be a genius to ...

LEVEL 1 - 12 OF 18 DOCUMENTS

Public Papers of the Presidents

March 21, 1995

CITE: 31 Weekly Comp. Pres. Doc. 448

LENGTH: 1110 words

HEADLINE: Remarks on the Appointment of Bonnie Campbell as Director of the Office of Violence Against Women

Thank you, Sarah, for your wonderful remarks and for the powerful example of your life. I was watching you speak today, thinking of your story, wondering how many other stories like yours there might have been if our society had responded more properly and how ...

... a very regrettable reason in this day and time: The Republicans and the Democrats weren't fighting about it. We really had a national consensus that we had to do something. And because we knew we had to do something and it passed, it was almost unnoticed.

But you know, domestic violence is now the number one health risk for women between the ages of 15 and 44 in our country. If you think about it, it's a bigger threat than cancer or car accidents. The incidents of rape is ...

... times the rate of the crime rate. The FBI estimates that a woman is beaten in this country once every 12 seconds. And we know, too, that often when



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a spouse is beaten, the children are beaten as well.

For too long, domestic violence has been considered purely a private matter. From now on, it is a problem we all share. What are we going to do about it? The first thing we have to do is do what we can to prevent violence. One part of the crime bill I ...

... at the Department of Justice. Today I am pleased to announce that Bonnie Campbell of Iowa will be the first director of that office. As Iowa's first female attorney general, Bonnie Campbell helped to enact strong domestic violence and anti-stalking laws in that State. She worked with counties and college campuses to raise awareness about domestic violence. And she endorsed a victims rights amendment to the State constitution. A big part of her new job will be helping States and communities to deal with domestic violence.

Today we are making available \$ 26 million to help the States open rape crisis centers, to staff domestic violence hotlines, to provide victims advocates, to pay for more officers and more training. This is the first down payment on a 6-year commitment of \$ 800 million for this purpose.

This is part of a report ...

LEVEL 1 - 13 OF 18 DOCUMENTS

Public Papers of the Presidents

October 17, 1994

CITE: 30 Weekly Comp. Pres. Doc. 2056

LENGTH: 4158 words

HEADLINE: Remarks to the International Association of Chiefs of Police in Albuquerque, New Mexico

... except when supervised by an adult; it's in the bill. You said we should do more for victims of crime. You said we should make a serious assault on the problems faced by women and children, the problems of domestic violence and neighborhood violence. You said we should do more to make schools safer. You said we should do more to give our kids some prevention programs, some things they could say yes to, places to go, things to do, good things to do, maybe most ...



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LEVEL 1 - 14 OF 18 DOCUMENTS

Public Papers of the Presidents

May 6, 1994

CITE: 30 Weekly Comp. Pres. Doc. 998

LENGTH: 1585 words

HEADLINE: Remarks on Women's Health Care

... prescription drugs, that routinely exclude pregnancy as a preexisting condition. How can a profamily country say pregnancy is a preexisting condition? Some insurance companies have gone so far as to call domestic violence a preexisting condition. Well, so is breathing.

A couple of weeks ago, in the New York Times, there was a remarkable column by a novelist named Anne Hood who wrote ...

LEVEL 1 - 15 OF 18 DOCUMENTS

Public Papers of the Presidents

March 17, 1994

CITE: 30 Weekly Comp. Pres. Doc. Pg. 550

LENGTH: 1270 words

HEADLINE: Remarks Announcing Anti-Violence Public Service Announcements

... Council, and all those who comprise that Council and who support this work. I want to thank Jack Calhoun for the work he's done and the 19.3 organizations that make up his Crime Prevention Coalition and for his remarkable remarks here today.

I thank Saatchi and Saatchi for the work they did and others, members of the Creative Community who are here with us today who have done their own public service announcements, changed their programming, made a common ...

... people in the entertainment industry that our children have and share with us daily.

We somehow have to find a way to encourage young people to settle arguments with words instead of weapons. We also have to encourage their parents to do the same thing, for domestic violence is still the cause of a lot of these killings. We have to show adults how common sense can ease tensions. We have



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to help communities set up programs to deal with this.

Last week, I was in Brooklyn College with ...

LEVEL 1 - 16 OF 18 DOCUMENTS

Public Papers of the Presidents

March 10, 1994

CITE: 30 Weekly Comp. Pres. Doc. 487

LENGTH: 6807 words

HEADLINE: Remarks at the AmeriCorps Public Safety Forum in New York City

... bravely give your lives to try to help people who are so savaged by this. And then I know that a lot of the people we're dealing with now, who perpetrate these kinds of crimes, themselves were the victims of domestic violence when they were young, themselves grew up in kind of chaotic and violent situations, and they have no other conditioned way to respond to these terrible things that happen to them. And I hope we can devote some time and attention to that.

[Clementine ...

... well. I'm not campaigning against prison reform. I'm just pointing out just what you did. We haven't done enough to help the kids stay out in the first place.

[A participant discussed domestic violence and called for action to end it. Another participant then discussed gangs and congratulated some of the participants for rising above gang activities, and he then asked the following question:]

Q. My question to you, and perhaps to you, is how should we ...



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LEVEL 1 - 17 OF 18 DOCUMENTS

Public Papers of the Presidents

February 15, 1994

CITE: 30 Weekly Comp. Pres. Doc. 298

LENGTH: 4418 words

HEADLINE: Remarks to Members of the Law Enforcement Community in London, Ohio

... effort to prevent crimes of violence against women, who are especially vulnerable to violent crime. This crime bill increases sentences for rape, requires rapists to pay damages to victims, protects women against domestic violence, and creates training programs to help judges learn more about this because a lot of judges don't know how to handle these things as well as possible. You haven't read much about this, but this provision dealing with ...

LEVEL 1 - 18 OF 18 DOCUMENTS

Public Papers of the Presidents

August 14, 1993

CITE: 29 Weekly Comp. Pres. Doc. 1627

LENGTH: 1219 words

HEADLINE: The President's Radio Address

... average age of a killer was now under 16 years of age. Police commissioner Bill Bratton of Boston spoke of the fear that grips his city where homicides have gone up 60 percent this year because of gangs and domestic violence. The attorney general of Mississippi pointed out that the crime wave has now reached small towns and rural areas, and we can't leave them out of our solution.

These facts could be repeated by any prosecutor, any police officer ...



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agency declared on January 23, 1995, and the measures that took effect on January 24, 1995, to deal with that emergency must continue in effect beyond January 23, 1996. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency with respect to foreign terrorists who threaten to disrupt the Middle East peace process.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

William J. Clinton

The White House,
January 18, 1996.

[Filed with the Office of the Federal Register, 11:24 a.m., January 19, 1996]

NOTE: This notice was released by the Office of the Press Secretary on January 19, and it was published in the *Federal Register* on January 22.

Letter to Congressional Leaders on Continuation of the Emergency With Respect to Terrorists Who Threaten To Disrupt the Middle East Peace Process

January 18, 1996

Dear Mr. Speaker: (Dear Mr. President:)

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the emergency declared with respect to grave acts of violence committed by foreign terrorists that disrupt the Middle East peace process is to continue in effect beyond January 23, 1996, to the *Federal Register* for publication.

The crisis with respect to the grave acts of violence committed by foreign terrorists that threaten to disrupt the Middle East peace process that lead to the declaration on

January 23, 1995, of a national emergency has not been resolved. Terrorist groups continue to engage in activities with the purpose or effect of threatening the Middle East peace process, and that are hostile to U.S. interests in the region. Such actions threaten vital interests of the national security, foreign policy, and economy of the United States. For these reasons, I have determined that it is necessary to maintain in force the broad authorities necessary to deny any financial support from the United States for foreign terrorists that threaten to disrupt the Middle East peace process.

Sincerely,

William J. Clinton

NOTE: Identical letters were sent to Newt Gingrich, Speaker of the House of Representatives, and Albert Gore, Jr., President of the Senate. This letter was released by the Office of the Press Secretary on January 19.

Statement on Signing the Memorandum on Missing Persons and Missing Children

January 19, 1996

Every parent knows that their children are the most important thing in their lives. We cherish them, we invest our hopes in them, and when they fall victim to harm, it can be the most wrenching experience of all. For every parent, one of the most horrible things imaginable is the disappearance of a child. We must do whatever we can to help parents in these situations find their children.

Every year, approximately 300 children are abducted by strangers. Just yesterday, we heard news of a terrible tragedy in Texas, where a young girl was found murdered, after she had been missing for 5 days. We must do everything we can to stop this from happening again. Time is the enemy in abduction cases—and the most important tool we have against it is making sure information gets out to the public.

The Federal Government, through the FBI and other law enforcement agencies, is doing its part to help State and local law enforcement investigate these cases and disseminate information as quickly as possible.

But it is critical that the FBI be notified within 48 hours of the abduction. In 6 out of 10 recent cases, the FBI learned of the abduction from TV reports. We've got to do better. And we will.

Nearly all 16,000 police departments around the country have the capacity, through a state-of-the-art computer system, to report missing persons to the FBI. I have asked the Attorney General to make it the highest priority to make sure this system works as quickly as possible.

The Federal Government already works with States to establish clearinghouses for information on missing children. The National Center for Missing and Exploited Children, funded by the Justice Department, has helped establish clearinghouses in 47 States plus the District of Columbia. The Center also funds Project Alert, which uses the expertise of volunteer retired police officers to help search for missing children.

Now, it is time to do more to help families beat the race against time in searching for their missing children. Federal offices come into contact with thousands of citizens and workers every day. That gives the Federal Government a unique role to play in the search for missing children.

Today, I will sign an executive memorandum directing all agency heads to take the necessary actions to allow the posting of photos of missing children in Federal buildings. This Presidential action also directs agencies to appoint an action officer to maintain the space for these notices.

This memorandum is just one step—but it's a step in the right direction. There is more we can do—and we will.

The Federal Government is doing its part. But we know that the key to finding missing children is within their own communities. When these terrifying abductions occur, we have seen communities band together to distribute flyers, interview potential witnesses, and support the families. Unfortunately, sometimes a terrible tragedy brings out the very best in our communities and our country.

If we love our children, then we must do everything we can to help when they are in harm's way. Every one of us must take responsibility to do what they can to help find

our missing children. Please look twice at the photos of missing children you see in the mail, on your milk cartons, and now, in Federal buildings across the country. Everyone can make a difference—and everyone has an obligation to try.

Memorandum on Missing Persons and Missing Children

January 19, 1996

Memorandum for the Heads of Executive Departments and Agencies

Subject: Missing Persons or Children Notices in Federal Facilities

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to provide for the posting of missing persons or children notices in buildings owned or controlled by the Federal Government, I hereby direct as follows:

Section 1. Posting of Missing Persons or Children Notices in Federal Facilities. Executive departments and agencies possessing custody or control over buildings or facilities occupied by Federal employees shall take such actions as are reasonable, necessary, and appropriate to provide for the posting of missing persons or children notices in public and other appropriate areas of such domestic buildings or facilities, as determined by the Federal official having primary responsibility for management and operation of the building or facility involved.

Sec. 2. Duties of Federal Official. Such official shall maintain, or shall designate a representative to maintain, the physical area upon which missing persons or children notices may be placed. The official or the designated representative shall give priority and special prominence to notices involving missing children who are believed to have been abducted by non-family members or otherwise are in imminent physical danger.

Sec. 3. Exceptions. Nothing in this memorandum shall require an executive department or agency to provide public access to its buildings or facilities if such access could impede or disrupt the performance of official duties by government employees or potentially be harmful to the national security.

Sec. 4. Consultation. Executive departments and agencies shall consult with the Department of Justice and the General Services Administration in carrying out the purposes of this memorandum.

Sec. 5. Judicial Review. This memorandum is intended only to improve the internal management of the Federal Government, and is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or its employees.

William J. Clinton

Digest of Other White House Announcements

The following list includes the President's public schedule and other items of general interest announced by the Office of the Press Secretary and not included elsewhere in this issue.

January 13

In the morning, the President traveled from Aviano Air Base, Italy, to Tazsar, Hungary.

Later, the President traveled to Tuzla, Bosnia-Herzegovina, where he had meetings with a group of religious leaders.

The President then traveled to Zagreb, Croatia, where he met with President Franjo Tudjman.

In the evening, while returning from Zagreb to Washington, DC, aboard Air Force One, the President had a telephone conversation with President Slobodan Milosevic of Serbia.

The President declared major disasters in the States of Kentucky, New Jersey, North Carolina, Virginia, Pennsylvania, and West Virginia, and ordered Federal aid to supplement State and local recovery efforts in the areas struck by the "Blizzard of 1996," beginning January 6 and continuing.

January 15

In the morning, the President traveled to Atlanta, GA, where he laid a wreath at the tomb of Martin Luther King, Jr., and later

toured the Olympic Stadium under construction. In the evening, the President returned to Washington, DC.

January 16

In the afternoon, the President met with Karekin I, Patriarch of the Armenian Apostolic Church.

The President announced his intention to appoint Thomas S. Foley as a member and Chairman of the President's Foreign Intelligence Advisory Board.

The President announced his intention to nominate Richard L. Morningstar to be Special Adviser to the President and the Secretary of State on Assistance to the New Independent States of the Former Soviet Union.

The President announced his intention to appoint Randall Forsberg and Patricia McFate as members of the Scientific and Policy Advisory Committee of the U.S. Arms Control and Disarmament Agency.

The President announced his intention to nominate Mary Burrus Babson and Robert B. Rogers to the Board of Directors of the Corporation for National and Community Service.

January 17

In the morning, the President attended the funeral of Ambassador M. Larry Lawrence at Arlington National Cemetery, VA.

In the afternoon, the President had a telephone conversation with Republican congressional leaders to discuss the budget negotiations.

January 19

In the morning, the President met with Foreign Minister Yohei Kono of Japan.

The President announced his intention to nominate Ronnie Feuerstein Heyman to the National Council on the Arts.

The President appointed Peter B. Edelman to be Assistant Secretary of Health and Human Services for Planning and Evaluation as a recess appointee.

The President announced his intention to appoint Frederick Pang to the National Partnership Council.

The President appointed Charles A. Hunnicutt as Assistant Secretary of Trans-

portation for Aviation and International Affairs as a recess appointee.

The President appointed Eileen B. Claussen as Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs as a recess appointee.

The President appointed Sarah M. Fox to the National Labor Relations Board as a recess appointee.

The President appointed Harlan Mathews as Chair and William C. Brooks and Gerald M. Shea as members of the Social Security Advisory Board as recess appointees.

The President made the following recess appointments to the Civil Liberties Public Education Fund: Robert F. Drinan, Leo K. Goto, Susan Hayase, Elsa H. Kudo, Yeiichi Kuwayama, Dale Minami, Peggy Nagae, and Don Toshiaki Nakanishi.

The President appointed Gerald N. Tirozzi as Assistant Secretary of Education for Elementary and Secondary Education as a recess appointment.

Nominations Submitted to the Senate

NOTE: No nominations were submitted to the Senate during the period covered by this issue.

Checklist of White House Press Releases

The following list contains releases of the Office of the Press Secretary that are neither printed as items nor covered by entries in the Digest of Other White House Announcements.

Released January 13

Statement by Press Secretary Mike McCurry announcing disaster declarations for Kentucky, New Jersey, North Carolina, Virginia, Pennsylvania, and West Virginia

Transcript of a press briefing by Press Secretary Mike McCurry

Released January 16

Transcript of a press briefing by Press Secretary Mike McCurry

Statement by Press Secretary Mike McCurry on the President's meeting with His Holiness Karekin I, Patriarch of the Armenian Apostolic Church

Statement by Press Secretary Mike McCurry on the resignation of Greek Prime Minister Andreas Papandreu

Released January 17

Transcript of a press briefing by Press Secretary Mike McCurry

Released January 18

Transcript of a press briefing by Press Secretary Mike McCurry

Statement by Press Secretary Mike McCurry announcing the President's congratulations to Costas Simitis on his election as the new Prime Minister of Greece

Transcript of a press briefing by Secretary of the Treasury Robert Rubin, White House Chief of Staff Leon Panetta, and Office of Management and Budget Director Alice Rivlin on Federal budget negotiations

Released January 19

Transcript of a press briefing by Press Secretary Mike McCurry

Acts Approved by the President

Approved January 16

H.R. 1295 / Public Law 104-98
Federal Trademark Dilution Act of 1995

MAIL-IT REQUESTED: JULY 15, 1996

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CLIENT: OPD
LIBRARY: NEWS
FILE: PRESDC

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LEVEL 1 - 2 OF 3 DOCUMENTS

Public Papers of the Presidents

March 11, 1993

CITE: 29 Weekly Comp. Pres. Doc. 392

LENGTH: 2350 words

HEADLINE: Remarks to Westinghouse Employees in Linthicum, Maryland

... used to help commercial airlines avoid wind shears. Military security technology can now be used to help police officers on the streets and in their patrol cars to be safer and to solve crimes and to find missing children more rapidly. State-of-the-art batteries is helping here to develop an electric car which may well provide an enormous opportunity for America to become more energy-independent and to dramatically reduce the pollution of our ...



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LEVEL 1 - 3 OF 3 DOCUMENTS

Public Papers of the Presidents

March 11, 1993

CITE: 29 Weekly Comp. Pres. Doc. 395

LENGTH: 4108 words

HEADLINE: Remarks to the Children's Defense Fund Conference

... atmosphere. I saw a police car with a computer screen with visual imaging developed for defense technology, which can now be used immediately to transmit to police officers who have it pictures of missing children, immediately, while they're in their car. I saw a plane with radar technology which just came back from dealing with the difficult incident in Waco, Texas -- defense technology -- another plane with a ...



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LEVEL 1 - 1 OF 3 DOCUMENTS

Public Papers of the Presidents

August 9, 1995

CITE: 31 Weekly Comp. Pres. Doc. 1401

LENGTH: 6819 words

HEADLINE: Remarks to the Progressive National Baptist Convention in Charlotte, North Carolina

... a bad situation at home, you ought to have to live at home and stay in school or stay at work to take the check.

And I think we should hold fathers more accountable. There's a lot of child abuse in teen pregnancy. At least half the babies born to teenage girls are fathered by men who are 20 or older. That's child abuse. That's not right. It's not right. And even young men -- even young men -- there was a young man in our hometown in Arkansas before I moved here who made a mistake and ...

LEVEL 1 - 2 OF 3 DOCUMENTS

Public Papers of the Presidents Public Papers of the Presidents

April 25, 1994

CITE: 30 Weekly Comp. Pres. Doc. Pg. 905

LENGTH: 2522 words

HEADLINE: Remarks Honoring the 1994 Victim Service Award Recipients and an Exchange With Reporters

... we're closing in on a bill that will make our streets, our homes, our schools, our lives safer. Victims' concerns are a centerpiece of the crime bill. They include the development of State registries for convicted child abusers, the expansion of programs to combat violence against women, the imposition of life sentences for three-time repeat violent offenders.

But I also say to you today that we should take this opportunity to end the proliferation of weapons of mass ...



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LEVEL 1 - 3 OF 3 DOCUMENTS

Public Papers of the Presidents

December 20, 1993

CITE: 29 Weekly Comp. Pres. Doc. 2616

LENGTH: 680 words

HEADLINE: Remarks on Signing the National Child Protection Act of 1993

... children who receive care and supervision in formal day care and in other settings from other organizations. This law will give us the tools we need to safeguard children from those who have perpetrated crimes of child abuse or sex abuse or drug use or those who have been convicted of felonies. It's very important that we give working parents peace of mind about child care.

A majority of mothers with young children now work outside the home. Six ...

... now.

Like all change, passing this important law has not been easy. And there are many to thank. First of all, I thank you, Oprah, for a lifetime of being committed to the wellbeing of our children and for giving child abuse issues such wonderful coverage on your show. You wrote the original blueprint for this law, and we're grateful, becoming a tireless advocate for its passage, lobbying Members of Congress of both parties for more than 2 years, and lobbying the President-people occasionally do that, too. All of us, but especially our children, owe you their gratitude.

Now we can help to prevent child abuse with this measure, not just to catch people who do it. It's a great cause and a remarkable achievement, and I want to thank all the rest of you who were involved in it.

Finally, let me ...



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