

SYNERGY

The Newsletter of the Resource Center on Domestic Violence: Child Protection and Custody

NATIONAL COUNCIL OF JUVENILE AND FAMILY COURT JUDGES

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It's All About

This issue of *Synergy* highlights various strategies that enhance safety when there are allegations of domestic or family violence. As we have seen, none of us is immune from violence: not the wives, partners, and mothers who are direct targets of domestic violence; not the children who grow up in homes in which violence is a reality; and not judges, court personnel, police officers, advocates, child welfare workers, and other system players who intervene in domestic violence cases.

In recognition of the recent court-related tragedies in Chicago and Atlanta, one article focuses on courthouse security from a judicial perspective, including the steps one courthouse took to enhance the safety of both battered women and court personnel.

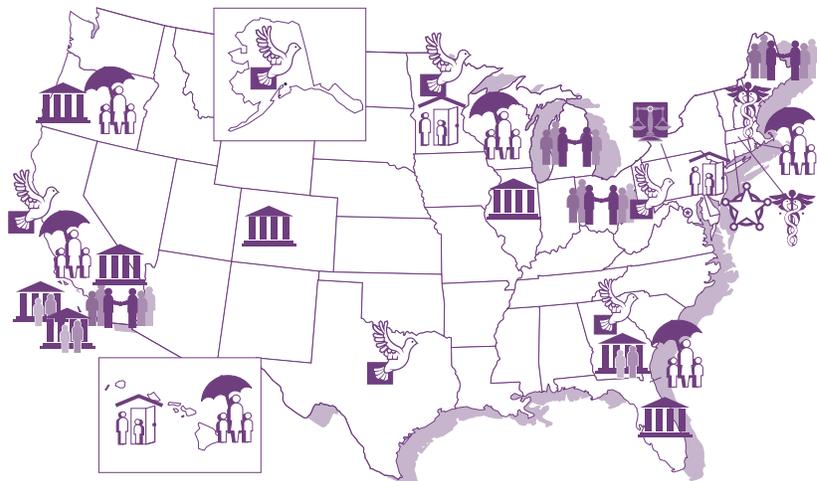
The article on the Fathering After Violence initiative discusses enhancing the safety and well-being of women and children by motivating men who have perpetrated violence against women to renounce their violence and become better fathers (or father figures) and more

supportive parenting partners.

Another article discusses the trend of state legislatures to enact domestic violence exceptions to their “friendly parent” provisions. This trend acknowledges the fact that a battered parent’s custody and visitation decisions are often driven by safety concerns for themselves and their children. This same article discusses the safety issues around and appropriateness of “virtual visitation” in domestic violence cases.

As we focus on safety, we remain optimistic that the further down this road we travel together, the more appropriate, determined, and effective the coordinated efforts of communities become in order to put in place and implement laws, policies, and services that curtail violence and adequately address the safety needs of

battered parents and their children, courts, and communities. We send a resounding message of thanks to all of you who spend your days and nights trying to figure out how to end intimate partner violence and keep our homes and communities safe. In peace,
Billie Lee Dunford-Jackson, JD
and Maureen Sheeran



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The map above shows the location of programs depicted as icons in the inset at left which have been highlighted in recent reports or earlier issues of *Synergy* and which serve battered women and their children. The latest addition is “Fathering After Violence,” a national initiative to enhance the safety and well-being of women and children by motivating men who have perpetrated violence against women to renounce their violence and become better fathers (or father figures) and more supportive parenting partners.

Courtroom Violence: Safety and Security



Introduction

On February 28, 2005 in Chicago, a man, angry that the presiding judge rejected his medical malpractice lawsuit, broke into the judge's home, shot and killed her husband and mother, and later turned the gun on himself.¹ Just 11 days later, in Atlanta, an alleged rapist shot the deputy escorting him into court and shot and killed the presiding judge and court reporter.² In the wake of these tragedies, safety issues have been on the minds of those who either work in the court system or must appear in a courtroom, especially judges.

While there are no hard statistics to show whether some courts are more dangerous than others,³ the national sentiment appears to be that family courts are the most dangerous courts for judges, court personnel, and parties.⁴ In addition, there is much anecdotal evidence that the most severe incidents of violence happen in child custody, divorce, and domestic violence cases.⁵ For example:

- In 1983, an Illinois judge was killed in his courtroom by a man whose divorce he was presiding over.⁶
- In 1987, a Florida judge was shot and killed following an alimony hearing.⁷
- In 1992, Judge John Hill from Texas was shot in his courtroom during a child custody case and expresses worry about "the general encouragement of ill feeling against the judiciary."⁸
- In 1994, a state parole officer, after bypassing courthouse security, shot and killed his estranged wife in a Brooklyn Family Court.⁹
- In 1995, a Seattle woman, who was waiting to testify at her annulment hearing, and her two friends were murdered outside the courthouse by the woman's husband.¹⁰
- In 2005, David Hernandez Arroyo, Sr., who was being sued for back child support, opened fire with an AK-47 outside a Tyler, Texas courthouse killing his ex-wife and a bystander, and injuring their son.¹¹

At a recent meeting hosted by the Resource Center on Domestic Violence: Child Protection and Custody, safety was also on the minds of the 11 judicial participants from across the nation who are considered

domestic violence experts and national leaders in child protection and child custody in the context of domestic violence. The judges discussed both personal and courtroom safety, including the structural design of courthouses, the quantity of personal information available on the internet, the need to support court personnel during the aftermath of a violent court-related incident, home security systems, personal and courtroom security education for judges, strategically locating panic buttons in the courtroom and in chambers and ensuring that all necessary court personnel know their locations, and whether weapons should be allowed in the courtroom by on-duty security personnel. Throughout the discussion, the judges stressed the need to keep the reality that domestic violence victims are in the most danger at the forefront of safety discussions and resist the tendency to elevate the safety needs of the judiciary and court personnel over the safety needs of domestic violence victims.

In the following article, the Honorable Victoria Van Meter, a Family Court Master for the Second Judicial District Court in Reno, Nevada, discusses her experiences with courtroom violence and describes steps taken by her community to improve courtroom safety and security. The safety measures taken by both Judge Van Meter and her community focus on the safety needs of domestic violence victims as well as safety for judges and court personnel.

A Judicial Perspective

By Hon. Victoria Van Meter

This morning while I was speaking with my administrative assistant, one of my colleagues came running down the hall asking us frantically if we had just heard a gunshot. Two deputy sheriffs immediately rounded the corner. In this instance, the "gunshot" was an exploding soda pop can in the freezer. However, the lesson is not lost. For all the readily apparent conviviality in our Family Court, security is a paramount concern for everyone.

My first experience with courtroom violence occurred within my first six months at the Family Court. I was in my chambers interviewing an applicant for a temporary

While there are no hard statistics ... national sentiment appears to be that family courts are the most dangerous courts for judges, court personnel, and parties.⁴

protection order against domestic violence, when a woman's screaming erupted in the adjacent courtroom. The applicant, her 5-year-old son, and I remained frozen in our chairs, terrified. The screaming lasted for three to four minutes and when it stopped the 5-year-old quietly asked "What's happening?" What happened was that an in-custody adverse party in leg irons, waist chains, and handcuffs was in court on a violation of an extended protection order. At the conclusion of the hearing, the prisoner, while being escorted out of the courtroom, passed within a few feet of his wife. With both hands cuffed, the prisoner grabbed his wife's ponytail. The deputy sheriff wrapped his arm around the prisoner's neck and pulled him to the ground. The prisoner tenaciously maintained his grip on his wife's ponytail and she too, fell to the floor. Eventually, he pulled out his wife's hair.

Since this incident 13 years ago, our court has made significant security advances. Simply stated, we make court security a daily priority. Everyone, including court personnel, must pass through metal detectors before entering the courthouse. Judicial officers are provided secure basement parking and our entire workspace is accessible only through electronically keyed doors. Panic buttons and camera monitors are strategically located throughout the court. However, in addition to our facility's structural safeguards, our current security program is significantly enhanced by the six armed deputy sheriffs assigned to Family Court.

The deputies maintain a noticeable presence—in the lobby, in the halls, in chambers, in the courtrooms. With their firm, calm professionalism, these deputies meet the daily challenges of an emotionally charged, high-volume court. A peace officer standards and training (POST) - certified deputy sheriff is present in all domestic violence hearings. Adequate physical distances between parties are consistently enforced. Parties are instructed to sit in the outside seats at counsel tables and frequently one or more deputy sheriffs stand between the parties. During court, parties are not permitted to address each other

directly or make eye contact. If a deputy notices unusual behavior prior to a proceeding, or the court anticipates particular volatility, additional deputies are made available. Frequently our deputies escort frightened parties from the building, facilitate the exchange of children in the lobby, or patiently explain procedures to angry or frustrated litigants.

Addressing court security is not an academic exercise. We have an obligation to review security practices continually, assess potential vulnerabilities, and then implement even simple changes such as where the parties wait in the lobby or sit in the courtroom. By working collaboratively and creatively, we can greatly improve court safety. Lives depend on it.

¹Peter Slevin, *Suicide Note Says Judge in Chicago was Target: Man Cites Anger over Rejected Suit*, THE WASHINGTON POST, Mar. 11, 2005, available at <http://www.washingtonpost.com/wp-dyn/articles/A23256-2005Mar10.html>.

²Associated Press, *Gunman Opens Fire at Atlanta Courthouse, Killing Three*, COURT TV, Mar. 11, 2005, available at http://www.courtstv.com/news/2005/0311shooting_ap.html.

³Henry J. Reske, *The Courts: Domestic Retaliations Escalating Violence in the Family Courts*, A.B.A. J., July 1993, at 49; Duwayne Escobedo, *Courtroom Security?*, INDEPENDENT NEWS, Mar. 24, 2005, available at <http://inweekly.net/article.asp?artID=1232>.

⁴Transcript, *Judges Under Fire: Judge Gayle Nachtigal Discusses Jurists' Safety*, COURT TV, Mar. 11, 2005, available at <http://www.courtstv.com/talk/chat-transcripts/2005/0311judges-nachtigal.html>.

⁵Reske, *supra* note 3.

⁶Amanda Paulson & Patrik Jonsson, *How Judges Cope With Everyday Threats on the Job*, THE CHRISTIAN SCIENCE MONITOR, Mar. 4, 2005, available at <http://www.csmonitor.com/2005/0304/p01s04-usju.html>.

⁷*Id.*

⁸Escobedo, *supra* note 3.

⁹Reske, *supra* note 3.

¹⁰Maureen Sheeran, *Domestic Violence Affects Courthouse Security*, 1 CTS. & COMM. CONFRONTING VIOLENCE IN THE FAMILY (1995) (Nat'l Council of Juv. & Fam. Ct. Judges), at 3.

¹¹The Associated Press, *Two Killed, Four Wounded in Texas Shooting*, MSNBC, Feb. 25, 2005, available at <http://www.msnbc.com/id/7026524>.



This column highlights common myths about domestic violence. The following is an excerpt from *Common Misconceptions in Addressing Domestic Violence in Custody Disputes* by Peter G. Jaffe, Claire V. Crooks, and Samantha E. Poisson:¹

- **MYTH:** Domestic violence is rarely a problem for divorcing couples involved in a child custody dispute.
- **REALITY:** The majority of parents in “high-conflict divorces” involving child custody disputes report a history of domestic violence.

Research and Discussion

While most separating parents are able to develop a post-separation parenting plan for their children with minimal or no intervention by the family court system, a small number require more direct guidance from professionals associated with the courts. Approximately 20% of divorcing couples require greater intervention by lawyers, court-related personnel (such as mediators and evaluators), and judges. Although this 20% is typically referred to as “high-conflict,” this phrase may not capture major issues related to violence and abuse. Indeed, in the majority of these cases referred to as “high-conflict,” domestic violence is a significant issue.² Estimates of the proportion of high-conflict cases that involve domestic violence can be drawn from data accessed through different court-related services. For example, in a review of one sample of parents referred for child custody evaluations by the court, domestic violence was raised in 75% of the cases.³

Even within a sample of families where domestic violence is purportedly an exclusionary criteria (such as those accessing mediation services), domestic violence is common. Of 2,500 families entering mediation in California, approximately 75% of parents indicated that domestic violence had occurred during the relationship.⁴ In addition, in an examination of families where mediation failed to resolve child custody issues, a comparable incidence of domestic violence was observed. Between 70% and 75% of these parents who were referred by the family court for counseling because of failed mediation or continuing disputes over the care of their children described marital histories that included physical aggression.⁵

Historically, the domestic violence literature has developed in isolation of the divorce literature (and vice versa), and findings from one area have not informed

thinking and practice in the other. Researchers who have tried to identify risk markers associated with recidivism, dangerousness, and lethal violence in domestic relationships have consistently identified the process of separation as a

critical period. These researchers have noted that domestic violence is more about one person’s attempt to control and dominate his partner, rather than about isolated acts of abuse. Thus during separation, when a perpetrator’s perceived grasp on his intimate partner is weakening, he may be most dangerous and extreme in his attempts to regain control. Attempts to leave a violent partner, with children, is one of the most significant factors associated with severe domestic violence and death.⁶ Inquests into domestic homicides and Domestic Violence Fatality Reviews have consistently pointed to the period of separation as the time of highest risk for victims of domestic violence. In Canada, the rate of spousal homicide for separated women has been identified to be more than 25 times higher compared to married women.⁷

The Study⁸

In this study, the majority of women trying to leave abusive partners suffered multiple forms of emotional, psychological, financial, and physical abuse. The extent of the violence ranged in severity from limiting contact with family and friends (80%) to threatening with a knife or a gun (29%). For the majority of women (71%), the first abusive incident occurred during the first six months of their relationship. Most women reported that the abuse was primarily verbal in nature (60%) and involved some type of emotional or psychological abuse. For 35% of the women, their first experience involved physical abuse. About half of the women described an event that involved physical abuse.

More than half of the women had experienced abuse post-separation, and this often took the form of psychological or verbal abuse related to custody proceedings (i.e., their former partners made threatening statements regarding custody or child support issues). The majority of women (78%) reported a physically abusive incident as the worst type of abuse they had experienced with their former partner. Interestingly, several women mentioned a verbally abusive incident as the worst incident of abuse despite previously reporting severe physical abuse. One woman noted: “The bruises go away after a month but the verbal abuse will stay with me forever.”

In an effort to understand more about the abusive environment in which the women lived, participants were asked to describe the abuse they typically experienced.

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New Staff Additions

Most women noted that emotional and psychological abuse were typical in their relationships. Forty-four percent of the women in the study reported that their former partners had been abusive toward the family pet. Several women described a high level of sexual abuse. These women noted that marital rape was a common occurrence in their relationships, but one that was rarely disclosed.

Implications

Given the prevalence of domestic violence in divorcing couples that are actively engaging courts and court-related services, the term “high-conflict” may mask serious concerns about violence and abuse. Understanding domestic violence has important implications throughout the court process, from initial intake and screening procedures to more detailed risk assessment and safety planning procedures. Particular issues such as sexual assault in the course of a marriage and severe emotional abuse of family members by harming pets may be overlooked without specific inquiries. Therefore, family courts and court-related services need to assess the nature, extent, and impact of domestic violence on women and children in custody disputes.

¹The full text of this article can be found in 54 Juv. & Fam. Ct. J. No. 4, Fall 2003, at 57. To order a copy of this journal, please contact the Resource Center on Domestic Violence: Child Protection and Custody at (800) 52-PEACE or (800) 527-3223 or visit <http://www.ncjfcj.org>.

²Janet R. Johnston, *High-Conflict Divorce*, 4 FUTURE OF CHILDREN 165 (1994).

³Peter G. Jaffe & Gary Austin, *The Impact of Witnessing Violence on Children in Custody and Visitation Disputes* (July 1994) (paper presented at the Fourth International Family Violence Research Conference in Durham, NH).

⁴A. Hirst, *Child Custody Mediation and Domestic Violence* (March 2002) (paper presented at the 2002 Family Court Services Statewide Educational Institute in Long Beach, CA).

⁵JANET R. JOHNSTON & LINDA E. CAMPBELL, *IMPASSES OF DIVORCE: THE DYNAMICS AND RESOLUTION OF FAMILY CONFLICT* (The Free Press, 1998).

⁶NEIL WEBSDALE, *UNDERSTANDING DOMESTIC HOMICIDE* (University Press, 1999).

⁷Holly Johnson & Valerie P. Bunge, *Prevalence and Consequences of Spousal Assault in Canada*, 43 CAN. J. CRIMINOLOGY 27 (2001).

⁸This is the authors' qualitative study of 62 female victims of domestic violence involved in child custody disputes. These victims of domestic violence do not represent a random sample, but rather women who had accessed family court services after separation from an abusive partner. Participants were recruited through letters sent to women who had accessed legal aid and court assessment (evaluation) services to ascertain their interest in the study. In addition, advertisements and letters were sent to domestic violence service providers seeking participants for the research project. All women were offered transportation and child care costs and an honorarium to compensate them for their time. The women who volunteered consented to complete structured interviews and questionnaires about their marriages and their children's adjustment. Although this sample was not random, the women's responses serve to illustrate issues that have been identified in the literature.

Cassie Hebel joins the Family Violence Department (FVD) as a Project Coordinator for the Resource Center on Domestic Violence: Child Protection and Custody. Prior to this position, Cassie managed the Non-Residential Program at Tahoe Women's Services, a local domestic violence and sexual assault services organization with locations in California and Nevada. She brings 13 years of experience in the domestic violence and sexual assault field. Cassie currently serves as President of the Board of Directors for Nevada Network Against Domestic Violence. She received her BS in Social Work at Southern Illinois University.



Cassie

Radha Ramanathan, JD, joins the FVD's Washington, DC office as an Attorney. Radha was a Judicial Officer in New Jersey's family court system before joining the FVD. She brings with her experience in the areas of domestic violence and family law litigation. Currently, Radha is working on the design of advanced domestic violence training curricula as part of the National Judicial Institute on Domestic Violence. She holds a BA in English from New York University and a JD from the New England School of Law.



Radha

Shelly Reynolds joins the FVD as an Administrative Assistant. Her primary function is to provide administrative support in the operations area of the FVD. Prior to this position, Shelly worked as a Children's Advocate with A Safe Embrace, a local domestic violence services organization in Reno, Nevada. She holds a dual BA in Psychology and Criminal Justice from the University of Nevada, Reno.



Shelly

Rebecca Seelig joins the FVD's Washington, DC office as an Administrative Assistant. She assists both the National Judicial Institute on Domestic Violence and Full Faith and Credit projects. Prior to joining the FVD, Rebecca worked as the Project Assistant for the National Center on Full Faith and Credit's PROSPER project. Rebecca graduated in 2001 from Beloit College in Beloit, WI, with a BA in Anthropology and Classics.



Rebecca

Marta Wowak joins the FVD as an Administrative Assistant. Marta holds a MBA in Financing and Banking from the University of Economics, Poland, and a BS in Business from University of Phoenix. Marta has lived in two countries and speaks four languages.



Marta

The Fathering After Violence Initiative: Enhancing the S

Fathering After Violence ... is a conceptual framework to help end violence against women by using fatherhood as a leading approach that can be integrated into existing programs.

Introduction

Fathering After Violence (FAV) is a national initiative developed by the Family Violence Prevention Fund (FVPPF) and its partners¹ to enhance the safety

and well-being of women and children by motivating men who have perpetrated violence against women to renounce their violence and become better fathers (or father figures) and more supportive parenting partners. FAV is NOT a program per se or a quick solution to a complex problem. Rather, it is a conceptual framework to help end violence against women by using fatherhood as a leading approach that can be integrated into existing programs.

Using this framework as a starting point, FAV seeks to engage abusive fathers in ending violence against women by helping them to develop empathy for their children and using this empathy as a motivator to change their behavior. FAV is exploring an assessment framework to help practitioners discern which fathers might be appropriate for repairing the relationships with their children, and has also introduced a reparative framework for those fathers who are in the position to start healing their relationships with their children in a safe and constructive manner.

The intent of FAV is to support and complement other innovative work happening around the country and in the world in the fatherhood, child abuse, and domestic violence fields by:

- contributing a domestic violence prevention strategy that can be integrated by multiple disciplines in various settings;
- proposing a culturally appropriate model to impress systems change; and

- playing a role in the larger movement to eradicate violence from our society.

In this spirit, the FVPPF, its partners, and other practitioners have developed culturally appropriate practical tools, prevention and intervention strategies, and policy and practice recommendations.

Background

The initiative's work is rooted in the FVPPF's commitment to make the safety of all family members its first priority and to support women and children who have been affected by domestic violence. At the same time, the initiative recognizes that fathers who have used violence often have access to their children and, in some cases, this contact could be transformed into a positive, healing experience for the children.

Recent research has shown that some mothers who have suffered abuse want their children to have safer and healthier contact with their fathers and that positive involvement by a father figure can be very beneficial to children's development.² Because it seems that many abusive men are able to develop empathy toward their children more easily than toward their partners, understanding the effects that domestic violence has had on their children can be a strong motivator for some men to change their behavior. Providing fathers opportunities for change and healing is an essential component toward ending violence against women and children.

Stage One: Reparative Framework

Starting in 2002, the FVPPF partnered with three Boston-based batterer intervention programs (BIPs), a coordinated community response organization, and a child witness to violence program. This partnership produced *Curriculum Guidelines and Bilingual Tools for Batterers Intervention Programs*;³ public policy recommendations for working with men and boys; and a monograph for child mental



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health practitioners on considerations in working with fathers. These products are based on the qualitative research conducted at the beginning of the FAV initiative which was used to develop a theoretical framework that conceptualizes the process of healing between children and their fathers who have renounced violence.

This model is a work-in-progress. It is based primarily on in-depth interviews with six men who stopped their violence and started to heal their relationships with their children. After analyzing the information from the interviews, we discovered a series of similar actions taken by each of the men in question. These findings helped us conceptualize the steps to be taken in BIPs to begin supporting the healing process between men and the children in their lives; we named this the “Reparative Framework.” The findings include:

1. Changing abusive behavior.

It is imperative that fathers stop all kinds of abuse immediately. This is one of the fundamental goals of batterer intervention and, of course, a prerequisite to starting any reparation.

2. Modeling constructive behavior.

Children learn by example. Fathers need to know that as they stop modeling destructive behaviors, they have to make a concerted effort to model positive ones. A key teaching concept in this initiative is that a father cannot be a good model for his children if he is abusive, disrespectful, or hateful to their mother.

3. Stopping denial, blaming, and justification.

Most batterer intervention programs work toward having men take full responsibility for their abusive behavior. In the reparative framework context, programs need to teach fathers about the negative effects that denial, blaming, and justification can have on children.

4. Accepting all consequences for one’s behavior.

Violence prevention activists often think of consequences primarily from the criminal justice system perspective. Fathers involved in a reparation process need to understand that facing the consequences of their behavior may also include accepting rejection and the loss of trust, love, and even contact with their children.

5. Acknowledging damage.

It is important that fathers realize the amount of damage they have inflicted and let their children know that they understand specifically how they have hurt them.

6. Supporting and respecting the mother’s parenting.

Men who are abusive often continue to undermine the authority of the other parent. Fathers need to restore the sense of respect for the mother’s authority and decision making and fully support her parenting, especially if the father finds himself in a secondary parenting role.

7. Listening and validating.

Fathers need to be prepared for and be willing to receive anger, hurt, sadness, fear, and rejection from their children. It is essential that they understand that this is part of the healing process and not a way for their children to manipulate the situation.



8. Not forcing the process or trying to “turn the page.”

Except for the actions that involve personal change work, every action in this framework has to take place on the children’s own terms and timing. Fathers have to learn how to be patient, not to push healing or contact with their children, and should be open to talking about the past as many times as their children need to do it.

Continued on page 8.

Fathering After Violence (cont.)

Stage Two: Guiding Principles

In the second stage of FAV, which is presently under way, FVPF and its partners have teamed up with four agencies that provide supervised visitation services across the United States and are part of the Safe Havens: Supervised Visitation and Safe Exchange Grant Program. This partnership of “learning communities” has produced the guiding principles for the FAV initiative:

- The safety of women and children is always the initiative's first priority.
- This initiative must be continually informed and guided by the experiences of battered women and their children.
- This initiative neither endorses nor encourages automatic contact between the offending fathers and their children or parenting partners.
- In any domestic violence intervention, there must be critical awareness of the cultural context in which parenting happens.
- Violence against women and children is a tool of domination and control used primarily by men and rooted in sexism and male entitlement.
- Abuse is a deliberate choice and a learned behavior and, therefore, can be unlearned.
- Some men choose to change their abusive behavior and heal their relationships; others continue to choose violence.
- Working with fathers is an essential piece of ending violence against women and children.
- Fathers who have used violence need close observation to mitigate unintended harm.
- Our own practice must reflect the notions of non-violence and respect that we promote in our work.
- Service coordination among providers of domestic violence services is essential.
- The reparative process between abusive fathers and their children often is long and complex and is not appropriate for all men.

Next Stages

- In the months to come, the FAV initiative will develop:
- tools with universal messages that promote non-violent fatherhood (including a short film and printed materials);

- models of enhanced collaboration with batterer intervention and fatherhood programs;
- community partner dialogues about fathering after violence;
- pilot projects that include orientation sessions for fathers, fatherhood non-violence educational groups, and a mentoring initiative; and
- an assessment framework to help practitioners discern which fathers are most appropriate to be included in these projects.



For more information on the Fathering After Violence Initiative, please contact:
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(617) 262-5950 or
juancarlos@endabuse.org

¹**First stage partners:** Dorchester Community Roundtable, Emerge, Common Purpose and Roxbury Comprehensive Community Health Services and the Child Witness to Violence at Boston Medical Center. Generous funding was provided by the

Doris Duke Charitable Foundation.

Second stage partners: Advocates for Family Peace (Grand Rapids, MN), Family Service Agency of San Mateo County (CA), Walnut Avenue Women's Center (Santa Cruz, CA), YWCA (Springfield, MA), and City of Kent (WA). Generous funding was provided by the Office of Violence Against Women, US Department of Justice.

²Gabrie'l Atchison, Angela Autry, Lonna Davis, & Kelly Mitchell-Clark, *Conversations With Women Of Color Who Have Experienced Domestic Violence Regarding Working With Men To End Violence* (2002), FAMILY VIOLENCE PREVENTION FUND, at <http://endabuse.org/programs/children/files/conversations.pdf>. See also Tricia B. Bent-Goodley & Oliver J. Williams, *Parenting by Men who Batter Women: New Directions for Assessment and Intervention*, in *FATHERS AND DOMESTIC VIOLENCE* (Jeffrey L. Edelson & Oliver J. Williams, eds.) (forthcoming).

³Ann Fleck-Henderson & Juan Carlos Areán, *Breaking the Cycle: Fathering After Violence, Curriculum Guidelines and Tools for Batterer Intervention Programs* (2004), FAMILY VIOLENCE PREVENTION FUND, at <http://endabuse.org/programs/display.php3?DocID=342>.

Abuse is a deliberate choice and a learned behavior and, therefore, can be unlearned.

Legislative Look¹

Friendly Parent Provision—Domestic Violence Exception

During 2004, Alaska became the eighth state to amend its best-interest-of-the-child statute to provide a domestic violence exception to its “friendly parent” provision.² “Friendly parent” provisions are those that allow or mandate the court to consider the willingness or ability of each parent to facilitate or encourage the child to have frequent and continuing contact with the other parent.³ The majority of states in this country include a “friendly parent” provision in their best interest standards.⁴ Yet, these provisions fail to consider domestic violence and are contrary to the reality of battered parents.

The “friendly parent” concept does not consider the role domestic violence plays in determining whether or not a parent’s reluctance to foster a positive and continuing relationship with the abusive parent is reasonable or based upon the battered parent’s and child’s safety concerns. As a result, in their best interest analysis, courts frequently give “friendly parent” provisions more weight than evidence of domestic violence and award sole or joint physical custody to the parent who is perceived as “friendly,” often the abusive parent.⁵

However, state legislatures are beginning to acknowledge and understand this limitation in the “friendly parent” concept. For example, Alaska’s exception authorizes the court to disregard its “friendly parent” provision upon a showing that a parent “engaged in domestic violence” and “that a continuing relationship with the other parent would endanger the health and safety of either the parent or child.”⁶

In addition to Alaska, seven states provide similar domestic violence exceptions to their “friendly parent” provisions:

Iowa: *a determination by the court that a history of domestic abuse exists between the parties is just cause for denial by one parent of the child’s opportunity for maximum continuing contact with the other parent;*⁷

Minnesota: *except in cases in which a finding of domestic abuse has been made, the court is to consider the disposition of each parent to encourage and permit frequent and continuing contact by the other parent with the child;*⁸

Montana: *the court is to consider evidence of physical abuse or threat of physical abuse by one parent against the other or the child when determining whether the child has frequent and continuing contact with both parents;*⁹

Oregon: the court may not consider the willingness and ability of each parent to facilitate and encourage a close

and continuing relationship between the other parent and the child if it is *shown that the other parent has sexually assaulted or engaged in a pattern of abusive behavior against the other parent or a child and that the continuing relationship with the other parent will endanger the health or safety of either parent or the child;*¹⁰

Vermont: *except where contact will result in harm to the child or to a parent, the court must consider the ability and disposition of each parent to foster a positive relationship and frequent and continuing contact with the other parent;*¹¹ and **Virginia:** *if the court finds any history of family abuse, the court may disregard the factor, that it is otherwise required to consider, which looks at the propensity of each parent to actively support the child’s contact and relationship with the other parent, including whether a parent has unreasonably denied the other parent access to or visitation with the child.*¹²

California was the only state that modified its custody presumption statute to provide a domestic violence exception to its “friendly parent” provision. It now provides that in determining the best interest of the child, the preference for frequent and continuing contact with both parents cannot be used to rebut the presumption that an award of sole or joint physical or legal custody to a perpetrator of domestic violence is detrimental to the best interest of the child.¹³

Virtual Visitation

Also in 2004, Utah passed a bill providing that, if available, reasonable virtual access shall be permitted and encouraged between children and a noncustodial parent.¹⁴ This bill raises issues about safety and confidentiality for battered parents and their children because the new statutory language does not include cautions for

Continued on page 10.

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... state legislatures are beginning to acknowledge and understand this limitation in the “friendly parent” concept.

those cases in which there is a finding of domestic violence.

So far, it appears that Utah is the only state to have enacted such legislation. However, according to the National Center for State Courts, virtual visitation may be an up-and-coming trend.¹⁵ If more states begin to look at virtual access as a viable means of supplementing parental access, communities need to involve representatives from the domestic violence and supervised visitation fields to help guide and inform how such access should be provided or to determine whether such access is appropriate in cases of domestic violence.

Resources

If you are interested in learning more about 2004 domestic violence legislation, the *2004 Legislative Update, Volume 10* is now available. To receive your copy, please contact the Resource Center on Domestic Violence: Child Protection and Custody at (800) 527-3223 or visit <http://www.ncjfcj.org>.

¹This feature is meant to make readers aware of recent legislation, legal trends, or case law that may impact child custody and visitation and is provided for educational purposes only. It is not intended to be used to support or promote any of the reported information as legislation to be enacted or emulated and should not be relied upon as all-inclusive.

²H.B. 385, 23rd Leg., Second Reg. Sess. (Ak. 2004) (codified as amended at Alaska Stat. §§ 25.20.090 & 25.24.150).

³The following jurisdictions have friendly parent provisions or different statutory language that conveys the same idea or policy embracing this idea: Alabama, Alaska, Arizona, Arkansas, California, Colorado, District of Columbia, Florida, Idaho, Illinois, Iowa, Kansas, Louisiana, Maine, Michigan, Minnesota, Missouri, Montana, Nevada, New Jersey, New Mexico, Ohio, Oregon, Pennsylvania, Tennessee, Texas, Utah, Vermont, Virginia, Wisconsin, and Wyoming.

⁴*Id.*

⁵See *R.G.Y. v. S.P.V.C.*, 2004 WL 2796368 (Minn. App. 2004); *Ford v. Ford*, 700 So.2d 191 (Fla. 1997); Margaret K. Dore, *The "Friendly Parent" Concept: A Flawed Factor for Child Custody*, 6 *LOY. J. PUB. INT. L.* 41 (2004).

⁶H.B. 385, 23rd Leg., Second Reg. Sess. (Ak. 2004) (codified as amended at Alaska Stat. §§ 25.20.090 & 25.24.150).

⁷IOWA CODE § 598.41(1)(c).

⁸MINN. STAT. § 518.17(1)(a)(13).

⁹MONT. CODE ANN. § 40-4-212(1)(l).

¹⁰OR. REV. STAT. § 107.137(1)(f).

¹¹VT. STAT. ANN. tit. 15 § 665(b)(5).

¹²VA. CODE ANN. § 20-124.3.

¹³CAL. FAM. CODE § 3044(b)(1).

¹⁴H.B. 82, 55th Leg., Gen. Sess. (Ut. 2004) (codified as amended at UTAH CODE ANN. § 30-3-32).

¹⁵National Center for State Courts, 2003 *Report on Trends in the State Courts*, at http://www.ncsconline.org/WC/Publications/KIS_CtFutu_Trends03_Pub.pdf.



VOLUME 10

Legislative Update

The *2004 Legislative Update* is now available. This year marks the 10th year the Family Violence Department has tracked and compiled legislative efforts aimed at protecting victims of domestic violence.

The 2004 legislative session brought about continued protection for victims of domestic violence and their families. Several states placed an emphasis on prioritizing the safety and well-being of victims and their children by placing limitations on custody and visitation for perpetrators of domestic violence. For example:

- Nine states limited custody and visitation rights when an individual has a history of domestic violence.
- Five states recognized the importance of educating and sensitizing individuals who come into contact with victims of domestic violence by implementing training programs for law enforcement officers and court personnel.
- Several states recognized the importance of enhanced criminal penalties and restrictions on possession of firearms.
- Many states continued the trend of including non-physical and electronic contact in their stalking statutes, as well as prohibiting contact when a civil protection order is in effect.
- Some states expanded their definition of household member to protect more individuals from abuse, while other states recognized the importance of screening adoptive parents for a history of domestic violence.
- Several states addressed mandatory arrest statutes by mandating that police officers determine the predominant aggressor in domestic violence situations.
- Ten states provided considerations for confidentiality of victim information, a consistent trend in the recent years.

The *2004 Legislative Update* contains an overview and state-by-state description of important legislation affecting victims of domestic violence and their children. To receive a copy of the *2004 Legislative Update, Volume 10*, call the Resource Center on Domestic Violence: Child Protection and Custody at (800) 527-3223 or visit <http://www.ncjfcj.org> to download your copy.

News Notes continued on page 11.

Practical, Cutting-Edge Resources

Fathering After Violence

Breaking the Cycle, Fathering After Violence: Curriculum Guidelines and Tools for Batterer Intervention Programs

Positive involvement by a father figure is important to children's development. Yet few tools have been available to help fathers who have perpetrated family violence relate to their children in positive ways. This curriculum, produced by the Family Violence Prevention Fund with generous support from the Doris Duke Charitable Foundation, offers information, exercises, and more to help batterer intervention programs begin these essential conversations. For more information on and to order the curriculum, visit <http://endabuse.org/programs/display.php?DocID=342>.

Fatherhood and Domestic Violence: Exploring the Role of Men Who Batter in the Lives of Their Children

By Oliver J. Williams, Jacquelyn L. Bogges, & Janet Carter in Domestic Violence in the Lives of Children: The Future of Research, Intervention, and Social Policy, Sandra A. Graham-Bermann & Jeffrey L. Edleson eds., 2002 (2001).

This chapter discusses why father involvement is considered an important concern, provides an overview of the various elements that make up the fatherhood field, examines the issues that make fathers' rights efforts a concern for domestic violence advocates, and identifies research questions associated with safety for battered women and access to children by fathers who batter.

2004 Founding Fathers

A campaign by the Family Violence Prevention Fund that seeks to include men in the effort to end violence against women and children. To learn more about the campaign and how you can become involved, visit <http://founding-fathers.org>.

Internet Resources on Court Safety

National Center for State Courts at <http://www.ncsconline.org/NewsAlert.html>. This web page provides information about court security including articles, resource guides, research, frequently asked questions, important contact information, best practices, papers, and internet links.

Court Security: Selected Resources (March, 2004) at <http://www.superiorcourt.maricopa.gov/lawlibrary/Documents/PDF/Bibliographies/CourtSecurity.pdf>. This bibliography from the Maricopa County law library of court safety resources contains the following sections: general; threat assessment; court security plans; court security studies; courthouse security planning; articles on threats and violence against judges, lawyers, and parties; selected standards; association resolutions; administrative orders; and attorney general opinions.

News Notes: Upcoming Conferences

Fatherhood Conference

Collaboration Between Fatherhood and Domestic Violence Programs in Communities of Color: A Focus on Prevention (Fatherhood Conference).

The *Fatherhood Conference* will explore the intersection of domestic violence and fatherhood in low-income communities and communities of color. The conference, to be held in San Antonio, on October 11 — 13, 2005, will focus on collaboration between fatherhood and domestic violence programs to address domestic violence prevention, with the goal of fostering new alliances and exploring new tools to enhance the safety and well-being of women and success of communities. The *Fatherhood Conference* is open to battered women's advocates, practitioners, and policy makers. It is sponsored by the Center for Family Policy and Practice (CFFPP), the Institute on Domestic Violence in the African American Community, and the Family Violence Prevention Fund. The registration form may be accessed at www.cffpp.org or call CFFPP at (608) 257-3148 for more information.

Batterer Intervention Conference

From Roots to Wings: The Future of Batterer Intervention (Batterer Intervention Conference). The *Batterer Intervention Conference* to be held in Detroit on November 2 — 4, 2005, will explore such topics as defining success in batterer intervention, fathering after violence, co-parenting after violence, and living together after violence. The *Batterer Intervention Conference* is open to all including batterer intervention staff, researchers, probation officers, child protective service workers, law enforcement, the judiciary, government employees, and clergy. It is sponsored by the Batterer Intervention Services Coalition of Michigan (BISCM), the Michigan Coalition Against Domestic and Sexual Violence, and the Michigan Domestic Violence Prevention and Treatment Board. For more information on conference topics and registration, please visit www.biscmi.org or call BISCM at (877) 482-3933.

SYNERGY

The Newsletter of the Resource Center on Domestic Violence: Child Protection and Custody

NATIONAL COUNCIL OF JUVENILE AND FAMILY COURT JUDGES

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