

ing: A link between
of Family

ing for your marriage:
1000: Jossey Bass.

review: A manual of

iii: An expanded

new life. The Tacoma

ty and strengths.

ernal domestic
iatrics, 108. E43.
(3rd ed.). Thousand

ed parenting. *Child*
294.

ry. In P. G. Boss,
mera (Eds.),
nash (pp. 225-257).

sa, F. P. (2000).
id Abuse and Neglect.

antic partners'
Journal of Personality
and practice.

ory of violence
95-125.

ing economic
132-147.

ences of intimate
inist Women Survey
National Institute of

-In P. G. Boss, W. J.
(Eds.), *Sourcebook of*
-552). New York

couple conflict in
: Crouser, &
h, NJ: Erlbaum.

3

Assessing the Best Interests of the Child

*Visitation and Custody in Cases
of Domestic Violence*

Peter G. Jaffe
Claire V. Crooks

Domestic violence has been on the public agenda for 30 years, since the inception of the first shelters for abused women. The first wave of public policy, legislative change, and service delivery has emphasized an effective criminal-justice response. The overriding principles have been victim safety and perpetrator accountability. The issue of appropriate legal and clinical interventions for perpetrators remains one of many controversies. In particular, perpetrators' amenability to treatment, the effectiveness of various interventions, and the most effective model(s) for coordination between the court's and community systems' responses are major debates (Gondolf, 2002). This issue is further complicated when men's roles as fathers are added to the discussion. An emerging focus has become the role of the family court and its court-related services in determining a man's role as parent following allegations of domestic violence.

This chapter outlines some of the controversies that arise in postseparation parenting plans for couples with a history of domestic violence. The need for comprehensive assessment and differentiated intervention strategies for these families is emphasized. Implications for training, community collaboration, and promising future directions are also discussed.

The ultimate challenge for the court is assessing individual fathers in the context of children's best interests. These best interests have to be viewed through the lens of the emerging knowledge in both the divorce and domestic-violence fields. It is important to recognize that fathers are an extremely heterogeneous group with respect to the interactions and level of involvement that they have with their partners and children at the point of separation. Many men have close and nurturing relationships with their children and are able to maintain shared-parenting plans in an amicable fashion with their ex-partners. These men are not involved in the court system. The critical concerns in the field are the level of conflict between some parents and, at the extreme, the level of violence that children may experience. For some children, this conflict and/or violence is limited to the period of separation;

for others, the violence is part of a longstanding pattern that continues post-separation. There is consensus that children's adjustment may be adversely affected by exposure to both parental conflict and violence (Kitzmann, Gaylord, Holt, & Kenny, 2003; Wolfe, Crooks, Lee, McIntyre-Smith, & Jaffe, 2003). Indeed, courts and community services have an emerging mandate to limit and redress this potential harm by limiting the opportunities for children's exposure to this toxicity (Jaffe, Crooks, & Wolfe, 2003). Strategies to achieve this goal include minimized contact between parents or possibly limiting the role of one parent. The appropriateness of applying any of these individual strategies is predicated on a systematic approach and consensus about definitions of conflict and violence.

Conflict and Domestic Violence

The terms *conflict* and *domestic violence* each represent a continuum of behavior. In the divorce field, conflict refers to disagreements between parents on how to live their lives and raise their children. Both parents are seen to contribute to the conflict, either by arguing with each other or remaining unhappily silent. Underlying dynamics of relationship conflict have been identified to include poor communication and conflict-resolution skills; lack of motivation to negotiate; poor role models in the family of origin; and incompatibility of personality styles (Dalton, Carbon, & Olesen, 2003). In our custody and visitation assessments, we also often recognize these families by their rigid focus on the past and their difficulty in shifting their energy and focus to future parenting plans (Jaffe & Cameron, 1984). In contrast, domestic violence refers to a range of abusive behaviors that occur in the context of an intimate relationship. This abuse may include criminal conduct, such as physical and sexual assaults, as well as emotional and financial control. Perpetrators and victims represent a heterogeneous mix of individuals and relationships that differ with respect to intent, impact, frequency, and severity (Frederick & Tilley, 2001). Although perpetrators of domestic violence are often indiscriminately labeled as *batterers* or *men who batter*, we would argue that these terms should be reserved for individuals who demonstrate a pattern of abusive behaviors that continue over time and that are designed to control, dominate, humiliate, or terrorize their victims. Conversely, individuals who perpetrate minor, isolated incidents of violence that are not part of a pattern of behavior over time are perpetrators or individuals involved in an *incident* of abusive behavior. The terms *batterer* or *men who batter* would not be accurate in these circumstances.

Some conflict is a normal byproduct of most parental separations and can be remedied by brief parent-education programs that help focus on the needs of children (Kurkowski, Gordon, & Arbuthnot, 1993) or, simply, the passage of time. One source of confusion has come from the term *high conflict*, which has been used to describe more intense and protracted disputes

that require considerable court and violence cases (Johnston, 1994). The most popular measure of intimate partner violence is the *Tactics Scale*, which involves a rating of "knife or gun" (Straus, Gelles, & McCoy, & Sugarman, 1996). In the context of domestic violence, conflict, and abuse may be defined or understood in terms of

More recently, it has been argued that the distinction between high-conflict and domestic violence intervention strategies (Jaffe, Lemos, & Cameron, 2003). The use of these terms underscores a major concern of domestic violence advocates are concerned that the use of the term *high conflict*, and others argue that any use of the term *high conflict* in describing the perpetrator, or in describing the relationship. This chapter will focus on the role of the court in deciding the appropriate visitation and custody arrangements in domestic violence. Critical issues of assessment, intervention, and research challenges and future directions are discussed.

Why Is Domestic Violence Relevant?

It has only been within the last few decades that professionals have acknowledged that domestic violence is a critical issue in the termination of child custody. Prior to the 1980s, it was not relevant to child custody. It is now accepted that a man could be a violent perpetrator. Many groups have challenged this notion and have sought to recognize domestic violence as a critical issue based on the following rationale:

- *Abuse does not end with separation.* Abuse, stalking, and harassment may continue after separation, and they may even be more severe (2001; Lis & Stahl, 1993). Children and a violent ex-spouse are at risk of renewed domestic violence (Leighton, 1989; Sheeran & Jaffe, 1993).
- *High overlap between domestic violence and child maltreatment.* In a review of child maltreatment cases, it was suggested that between 30% and 50% of children who experienced abuse were then

that continues post-separation may be adversely affected (Kitzmann, Gaynor-Smith, & Jaffe, 2003). The emerging mandate to protect children's best interests for achieving a resolution possibly limiting the impact of these individual differences about defini-

a continuum of behaviors between parents where both parents are seen to be contributing to either or remaining in conflict have been identified: lack of resolution skills; lack of family of origin; and individual differences (Edleson, 2003). In our view, these families by investing their energy and resources (Edleson, 2003). In contrast, domestic violence occurs in the context of criminal conduct, physical and financial control, and a mix of individuals who batter, frequency, and tactics of domestic violence. *Men who batter*, we believe, are individuals who demonstrate time and that are harmful to their victims. Contents of violence that are perpetrated by individuals who batter or men who

mental separations and that help focus on the child's best interests (1993) or, simply, the term *high conflict* protracted disputes

that require considerable court and community resources and include domestic violence cases (Johnston, 1994). To compound this confusion, the original and most popular measure of intimate-partner violence is called the *Conflict Tactics Scale*, which involves a range of behavior from "insulted" to "used a knife or gun" (Straus, Gelles, & Steinmetz, 1980; Straus, Hamby, Boney-McCoy, & Sugarman, 1996). In the average courtroom, the terms *domestic violence*, *conflict*, and *abuse* may be used interchangeably, without any clear definition or understanding of these terms.

More recently, it has been argued that a clearer distinction needs to be made between high-conflict and domestic-violence cases in terms of assessment and intervention strategies (Jaffe, Lemon, & Poisson, 2003). In any event, the use of terms underscores a major controversy in the family court, whereby domestic-violence advocates are concerned that domestic violence will be euphemized as conflict, and others argue that any conflict may be interpreted as domestic violence. Even when domestic violence is identified, is the term *batterer* accurate in describing the perpetrator, or is the incident minor, historical, or isolated? This chapter will focus on the role of courts and court-related services in deciding the appropriate visitation and custody plan in cases of alleged domestic violence. Critical issues of assessment and intervention are discussed, followed by research challenges and future directions for this field.

Why Is Domestic Violence Relevant to Child Custody?

It has only been within the last decade that legal and mental-health professionals have acknowledged that domestic violence is even relevant to the determination of child custody. Prior to this time, domestic violence was seen as an adult issue not relevant to the adjustment of children, and it was accepted that a man could be a violent spouse but still a good father. Many groups have challenged this notion and encouraged major legislative reform to recognize domestic violence as a critical factor to consider in these cases, based on the following rationale.

- *Abuse does not end with separation.* Research has shown that physical abuse, stalking, and harassment continue at significant rates post-separation, and they may even become more severe (Statistics Canada, 2001; Liss & Stahly, 1993). In fact, promoting contact between children and a violent ex-spouse may create an opportunity for renewed domestic violence through visitation and exchanges of children (Leighton, 1989; Sheeran & Hampton, 1999).
- *High overlap between domestic violence and child maltreatment.* The presence of domestic violence is a red flag for the coexistence of child maltreatment. In a review of studies investigating this overlap, results suggested that between 30% and 60% of children whose mothers had experienced abuse were themselves likely to be abused (Edleson, 1999).

- *Batterers are poor role models.* As discussed throughout this book, children's socialization with respect to relationships and conflict resolution is negatively affected by exposure to a perpetrator of domestic violence. For example, when children witness one parent inflicting abuse on the other or using threats of violence to maintain control within a relationship, their own expectations about relationships may come to parallel these observations (Bancroft & Silverman, 2002). The potential of violence in a batterer's subsequent intimate relationships represents a threat that children's exposure to poor modeling will continue.
- *Victims of domestic violence may be undermined in their parenting role.* Perpetrators of domestic violence may undermine their (ex-)partners' parenting in a range of obvious and more insidious ways. For example, batterers may blame the children's mother for the dissolution of the family or even explicitly instruct the children not to listen to her directions (Bancroft & Silverman, 2002). Intervention with these fathers requires that this facet of their parenting be addressed; fathers need to both recognize the ways in which they undermine their children's mother and to commit to stopping these behaviors (Scott & Crooks, 2004).
- *Perpetrators may use perpetual litigation as a form of ongoing control and harassment.* The family court can inadvertently become a tool for batterers to continue their abusive behavior in a new forum. Litigation exacts a high emotional and financial price for abused women already overwhelmed with the aftermath of a violent relationship. Some authors have suggested that many batterers have exceptional skills in presenting themselves positively in court and convincing judges to award them custody (Bowermaster & Johnson, 1998; Zorza, 1995).
- *In extreme cases, domestic violence following separation is lethal.* Domestic violence and homicides are inextricably linked. National figures from the United States and Canada suggest that women are most at risk of homicide from estranged partners with a prior history of domestic violence (Fox & Zawitz, 1999; Statistics Canada, 2001; Websdale, 2003). Thus, risk of homicide in domestic-violence cases requires diligent investigation because of this growing literature linking domestic violence, separation, and homicide. To assist with this work, risk-assessment tools have been developed (Campbell, 1995; Campbell, Sharpe, & Glass, 2001). In these extreme cases, children may become involved as witnesses to homicides or become homicide victims themselves (Websdale, Town, & Johnson, 1999). Child abduction represents another traumatic outcome in these cases, representing a batterer's ultimate desire for control after separation through punishment of his ex-partner.

In summary, domestic violence is an important area of inquiry in addressing child-custody and visitation disputes. A history of domestic violence

demands a unique analysis. A paradigm shift to view the initial determination of a child's best interest when a partner is not paranoid, nor manipulative, nor in the face of danger. Although need minimal legal resources to protect parents who have experienced domestic violence. When parents express concern for safety, the issue must be closely

One size does not fit all parents, judges, and mental-health interventions are matched to the late 1990s, such as mediation. Interventions to child-custody dispute remedies require two parents work together, as opposed to fear and flight (2002). Furthermore, the power imbalance in violence cases makes it difficult to discern about the process. Legal warning signs of domestic violence include mixing, denying, or excusing the

Clinical Issues: Assessment

Trying to understand what dysfunction through allegations of mistreatment. When children are involved, emotions may cloud parents' judgment. A dependent third party. Conflict resolution for children may take a number of forms: to develop amicable shared-parenting; others require an assessment of the potential existence of domestic violence.

Even in domestic-violence cases, not include the formal court. The court leaves the jurisdiction and maintains interest in maintaining an ongoing relationship with children. In other cases, the perpetrator takes no action to avoid any engagement with the issues by ignoring their legal rights. This was seen as favorable to living with Crooks, & Poisson, 2003). For the assessment and intervention

demands a unique analysis. Legal and mental-health professionals need a paradigm shift to view the information and competing allegations in the determination of a child's best interest. A mother who lives in fear of her ex-partner is not paranoid, nor may she be able to promote a paternal relationship in the face of danger. Although the vast majority of divorcing parents need minimal legal resources to resolve their postseparation parenting plan, parents who have experienced domestic violence require the highest standard of care. When parents express concerns about their safety and their children's safety, the issue must be closely examined.

One size does not fit all parents in custody and visitation disputes. Lawyers, judges, and mental-health professionals need to ensure that the right interventions are matched to the right clients. The best innovations of the late 1990s, such as mediation and joint custody, are not appropriate solutions to child-custody disputes involving domestic violence because these remedies require two parents who have some basic respect and trust in each other, as opposed to fear and hesitancy to even be in the same room (Hirst, 2002). Furthermore, the power differential between parties in domestic-violence cases makes it difficult for the more vulnerable party to raise concerns about the process. Legal and mental-health professionals who ignore warning signs of domestic violence can endanger children and parents by minimizing, denying, or excusing the reality of domestic violence.

Clinical Issues: Assessment and Intervention

Trying to understand what dynamics led to a marital breakdown and sorting through allegations of mistreatment and fault are highly complex undertakings. When children are involved, and their future care is at stake, intense emotions may cloud parents' accurate portrayals of the marriage to an independent third party. Conflicts about parents' postseparation arrangements for children may take a number of different pathways. Many parents are able to develop amicable shared-parenting arrangements without court intervention; others require an assessment of the nature of the conflict and the potential existence of domestic violence.

Even in domestic-violence cases, there is a range of outcomes that may not include the formal court system. For some abuse victims, their abuser leaves the jurisdiction and may move on to other relationships, showing no interest in maintaining an ongoing relationship with their former partner or children. In other cases, the abuse victim may flee for her safety, and the perpetrator takes no action to find her. In our survey of abuse victims, some avoided any engagement with their perpetrator over financial or child-related issues by ignoring their legal rights and entitlement (e.g., living in poverty was seen as favorable to living with ongoing violence and harassment) (Jaffe, Crooks, & Poisson, 2003). For cases that do enter the formal court system, the assessment and intervention issues are complex. The cases that pose the

at this book,
and conflict
petrator of domestic
arent inflicting
aintain control
relationships may
erman, 2002). The
rate relationships
modeling will

eir parenting role.
heir (ex-)partners'
ways. For example,
issolution of the
listen to her
ion with these
addressed; fathers
termine their
behaviors (Scott &

ngoing control and
time a tool for
w forum. Litigation
ied women already
nship. Some authors
d skills in presenting
s to award them
95).

is lethal. Domestic
onal figures from the
not at risk of
ry of domestic
011; Websdale, 2003).
quires diligent
ng domestic violence,
risk-assessment tools
harpis, & Glass,
involved as witnesses
s (Websdale, Town,
her traumatic
mate desire for
ex-partner.

area of inquiry in ad-
of domestic violence

most significant challenge to legal and mental-health professionals are ones where the parents present diametrically opposed versions of reality with respect to pre-separation events and parental involvement.

Assessment

Domestic-violence allegations represent one of these thorny issues that require thorough assessments and investigation. At the outset, it is important to recognize that domestic violence is not a homogenous phenomenon but rather an umbrella term for a range of patterns and behaviors that differ in frequency, severity, intention, and impact (Frederick & Tilley, 2001). Different patterns have been identified, including Ongoing/Episodic Male Battering, Female Initiated Violence, Male Controlling Interactive Violence, Separation/Divorce trauma, and Psychotic/Paranoid (Johnston & Campbell, 1993). These categories are not without controversy, particularly with respect to the concept of mutual violence. Many domestic-violence advocates suggest that mutual violence is often misinterpreted without a power-and-control analysis of the primary aggressor (Frederick & Tilley, 2001).

To understand the context for these assessments, it is important to be cognizant of the zeitgeist in family courts in North America and elsewhere (Jaffe & Crooks, 2004). Courts want cases settled in a cost-efficient and timely manner by precourt interventions, such as mediation and settlement conferences. Cooperation is highly reinforced and seen to be synonymous with children's best interests. Common wisdom in the divorce field suggests that the parent who is best able to promote a relationship between the child(ren) and the other parent is most appropriate for a custodial role.

Domestic-violence allegations raised in this context are often met with skepticism and concern that the allegation is being utilized to limit the involvement of the other parent. In this vein, the allegations represent a double-edged sword for abuse victims. If the allegations are proven on the preponderance of evidence, the victim and her children may find safety, provided by recent legal reforms and appropriate community resources. However, if the allegations appear unfounded and are deemed to be malicious, the abuse victim may lose custody. In some of these cases, mothers are accused of willful alienation of the children against their father.

In the absence of investigation and clear documentation of family violence by the police or child-protection services, the family-justice system may be faced with conflicting allegations and denials by the two parents. One California-based study of high-conflict separation cases in the family courts found that more than one half involved an allegation of spousal or child abuse (Johnston, Lee, Oleson, & Walters, 2005). About one half of the abuse allegations were substantiated, and in about one quarter of the cases in the study, some form of child or spousal abuse was perpetrated by both parents. The rate of substantiation of spousal abuse was much higher than the rate of substantiation of allegations of child abuse. This finding may reflect the fact that

spouses in a high-conflict separation case often have their own victimization by a partner, and both parents may have considerable difficulty in reporting on how their partner behaved.

Even in cases where the victimization is documented by police and/or court records, the information may not be recorded in the family court. In a study of all 100 family court cases in Seattle over a two-year period, 60% of the information across formal systems was not recorded (Holtz, 2005). For example, although 70% of police- and/or court-reported allegations were documented in the marriage-dissolution file, 30% of the files documented allegations of domestic violence. Overall, the court was more likely to find cases with a substantiated history of domestic violence a number of potential contributing factors, including lack of coordination of documentation and the absence or inadequacy of evidence.

In cases where there are no records, the police or child-protection service investigations are used to determine what occurred (Eaton & Jaffe, 2004). The onus on the party making the allegation is onerous. The standard of proof is the civil standard of preponderance of the evidence, making it less difficult to establish than in a criminal-court proceeding, where the standard is beyond a reasonable doubt.

In some family-court cases, the fact or significance of spousal abuse is not the focus of representation. Even a good faith effort to establish that abuse occurred may be undermined by the victim's allegations, for example, that the abuser was not the biological father. In these cases, a victim who is accused of alienating the children from the other parent may find it difficult to establish that the abuse occurred.

This alienation has even been documented in the absence of research to support the reliability of the victim's allegations (Bala & Fields, 2003). At the same time, the victim's parents may actively undermine the victim's allegations. Children may actively reject a parent who is accused of alienating them from the other parent.

More recently, increasingly, there has been a focus on understanding this rejection process (Bala & Bailey, 2004; Droad & Johnston, 2005). In high-conflict cases, the victim may attempt to make hostile and derogatory comments about the other parent and to attempt to enmesh the children in the process, which emotionally suffer in these cases.

professionals are ones
ns of reality with re-

porny issues that re-
tset, it is important
as phenomenon but
aviors that differ in
: Tilley, 2001). Dif-
/Episodic Male Bar-
nteractive Violence,
nston & Campbell,
icularly with respect
ence advocates sug-
a power-and-control
001).

It is important to be
erica and elsewhere
efficient and timely
d settlement confer-
e synonymous with
e field suggests that
ween the child(ren)
role.

are often met with
to limit the involve-
sent a double-edged
he preponderance of
vided by recent legal
er, if the allegations
use victim may lose
lful alienation of the

ation of family vio-
e-justice system may
e two parents. One
in the family courts
ousal or child abuse
liff of the abuse alle-
ie cases in the study,
both parents. The
han the rate of sub-
reflect the fact that

spouses in a high-conflict separation are likely to be accurate in reporting their own victimization by a partner. However, in high-conflict separation cases, parents may have considerable difficulty in accurately understanding and reporting on how their partner may have treated their children.

Even in cases where the violence has been substantiated and documented by police and/or court records, that information may not find its way into family court. In a study of all families undergoing dissolution of marriage in Seattle over a two-year period, results indicated very poor transmission of information across formal systems (Kernic, Monary-Ernsdorff, Koespell, & Holt, 2005). For example, almost one half of those cases with a history of police- and/or court-reported spousal violence had no mention of this abuse in the marriage-dissolution file, and more than one half of the remaining case files documented allegations without corroborating evidence, despite its existence. Overall, the court was made aware of fewer than one fourth of those cases with a substantiated history of spousal violence. The authors point to a number of potential contributors for this lack of information sharing, including lack of coordination of domestic-violence services across different courts and the absence or inadequacy of screening for domestic violence.

In cases where there are spousal-abuse allegations but no conclusive police- or child-protection service investigation, the family-court system is left to try to determine what occurred (Bala, 2004). Even in a family-law case, there is an onus on the party making an allegation to prove it, though the standard of proof is the civil standard of "proof on the balance of probabilities," making it less difficult to establish in family court that abuse occurred than in a criminal-court proceeding, where there must be "proof beyond a reasonable doubt."

In some family-court cases, a genuine victim may be unable to establish the fact or significance of spousal abuse because of the lack of effective legal representation. Even a good family lawyer may have considerable difficulty in establishing that abuse occurred if there is a lack of corroborative evidence of the victim's allegations, for example, from a doctor, neighbor, or babysitter. In these cases, a victim who is unable to prove abuse may find herself accused of alienating the children from their father.

This alienation has even been labeled as a "syndrome," although there is no research to support the reliability and validity of this diagnosis (e.g., Ragland & Fields, 2003). At the same time, there is no question that some separating parents actively undermine children's relationships with the other parent. Children may actively reject a parent postseparation for a host of reasons.

More recently, increasingly sophisticated frameworks have been proposed to understand this rejection process and to develop appropriate interventions (Bala & Bailey, 2004; Drozd & Olesen, 2004; Johnston & Kelly, 2005; Johnston, 2005). In high-conflict cases, it is quite common for both parents to make hostile and derogatory comments about the other to the children and to attempt to enmesh the children in their disputes. While children emotionally suffer in these cases, it would seem that most children struggle

to maintain a relationship with both parents, despite the parental conduct. When children do reject one parent, it is necessary to consider the role that both parents are playing in the lives of their children and the specific circumstances of the child. In some cases, a child will become aligned with the warmer and more effective parent and reject the other as a way of resolving conflicting feelings of loyalty.

An alienation analysis is especially inappropriate in cases of family violence, where children's reticence about contact with a parent is better understood as hypervigilance or fear (Drozdz & Olesen, 2004). A decision-tree framework has been proposed by Drozd and Olesen to assist judges, lawyers, and assessors in dealing with the difficult issues surrounding perceived alienation. Other advances in the area include a framework that looks at multiple contributors to parental rejection, including the stage of children's development, events surrounding separation, primary caregiver's behavior, and the rejected parent's behavior (Johnston & Kelly, 2004).

In contrast to the empirically unsupported notion of Parental Alienation Syndrome, these more complex, multidimensional models have received preliminary research support. A comprehensive assessment identifying reasons for rejection is critical, because it provides the basis for appropriate intervention. If a parent is being rejected primarily for reasons such as moralistic thinking by the children (e.g., tied to developmental stage), lack of resources (e.g., not as many toys as the other parent's house), and negative comments by the custodial parent, then therapeutic intervention to rebuild the relationship between the rejected parent and the children would be indicated. In contrast, if a careful assessment found that rejection was more closely tied to the non-custodial parent's history of violence and continued attempts to monitor and harass the children and primary caregiver, then interventions to create safety for the children and caregiver would be more important than treating the alienation. In any case, a thorough assessment of abuse allegations is warranted as part of a custody decision-making process, given the high stakes of a finding of domestic violence.

Assessments or evaluations may be completed by mental-health professionals with expertise about divorcing families or by brief reports completed by a range of professionals and volunteers appointed by the court. Assessment resources vary widely by jurisdiction, and in general, parents with more resources have access to more qualified professionals and more thorough evaluations. Assessing domestic violence requires a number of procedures to identify patterns of behavior over time, as opposed to an isolated incident. Furthermore, less severe or subthreshold behaviors should be interpreted within the context of this larger pattern. A multimethod, multisource approach is required. Figure 3.1 identifies the additional assessment requirements for cases where either party has made allegations of violence. The first layer of the pyramid identifies the essential ingredients of a custody-and-visitation assessment, including understanding the children's individual needs, the parents'

skills, the ability of the parents to coordinate any parenting plan, and other domains are still pertinent; however, it adds additional concerns, such as children's coping strategies. It is important to identify the level of the hostile and angry parent who is being drawn into adult conflict (the top of the pyramid), including how the impact of violence on the children is being assessed.

In conducting an assessment, it is important to collect all of the information in a systematic process. A starting point is to interview the parents on one or two occasions, and then to interview the children on one or two occasions, and then to interview the professionals who have been gathered to provide their perspectives. Another important component is to observe the behavior that includes frequent



Figure 3.1. Child custody: Special assessment requirements

the parental conduct, consider the role that and the specific circum- aligned with the warmer y of resolving conflict-

in cases of family vio- parent is better under- (2004). A decision-tree to assist judges, lawyers, nding perceived alien- that looks at multiple of children's develop- er's behavior, and the

of Parental Alienation del have received pre- nent identifying reasons r appropriate interven- uch as moralistic think- lack of resources (e.g., ative comments by the build the relationship indicated. In contrast, closely tied to the non- tempts to monitor and entions to create safety rant that treating the allegations is warranted ic high stakes of a find-

mental-health profes- sion reports completed y the court. Assessment parents with more re- l more thorough evalu- of procedures to identify ared incident. Further- interpreted within the source approach is re- t requirements for cases . The first layer of the ly-and-visitation assess- tual needs, the parents'

skills, the ability of the parents to cooperate, and the developmental consid- erations of any parenting plan. In a high-conflict case, these initial assessment domains are still pertinent; however, the second layer of the pyramid identi- fies additional concerns, such as the history of the parental conflict and children's coping strategies. In high-conflict cases without violence, it may be important to identify the less toxic parent. By *toxic*, we refer to the more hostile and angry parent who is difficult for children to be around without being drawn into adult conflict. With domestic violence, the above challenges are compounded by additional assessment consideration (denoted at the top of the pyramid), including homicide-risk assessment and an understanding of the impact of violence on the children.

In conducting an assessment where domestic violence has been alleged, collecting all of the information shown in the pyramid involves a complex process. A starting point is individual interviews with both parents on more than one occasion. While perpetrators may present as very reasonable indi- viduals on one or two occasions, by interviewing them over time and begin- ning to challenge their perspective on the basis of other information that has been gathered may provide the assessor with the opportunity to see past the veneer. Another important ingredient is a structured inventory of abusive behavior that includes frequency and severity of physically, sexually, verbally,



Figure 3.1. Child custody: Specialized assessment needs in domestic violence cases

and psychologically abusive behavior experienced by each partner, as well as injuries suffered (e.g., the Abusive Behavior Observation Checklist; see Dutton, 1992). A follow-up interview to the abuse inventory is helpful for ascertaining the context of the abuse. For example, assessors should gain a better understanding of the impact of the abuse; coping styles; disclosures to friends, family, and professionals; and effects of the violence on the children.

Given that the credibility of claims is an important determinant of custody decisions, collateral information is an important source of documentation. Therefore, interviews with informal and formal support systems, including review of records (police, child protection, emergency-room physicians, and so forth) should be included. Emphasis on this documentation is not meant to imply that allegations of domestic violence are credible only if there is third-party evidence; indeed, the majority of domestic-violence victims may not have disclosed to other people or involved the police. Rather, it is important to review this documentation in cases where it does exist while remaining mindful that lack of such evidence does not imply fabrication.

It is also important to keep the needs of the children first and foremost while assessing these relationship dynamics. In assessing families where domestic violence has been alleged, it is essential to include interviews with the children so as to assess their understanding of events and the impact of their exposure to violence. Collateral sources for children should also be reviewed (e.g., teachers, doctors, counselors) to gain understanding of their reactions to the events that they have witnessed or experienced. Analyzing the information gathered requires an understanding of abuse victims and perpetrators. For example, although the prevailing belief may be that women may lie or exaggerate claims of abuse to gain custody, our experience is more that abuse victims minimize or are reluctant to disclose the extent of abuse that they endured. In our interviews with 62 abused women, they reported that they rarely volunteered information about sexual abuse by their partner. Their reluctance stemmed from feelings of personal embarrassment, lack of trust or rapport with the professional, and the concern that the professional could not handle the information (Jaffe, Crooks, & Poisson, 2003). Perpetrators of domestic violence may deny or minimize the abuse as part of their skill in avoiding responsibility for their behavior and externalizing blame for any difficulties (Bancroft & Silverman, 2003). Without a domestic-violence analysis, these allegations may be misunderstood as more of the "he said/she said" perspectives on a relationship that are often found in high-conflict divorce. Once domestic violence has been identified, this analysis should provide the context for assessing other information, such as communication patterns between the partners. For example, a mother who avoids phone contact with an abusive former partner may be seen to be neglecting her duties for information sharing about the children's activities; however, within the context of domestic violence, this same behavior can be understood as an attempt to protect herself and her children from further harassment and abuse.

There are conflicting professionals in understanding an increase in the number of professionals in becoming more and more skilled in their change in actual practice arena, two recent research extent to which the field today evaluators across the reported that they recognize work. These practitioners assessment resources and dations when domestic violence the Louisville, Kentucky, looked in court assessments that domestic violence was mentioned in the same thermore, an analysis of (e.g., mediation, adjudication domestic-violence history as likely to be steered inappropriateness of mediation (tation, custody outcomes and history (Logan, Walker,

The extent to which ized is not clear; nonetheless has replicated these theory and practice, one sessions in nearly one half interview had identified of state regulations for se

In the Seattle study (et al., 2005) found that the need to identify domestic many cases, appropriate is For example, although fathers against children's mother those who had not, this from this group. Further be required for fathers who not (Kernic, et al., 2005)

In a San Diego-based that mediators failed to the domestic-violence case

ted by each partner, as well as the Observation Checklist; see Appendix B. A baseline inventory is helpful for future reference. In addition, to help the assessor gain a better understanding of the couple's coping styles; disclosures to the assessor about the violence on the children; the importance of custody; the importance of documentation; the importance of formal support systems, such as therapy, emergency-room physician, and hospitalization; the importance of this documentation; the importance of domestic violence being credible only if supported by a majority of domestic-violence professionals; the importance of involving the police. Rather, the assessor assesses where it does exist while recognizing that it does not imply fabrication. The assessor should interview children first and foremost when assessing families where domestic violence is present. This includes interviews with the children and the impact of their experiences should also be reviewed. The assessor's understanding of their reactions should be reviewed. Analyzing the information from abuse victims and perpetrators may be that women may lie because their experience is more that abuse than the extent of abuse that they experience. They reported that they rarely see their partner. Their reluctance to do so is due to fear, lack of trust or rapport. The assessor professional could not handle this. Perpetrators of domestic violence do not have the skill in avoiding blame for any difficulties. In domestic-violence analysis, these are the "he said/she said" perspectives in high-conflict divorce. Once the assessor should provide the communication patterns between the couple, phone contact with an abuser, and the assessor's duties for information within the context of domestic violence is an attempt to protect her/him from abuse.

There are conflicting claims about the progress of legal and mental-health professionals in understanding domestic violence. Clearly, there has been an increase in the number of training programs available to assist various professionals in becoming more sensitive to the dynamics of domestic violence and more skilled in intervention strategies. The debate focuses on the rate of change in actual practices among professionals. In the custody-evaluation arena, two recent research papers present drastically different pictures of the extent to which the field has changed. Bow and Boxer (2003) surveyed custody evaluators across the United States and found that the vast majority reported that they recognized domestic violence as a critical factor in their work. These practitioners indicated that they considered utilizing specialized assessment resources and made differential custody and visitation recommendations when domestic violence was identified. In contrast, recent studies in the Louisville, Kentucky, courts found that domestic violence was often overlooked in court assessments. Analysis of custody evaluation reports suggested that domestic violence was not a factor in recommendations, even when it was mentioned in the same report (Horvath, Logan, & Walker, 2002). Furthermore, an analysis of court records found that court settlement methods (e.g., mediation, adjudication) did not vary for families with and without domestic-violence histories. Parents with a history of domestic violence were as likely to be steered into mediation as those without, despite the inappropriateness of mediation (for the reasons stated earlier) in these cases. In addition, custody outcomes did not differ between families with and without this history (Logan, Walker, Horvath, & Leukefeld, 2003).

The extent to which these findings from one jurisdiction can be generalized is not clear; nonetheless, recent research emerging from other jurisdictions has replicated these themes. Consistent with this posited gap between theory and practice, one California study found that mediators held joint sessions in nearly one half of the cases in which an independent screening interview had identified allegations of domestic violence, in direct violation of state regulations for separate sessions in these cases (Hirst, 2002).

In the Seattle study discussed earlier, Kernic and her colleagues (Kernic, et al., 2005) found that while some progress has been made in recognizing the need to identify domestic violence in child-custody determinations, in many cases, appropriate safeguards and restrictions are not being put in place. For example, although fathers who were known to have perpetrated violence against children's mothers were more likely to be denied child visitation than those who had not, this restriction was imposed on only 16.8% of fathers from this group. Furthermore, third-party supervision was no more likely to be required for fathers who had perpetrated violence than for those who had not (Kernic, et al., 2005).

In a San Diego-based study looking at mediation practices, it was found that mediators failed to recognize and report domestic violence in 57% of the domestic-violence cases (Johnson, Saccuzzo, & Koen, 2005). Furthermore,

revealing information about domestic violence was found to be detrimental to victims with respect to outcomes. In this study, mediators who reported being aware of the existence of domestic violence in the relationships were less likely to recommend supervised exchanges than those who did not.

Finally, a study evaluating the application of the Model Code (rebuttable presumption against awarding custody to perpetrators of domestic violence, as recommended by the National Council of Juvenile and Family Court Judges) across several jurisdictions found that these jurisdictions were more likely to award custody to victims of domestic violence than in jurisdictions without the rebuttal presumption, except when there was a competing "friendly parent" provision (Morrill, Dai, Dunn, Sung, & Smith, 2005). However, while victims were more likely to be awarded custody in these jurisdictions and more likely to have restrictions placed on fathers' visits, these restrictions were still only applied in approximately two thirds of cases with a history of domestic violence. Thus, even in jurisdictions with a rebuttal presumption, there appears to still often be a trade-off between physical custody and visitation, whereby perpetrators of abuse may not be awarded custody but are still granted relatively free access.

Intervention

Intervening in child-custody disputes with parental histories of domestic violence is a complex undertaking. In dealing with abusive fathers, there may be a range of remedies over time that depend on access to appropriate services and documented changes in the abuser's behavior. Within the court system, judges have to consider a range of options in dealing with a violent spouse. These options include no contact, supervised visitation, supervised exchanges, exchanges in a public place, unsupervised visitation, liberal and regular visitation, and shared custody/parenting (many states have dropped the term "custody" in favor of "parenting plan" and "residential parent"). Embedded within these options are a multitude of parameters, such as the length of a visit, advisability of overnight access, determination of suitable supervisors, and safe locations for exchanges.

As noted, all of these options exist within a culture that promotes cooperation and shared parenting. Currently, the *de facto* arrangement appears to be joint-custody or shared-parenting plans, where parents are considered equal partners in decision making and available contact time. The justice system, in our view, attempts to apply a one-size-fits-all solution to separating couples, and all efforts and resources are directed at having parents settle their differences and become parenting partners for life. Figure 3.2 tries to capture this reality by the analogy of a highway leading to shared parenting in which domestic violence cases need an off-ramp to avoid being carried along with the traffic. With a history of domestic violence, shared parenting and the sometimes legislated shared-parenting plans are contraindicated. Shared-parenting plans require good communication between parents, which is un-

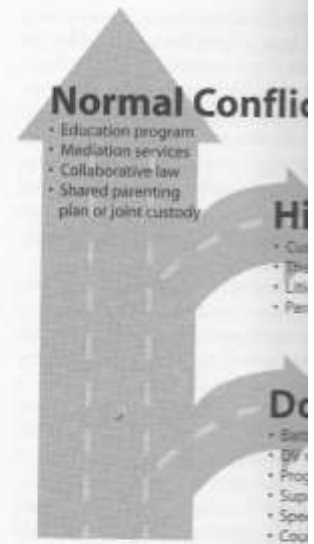


Figure 3.2. Differentiated custody interventions.

likely in the context of fear and distrust. Whereas the majority of families benefit from mediation, domestic-violence cases require supervised visitation, barrer's children. Solutions that require visitation mediation or settlement conferences may be accepting remedies without safe

High-conflict cases involving cooperation but have no history of violence also. Although the physical-safety concerns for children is clearly harmful, the reaction to develop and implement parenting recognizes that each parent by themselves and is a beneficial influence. Collaboration between the parents is maintained within this arrangement are and communication between the pa

und to be detrimental mediators who reported the relationships were those who did not. The Model Code (rebuttal of domestic violence and Family Court jurisdictions were more than in jurisdictions where there was a competing parent (Ang & Smith, 2005). Shared custody in these jurisdictions on fathers' visits, these jurisdictions with a rebuttal of physical custody not be awarded cus-

stories of domestic violence fathers, there may be appropriate services and the court system, judges and spouse. These options exchanges, exchanges for visitation, and shared custody in favor of within these options are advisability of overnight occasions for exchanges. The arrangement appears parents are considered intact time. The justice solution to separate having parents settle life. Figure 3.2 tries to shared parenting being carried along shared parenting and intraindicated. Shared parents, which is un-

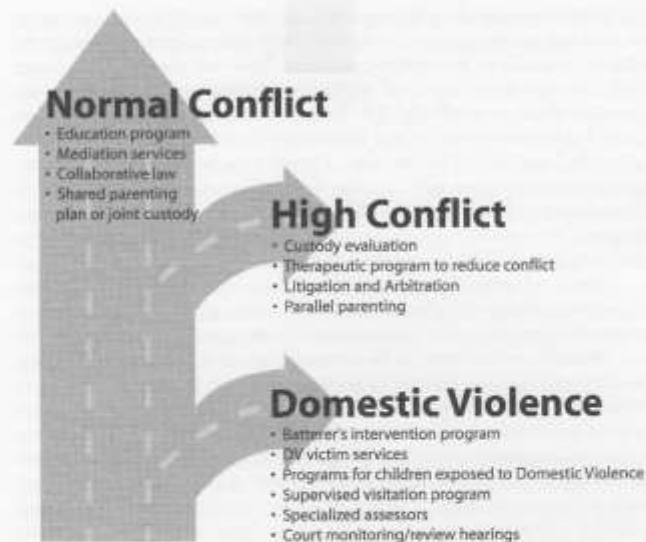


Figure 3.2. Differentiated custody interventions in domestic violence cases

likely in the context of fear and disrespect in a historically abusive relationship. Whereas the majority of families benefit from educational programs and mediation, domestic-violence cases require specialized intervention, including supervised visitation, batterer's intervention, and support services for children. Solutions that require victims and perpetrators to be together in mediation or settlement conferences may endanger victims or intimidate them into accepting remedies without safety.

High-conflict cases involving couples that fully engage lawyers and judges but have no history of violence also require more specialized intervention. Although the physical-safety concerns are mitigated, exposure to ongoing conflict for children is clearly harmful, and the parents require external direction to develop and implement parallel-parenting arrangements. Parallel parenting recognizes that each parent is capable of meeting children's needs by themselves and is a beneficial influence for the child but that any hope of collaboration between the parents is futile and harmful for children. Contained within this arrangement are specific guidelines to minimize contact and communication between the parents.

Further complicating the issue, these decisions may be made at one point in time but require continuous review. These reviews have to consider the abuser's response to previous interventions (legal and clinical), compliance with current undertakings, and readiness of children and ex-partners to accommodate the proposed changes. That is, men's change occurs in a system involving other individuals and their needs; therefore, perpetrator change alone does not necessarily translate to increased access to children. For example, an abusive man may have been involved in extreme forms of violence that traumatized his partner and children to such an extent that they are not prepared to consider contact after his release from jail, regardless of documented changes and a commitment to be nonviolent.

There are systemic problems in providing services for families having experienced domestic violence. First of all, timely access to services may be impeded by poverty, waiting lists, and culturally appropriate service providers. Multiple services need to be accessed, including services for batterers, victims, and children exposed to domestic violence. If these services are in place, there is a critical need to coordinate service delivery and communication of information. Aside from confidentiality concerns, the nature of information required by custody evaluators, lawyers, and judges may be beyond the mandate, policy, and record-keeping practices of individual agencies involved. To compound these problems, it is not clear that anybody is in charge. Practices vary from having a court officer (e.g., master or commissioner) hold regular review hearings to court orders that leave families in limbo with no clear accountability for implementation or mechanism for review. In our experience, the latter is more common.

A further complication in this field is the increasing number of self-represented litigants, who may not even have an awareness of the available legal remedies and community services, let alone know how to navigate these systems. In our experience with judiciary-training seminars, judges report finding these pro se litigants to produce hearings that are more emotionally charged and less informative and productive in decision making in the absence of the organizing and buffering effects of a competent family lawyer. At the extreme, judges may be faced by a perpetrator cross-examining a victim of abuse.

The shortcomings within the court system that relate to gathering important information, making decisions, and monitoring parents' and children's progress with court remedies inadvertently create a benefit for perpetrators. Since many perpetrators of domestic violence minimize their abuse and avoid accountability, the family-court system may reinforce these tendencies through these systemic inadequacies. Similar to the conclusions outlined with regard to the effectiveness of batterer-intervention programs being dependent on their integration into a coordinated justice and community-service system (Gondolf, 2002), family-court interventions for batterers face the same challenge. This challenge is magnified by the number of parties, their relationships to each other, and the multitude of agencies involved. Different aspects

of the justice system may also be (civil, child protection) with inco

Future Directions

The preceding discussion illustrating with parents and children in the child-custody arena. The issues of collaboration among researchers, participation has been hampered in the domestic-violence and divorce-resolutions dealing with separation in this be understood and addressed in (Cunningham, 2001).

Research

There is clearly a need for well-practice and policy; however, restoring this same complexity. Some practice research methodologies, conditions or interventions is no focus on naturally occurring events

Furthermore, we need to explore which we may consider in a parent visitation arrangement following be completely positive or negative behavioral and emotional outcomes separation in the context of catch-22 (Smith Stover, Van Horn). On the one hand, children who likely to have internalizing problems they had witnessed. On the other hand, fathers exhibited externalizing behavior as a result of the violence experience of children's problems if they had than the negative effects of being Although this small study was in aspects of violence (e.g., amount of child maltreatment). The next step is to explore the possibility of including a range of heterogeneous conceptualizations of this experience to a dichotomous

ns may be made at one point reviews have to consider the al and clinical), compliance ldren and ex-partners to ac- 's change occurs in a system erefore, perpetrator change l access to children. For ex- in extreme forms of violence h an extent that they are not om jail, regardless of docu- olent.

services for families having ly access to services may be r appropriate service provid- udng services for batterers, nce. If these services are in e delivery and communica- concerns, the nature of in- , and judges may be beyond es of individual agencies in- ar that anybody is in charge. aster or commissioner) hold re families in limbo with no chanism for review. In our

increasing number of self- n awareness of the available (know how to navigate these seminars, judges report find- that are more emotionally decision making in the ab- a competent family lawyer, rator cross-examining a vic-

at relate to gathering impor- rning parents' and children's benefit for perpetrators. Since ne their abuse and avoid ac- ece these tendencies through usions outlined with regard ngrams being dependent on l community-service system batterers face the same chal- ber of parties, their relation- s involved. Different aspects

of the justice system may also be involved with the same family (criminal, civil, child protection) with inconsistent or even competing decisions.

Future Directions

The preceding discussion illustrates the complexity of assessing and interven- ing with parents and children with histories of domestic violence within the child-custody arena. The issues raised require major systems change and col- laboration among researchers, policymakers, and practitioners. This collabo- ration has been hampered in the past by the compartmentalization of the domestic-violence and divorce-research fields. The needs of children and fam- ilies dealing with separation in the context of conflict and/or violence must be understood and addressed in a more holistic manner (Jaffe, Poisson, & Cunningham, 2001).

Research

There is clearly a need for well-designed, longitudinal research to inform practice and policy; however, research faces a tremendous challenge in cap- turing this same complexity. Some flexibility is required in applying best- practice research methodologies. Obviously, random assignment to different conditions or interventions is not ethical. As a result, research will need to focus on naturally occurring events and trajectories.

Furthermore, we need to expand the possible range of research outcomes which we may consider in a particular study. The impact of a particular visitation arrangement following a history of domestic violence may not be completely positive or negative. For example, a recent study looking at behavioral and emotional outcomes with preschool-aged children follow- ing separation in the context of domestic violence identified a potential catch-22 (Smith Stover, Van Horn, Turner, Cooper, & Lieberman, 2003). On the one hand, children who did not see their fathers at all were more likely to have internalizing problems independent of the extent of the vio- lence they had witnessed. On the other hand, children who did see their fathers exhibited externalizing behavior problems, predicted in part by the extent of the violence experienced by their mothers. Overall, the effect size of children's problems if they had been exposed to severe violence was larger than the negative effects of being deprived of contact with their father. Although this small study was innovative in its attempt to look at different aspects of violence (e.g., amount witnessed, severity), it overlooked a ma- jor element by excluding children who had suffered from other forms of child maltreatment. The next generation of research needs to follow this direction of including a range of behavioral outcomes and also a more het- erogeneous conceptualization of exposure to violence rather than reducing this experience to a dichotomous construct.

Similarly, the impact of a particular outcome may vary across time and developmental stages, underscoring the need for longitudinal research. For example, there may be cases where a child's sense of emotional security and outright physical safety would be greatly facilitated by the cessation of any contact between the father and child. However, this child's needs may change as he or she grows older. It may be that the absence of any contact with the father as a young child may exacerbate difficulties that the child is having in making sense of his or her identity as an adolescent. Unresolved issues with a parent can create a sense of ambiguous loss for the child (Scott & Crooks, 2004). Clinically, we have certainly seen cases where an adolescent who has not had contact with his father (who was abusive to his mother) begins to both idealize and overidentify with the absent parent and may even seek to live with him. The challenge for practitioners in domestic-violence cases is to balance the need for safety in the short-term and healing relationships (when possible) in the long-term. Healing may refer to individuals who are able to come to terms with a traumatic past and develop more effective coping strategies and healthy relationships. It can also refer to reconciliation in previously estranged parent-child relationships, if this can be done in a manner that clearly defines the responsibility for past abuse with the perpetrator, respects the child's wishes and developmental needs, and maintains a sense of safety for the child (Crooks, Scott, Francis, Kelly, & Reid, 2006). This issue of reconciliation must be approached with caution in that there is limited research to inform decision making about whether it should be attempted in a particular family. In order for research to inform this debate, it has to be designed in a manner that captures the complexity of relationships in children's development over time.

Legislation and Community Development

The law has changed to recognize domestic violence in child-custody disputes in many jurisdictions by creating a rebuttable presumption against a batterer receiving custody or making domestic violence a mandatory factor for court consideration (e.g., National Council of Juvenile and Family Court Judges, 2001; Jaffe & Crooks, 2004). As we have argued elsewhere, legislative change without training and resource development may have minimal impact, and in fact, it may trigger unintended negative side effects (Jaffe, Crooks, & Wolfe, 2003). To increase the likelihood of new laws being effective, there is a need for a foundation of comprehensive training programs and specialized resources that extend the mainstream services for separating parents.

Training programs have to do a better job of defining domestic violence in all its forms and providing differential service responses to meet the level of need for a family. Our progress in the domestic-violence arena stands to lose credibility if there is not clear delineation of where conflict ends and domestic violence begins. When domestic violence is recognized, there still needs to be a distinction between minor or isolated acts versus acts that occur as part of a pattern of abuse that engenders fear and harm for victims and children exposed

to this behavior. When the misapplied to families who tory high conflict, there is t their problem-solving, and t it is an inefficient utilizatio band who engages commu about his wife making false tified early in the process. F manipulate the justice syste

A differential assessment hensive assessment without to having a maitre d' in a j array of delicacies while the ing of domestic violence sh a supervised visitation cer batterer's intervention prog specialized counseling prog ambivalent and conflicted ing of child and parent prog support services (including) problem in this field is the above. Ultimately, as these ordination of assessment at fine-tune agreements and n be a community plan and lingering question about th for the system as a whole in domestic-violence death-re United States raise some of) could have been done diffe 1999). The less extreme cas theless, an effective system

The first generation of lence emphasized raising aw police, advocacy, and shelv the criminal-justice system a determination of appropria searchers and practitioners) of domestic violence, the co sure to violence on children responses has become appar for an integrated court- ans ening the net to inappropri engaging in cases of domest ential assessment following a

vary across time and longitudinal research. For emotional security and the cessation of any child's needs may change if any contact with the child is having in unresolved issues with a parent who has not had begins to both idealize seek to live with him. It is to balance the need (in possible) in the long-term to come to terms with a healthy and healthy relationship defines the responsibility's wishes and develop child (Crooks, Scott, it must be approached decision making about in order for research to that captures the com-

child-custody disputes against a batterer as a factor for court. Family Court Judges, here, legislative change minimal impact, and in effect, Crooks, & Wolfe, ineffective, there is a need for specialized resources. In addressing domestic violence cases to meet the level of the legal arena stands to lose conflict ends and domestic violence there still needs to be a that occur as part of a child and children exposed

to this behavior. When the most intensive domestic-violence interventions are misapplied to families who may be better characterized as experiencing transitory high conflict, there is the potential to harm parents' reputations, impede their problem-solving, and undermine parent-child relationships. Furthermore, it is an inefficient utilization of scarce resources. Conversely, an abusive husband who engages community members and the court system in a dialogue about his wife making false allegations and being an unfit parent has to be identified early in the process. Failure to identify these cases allows the batterer to manipulate the justice system as a tool to revictimize his ex-partner.

A differential assessment has to lead to differential interventions. Comprehensive assessment without corresponding intervention options is analogous to having a *maitre d'* in a gourmet restaurant giving out menus with a vast array of delicacies while the kitchen staff can only make hamburgers. A finding of domestic violence should give rise to a menu of the following services: a supervised visitation center that can provide safe visits or exchanges; a batterer's intervention program; specialized parenting programs for batterers; specialized counseling programs for children traumatized by violence who have ambivalent and conflicted relationships with their parents; court monitoring of child and parent progress; access to competent legal service; and victim-support services (including parenting and safety planning). The overwhelming problem in this field is the lack of accessible and affordable services outlined above. Ultimately, as these services develop, there needs to be enhanced coordination of assessment and intervention strategy. In order for the court to fine-tune agreements and recognize progress (or lack thereof), there needs to be a community plan and a central forum for this information. There is a lingering question about the most effective model that creates accountability for the system as a whole in dealing with these complex cases. At the extreme, domestic-violence death-review committees that have developed across the United States raise some of these questions after homicides by examining what could have been done differently in similar circumstances (Websdale, et al., 1999). The less extreme cases do not receive the same media attention; nonetheless, an effective system response remains illusory.

The first generation of services and policies responding to domestic violence emphasized raising awareness and providing emergency services through police, advocacy, and shelter intervention. Changes similar to those made in the criminal-justice system are now being demanded of the civil courts in their determination of appropriate parenting plans after domestic violence. As researchers and practitioners have come to recognize the heterogeneous nature of domestic violence, the complexity of relationships, and the impact of exposure to violence on children, the need for a flexible and comprehensive set of responses has become apparent. This challenge is compounded by the demands for an integrated court- and community-response strategy. Rather than widening the net to inappropriately label all high-conflict parents as necessarily engaging in cases of domestic violence, it is critical that families receive differential assessment following allegations of domestic violence. The results of these

assessments must be matched to services that promote accountability, safety, and healing. The mainstream move toward cooperative settlement strategies and shared-parenting plans is an excellent direction for most families. However, domestic-violence victims and their children require an exit ramp from these presumed solutions. This off-ramp is only as meaningful as the comprehensive assessment and intervention strategies at the end of the road.

References

- Bala, N. (2004, July). *Spousal abuse and children: Family law issues*. Retrieved January 7, 2004, from National Family Law Program of the Federation of Law Societies of Canada, La Malbaie, Quebec, Canada, Web site: <http://law.queensu.ca/faculty/bala/papers/spouseabuse&familylaw2004.htm>
- Bala, N., & Bailey, N. (2004). Enforcement of access and alienation of children: Conflict reduction strategies and legal responses. *Canadian Family Law Quarterly*, 23, 1-61.
- Bancroft, L., & Silverman, J. (2002). *The batterer as a parent: Addressing the impact of domestic violence on family dynamics*. Thousand Oaks, CA: Sage.
- Bow, J. N., & Boxer, P. (2003). Assessing allegations of domestic violence in child custody evaluations. *Journal of Interpersonal Violence*, 18, 1394-1410.
- Bowenmaster, J., & Johnson, D. (1998, October). *The role of domestic violence in family court child custody determinations: An interdisciplinary investigation*. Paper presented at the Fourth International Conference on Children Exposed to Domestic Violence, San Diego, CA.
- Campbell, J. C. (1995). *Assessing dangerousness: Violence by sexual offenders, batterers, and child abusers*. Thousand Oaks, CA: Sage.
- Campbell, J. C., Sharps, P., & Glass, N. (2001). Risk assessment for intimate partner homicide. In G.-F. Pinard & L. Pagani (Eds.), *Clinical assessment of dangerousness: Empirical contributions* (pp. 136-157). New York: Cambridge University Press.
- Crooks, C. V., Scott, K. L., Francis, K. J., Kelly, T., & Reid, M. (2006). Eliciting change in maltreating fathers: Goals, processes, and desired outcomes. *Cognitive and Behavioral Practice*, 13, 71-81.
- Dalton, C., Carbon, S., & Olesen, N. (2003). High conflict divorce, violence, and abuse: Implications for custody and visitation decisions. *Juvenile and Family Court Journal*, 54, 11-33.
- Droz, L. M., & Olesen, N. (2004). Is it abuse, alienation, and/or estrangement? *Journal of Child Custody*, 1, 65-106.
- Dutton, M. A. (1992). *Empowering and healing the battered woman: A model for assessment and intervention*. New York: Springer.
- Edleson, J. L. (1999). The overlap between child maltreatment and woman battering. *Violence Against Women*, 5, 134-154.
- Fox, A. J., & Zawitz, M. W. (1999). *Homicide trends in the United States*. Retrieved February 2, 2004, from the U.S. Department of Justice, Bureau of Justice Statistics, Web site: <http://www.ojp.usdoj.gov/bjs/homicide/homtrnd.htm>
- Frederick, L., & Tilley, J. (2001). *Effective interventions in domestic violence cases: Context is everything*. Duluth, MN: Battered Women's Justice Project.
- Gondolf, E. W. (2002). *Batterer intervention systems*. Thousand Oaks, CA: Sage.
- Hirt, A. M. (2002). *Domestic violence in California: Research Update*. Office of the Courts, No.
- Horvath, L. S., Logan, T. K., & analysis of evaluations in 33, 557-565.
- Jaffe, P. G., & Cameron, S. (19 resolution of custody and Science, 16, 167-172.
- Jaffe, P. G., & Crooks, C. V. (2 custody determinations: 10, 917-934.
- Jaffe, P. G., Crooks, C. V., & P addressing domestic violence Court Journal, 54, 57-67
- Jaffe, P. G., Crooks, C. V., & B children exposed to domestic violence unintended consequences 213.
- Jaffe, P. G., Lemon, N. K. D., & violence: A call for safety 4
- Jaffe, P. G., Poisson, S. E., Can conflict divorce: Develop Graham-Bermann & J. L. children: The future of men Washington, DC: American
- Johnson, N. E., Saccuzzo, D. P. cases of domestic violence Against Women, 11, 1022
- Johnson, J. R. (1994). High-conflict divorce: Children
- Johnson, J. R. (2005). Children: Recent research and social 38, 757-775.
- Johnson, J. R., & Campbell, L. violence in disputed-custody 190-199.
- Johnson, J. R., & Kelly, J. B. G. Riggsbee's (2004) "A crisis admissibility in family court
- Johnson, J. R., Lee, S., Olesen, N. substantiations of abuse in 283-294.
- Kernic, M. A., Monary-Ernstson Children in the crossfire: history of intimate partner
- Kitzmann, K. M., Gaylord, N. J to domestic violence: A review Psychology, 71, 339-352.
- Kurkowski, K., Gordon, D. A.,

accountability, safety, and settlement strategies in most families. How to create an exit ramp from litigation is as the comprehensive of the road.

two. Retrieved January 2006 from the Law Societies of Ontario website: <http://law.queensu.ca/>

ation of children: *Journal of Family Law*

Addressing the impact of domestic violence in child custody investigations. Paper presented at the National Children Exposed to Domestic Violence Conference, Washington, DC, 2005.

ic violence in child custody investigations. *Journal of Family Law*, 33, 1394-1410.

estic violence in child custody investigations. Paper presented at the National Children Exposed to Domestic Violence Conference, Washington, DC, 2005.

ial offenders, batterers, and child abuse.

for intimate partner violence: A review of the literature. *Journal of Family Law*, 33, 1394-1410. *Journal of Family Law*, 33, 1394-1410.

orce, violence, and child abuse. *Journal of Family Law*, 33, 1394-1410.

ive estrangement?

man: A model for child custody.

and woman battering.

and States. Retrieved January 2006 from the Bureau of Justice Statistics website: <http://www.bjs.gov/index.htm>

ide/home.html

estic violence cases: A review of the literature.

orce Project.

Oaks, CA: Sage.

- Hirst, A. M. (2002). *Domestic violence in court-based child custody mediation cases in California*. Research Update, Judicial Council of California, Administrative Office of the Courts, November 1-12.
- Horvath, L. S., Logan, T. K., & Walker, R. (2002). Child custody cases: A content analysis of evaluations in practice. *Professional Psychology: Research and Practice*, 33, 557-565.
- Jaffe, P. G., & Cameron, S. (1984). The prediction of successful interventions in the resolution of custody and access disputes. *Canadian Journal of Behavioural Science*, 16, 167-172.
- Jaffe, P. G., & Crooks, C. V. (2004). The relevance of domestic violence in child custody determinations: A cross-national comparison. *Violence Against Women*, 10, 917-934.
- Jaffe, P. G., Crooks, C. V., & Poisson, S. E. (2003). Common misconceptions and addressing domestic violence in child custody disputes. *Juvenile and Family Court Journal*, 54, 57-67.
- Jaffe, P. G., Crooks, C. V., & Wolfe, D. A. (2003). Legal and policy responses to children exposed to domestic violence: The need to evaluate intended and unintended consequences. *Clinical Child and Family Psychology Review*, 6, 205-213.
- Jaffe, P. G., Lemon, N. K. D., & Poisson, S. E. (2005). *Child custody and domestic violence: A call for safety and accountability*. Thousand Oaks, CA: Sage.
- Jaffe, P. G., Poisson, S. E., Cunningham, A. (2001). Domestic violence and high-conflict divorce: Developing a new generation of research for children. In S. A. Graham-Bermann & J. L. Edleson (Eds.), *Domestic violence in the lives of children: The future of research, intervention, and social policy* (pp. 189-202). Washington, DC: American Psychological Association.
- Johnson, N. E., Saccuzzo, D. P., & Koen, W. J. (2005). Child custody mediation in cases of domestic violence: Empirical evidence of a failure to protect. *Violence Against Women*, 11, 1022-1053.
- Johnston, J. R. (1994). High-conflict divorce. *Future of Children*, 4, 165-182.
- Johnston, J. R. (2005). Children of divorce who reject a parent and refuse visitation: Recent research and social policy for the alienated child. *Family Law Quarterly*, 38, 757-775.
- Johnston, J. R., & Campbell, L. E. (1995). A clinical typology of interparental violence in disputed-custody divorces. *American Journal of Orthopsychiatry*, 63, 190-199.
- Johnston, J. R., & Kelly, J. B. (2004). Commentary on Walker, Brantley, and Riggsbee's (2004) "A critical analysis of Parental Alienation Syndrome and its admissibility in family court." *Journal of Child Custody*, 1, 77-89.
- Johnston, J. R., Lee, S., Olesen, N. W., & Walters, M. G. (2005). Allegations and substantiations of abuse in custody-disputing families. *Family Court Review*, 43, 283-294.
- Kernic, M. A., Monary-Ernsdorff, D. J., Koespell, J. K., & Holt, V. L. (2005). Children in the crossfire: Child custody determinations among couples with a history of intimate partner violence. *Violence Against Women*, 11, 991-1021.
- Kitzmann, K. M., Gaylord, N. K., Holt, A., & Kenny, E. D. (2003). Child witnesses to domestic violence: A meta-analytic review. *Journal of Consulting and Clinical Psychology*, 71, 339-352.
- Kurkowski, K., Gordon, D. A., & Arbuthnot, J. (1993). Children caught in the

- middle: A brief educational intervention for parents. *Journal of Divorce and Remarriage*, 20, 139-151.
- Leighton, B. (1989). *Spousal abuse in metropolitan Toronto: Research report on the response of the criminal justice system*. Ottawa, Ontario, Canada: Solicitor General Canada.
- Liss, M. B., & Stahly, G. B. (1993). Domestic violence and child custody. In M. Hansen & M. Haraway (Eds.), *Battering and family therapy: A feminist perspective* (pp. 175-187). Newbury Park, CA: Sage.
- Logan, T. K., Walker, R., Horvath, L. S., & Leukefeld, C. (2003). A random sample of docket records in a circuit court. *Journal of Family Violence*, 18, 269-279.
- Morrill, A. C., Dai, J., Dunn, S., Sung, I., & Smith, K. (2005). Child custody and visitation decisions when the father has perpetrated violence against the mother. *Violence Against Women*, 11, 1076-1107.
- National Council of Juvenile and Family Court Judges (2001). *Family violence legislative update*. Reno, NV: author.
- Ragland, E. R., & Fields, H. (2003). *Parental Alienation Syndrome: What professionals need to know*, Vol. 16(6), Update 14. Alexandria, VA: National Center for Prosecution of Child Abuse.
- Scott, K. L., & Crooks, C. V. (2004). Effecting change in maltreating fathers: Critical principles in intervention. *Clinical Psychology: Science and Practice*, 11, 95-111.
- Sheeran, M., & Hampton, S. (1999). Supervised visitation in cases of domestic violence. *Juvenile and Family Court Journal*, 50, 13-25.
- Smith Stover, C., Van Horn, P., Turner, R., Cooper, B., & Lieberman, A. F. (2003). The effects of father visitation on preschool-aged witnesses of domestic violence. *Journal of Interpersonal Violence*, 18, 1149-1167.
- Statistics Canada (2001). *Family violence in Canada: A statistical profile 2001*. Ottawa, Ontario, Canada: Minister of Industry.
- Straus, M. A., Gelles, R. J., & Steinmetz, S. K. (1980). *Behind closed doors: Violence in the American family*. Garden City, NY: Anchor Books.
- STRAUS, M. A., Hamby, S. L., Boney McCoy, S., & Sugarman, D. B. (1996). *The revised Conflict Tactics Scales (CTS2): Development and preliminary psychometric data*. *Journal of Family Issues*, 17, 283-316.
- Weisdale, N. (2003). Reviewing domestic violence deaths. *National Institute of Justice Journal*, 250, 26-31.
- Weisdale, N., Town, M., & Johnson, B. (1999). Domestic violence fatality reviews: From a culture of blame to a culture of safety. *Juvenile and Family Court Journal*, 50, 61-74.
- Wolfe, D. A., Crooks, C. V., Lee, V., McIntyre-Smith, A., & Jaffe, P. G. (2005). The effects of children's exposure to domestic violence: A meta-analysis and critique. *Clinical Child and Family Psychology Review*, 6, 171-187.
- Zorza, J. (1995). How abused women can use the law to help protect their children. In E. Peled, P. G. Jaffe, & J. L. Edleson (Eds.), *Ending the cycle of violence: Community responses to children of battered women* (pp. 147-169). Thousand Oaks, CA: Sage.

4

Deciding on Father in Their Children's After Domestic Vi

Betsy McAlister Groves
Patricia Van Horn
Alicia F. Lieberman

This chapter grows out of the therapeutic interventions to child Witness to Violence Project (CWV) Trauma Research Project (CTRP) chapter, we will review our e include violent fathers in the l that inclusion raises for practi

Although violent fathers l the treatment of children affec bologically, emotionally, and fro Given this reality, we will coe

- How do mothers feel ab fathers and with having
- What do children say an
- What barriers to engagis that work with children
- Should counseling progr violence also work with t

We will begin this chapr programs for children. We w mothers, children, and father clinical case material from ou and successes as we worked to i for the safe inclusion of violer

The Programmatic Context

We are the founders of two c nness to Violence Project in Br

Citation: Crooks, C. V. & Jaffe, P. G. (2007). *Assessing the Best Interest of the child*. Eds. Edelson, J. L. & Williams, O. J. Parenting by Men who Batter: New Directions for Assessment and Intervention. Oxford University Press: NY.