

# Common Misconceptions in Addressing Domestic Violence in Child Custody Disputes

BY PETER G. JAFFE, CLAIRE V. CROOKS, AND SAMANTHA E. POISSON

## A B S T R A C T

In the United States and Canada, domestic violence is now clearly recognized as criminal behavior. Assault of intimate partners has gone from being ignored to being a major social issue on the public agenda. With this evolution, we have seen the emergence of specialized police training and interventions, changes in legislation to create easier access to court for protection and restraining orders, heightened awareness and established protocols and procedures for prosecutors, and judicial education. As part of this progress, the criminal justice system and relevant community services, together with researchers, have begun to focus on the needs of children exposed to domestic violence. Some laws and services have begun to address these needs because children are recognized as indirect victims of domestic violence. For example, in some U.S. jurisdictions, exposing children to domestic violence is considered a separate criminal offense, and in other

Domestic violence has been recognized as an important factor to consider in determining the best interests of children in custody and visitation disputes. However, there remain many misconceptions about the extent and impact of domestic violence in child custody proceedings. Several misconceptions are identified and juxtaposed with the reality of emerging knowledge in this field, and implications are outlined. These issues are illustrated by the perspectives of 62 women victims and 95 children exposed to domestic violence who had to navigate the justice system after separation from an abuser. Recommendations are offered for enhancing professional education, resource development, and collaboration among courts and community service providers.

states, exposure to domestic violence can trigger the intervention of the child protection system.

The movement to recognize domestic violence as a crime has now extended to the family court in child custody proceedings. In these proceedings, judges are being asked to consider

domestic violence as a significant factor in determining the appropriateness of a violent spouse becoming a custodial parent, or even whether such a parent should have regular unsupervised contact with children. Almost all U.S. states have changed child custody laws to either include domestic violence as a factor that judges have to consider in determining custody or have created a rebuttable presumption that a batterer will not have sole or joint custody.

In spite of legislative change, there have been resistance and difficulties in developing an integrated legal and service response that would meet the spirit of these legal

---

**Peter Jaffe, Ph.D., C.Psych.,** is the Founding Director for the Centre for Children and Families in the Justice System of the London Family Court Clinic (1975-2001) and is currently a Special Advisor on Violence Prevention for the Centre. He is a member of the Clinical Adjunct Faculty for the Psychology Department and Professor (part time) for the Department of Psychiatry at the University of Western Ontario in London, Ontario, Canada.

**Claire Crooks, Ph.D., C.Psych.,** is a Clinical Research Scientist at the University of Western Ontario Centre for Research on Violence Against Women and Children and an Adjunct Professor in the Department of Psychology. Dr. Crooks is co-author of a manual for a treatment program for abusive fathers, which is being piloted in London, Toronto, and Boston. She also conducts custody and access assessments through the London Family Court Clinic.

**Samantha Poisson, M.Ed.,** is Manager of the Victim/Witness Assistance Program in Chatham, Ontario. This article does not necessarily express the opinion of her employer. She has extensive experience as a custody and access evaluator and is the co-author of a new book with Peter Jaffe and Nancy Lemon, entitled *Child Custody and Domestic Violence: A Call for Safety and Accountability* from Sage Publications.

reforms. Changes in legislation are often not matched by changes in actual practice in the field (Jaffe, Crooks, & Wolfe, 2003). Service providers such as staff at shelters for abused women continue to document how domestic violence survivors are re-victimized and even endangered by child custody and visitation arrangements that allow batterers regular opportunities to renew threats and maintain power and control of former spouses.

The relevance of domestic violence in child custody proceedings requires a significant paradigm shift away from prevailing notions of the increasing role of fathers, preference for joint custody and shared parenting plans, emphasis on mediation and conflict resolution, and the saliency of the “friendly parent” construct. In particular, the friendly parent construct is widely adopted by judges, family law lawyers, mediators, and evaluators to reward the parent who is most likely to promote contact and a positive relationship with children to the other parent. In domestic violence cases, an abuse victim who attempts to limit contact with an abuser may be deemed hostile and unfriendly, and punished for her protestations and hypervigilance.

The purpose of this article is to document some of the gaps between the intended vision of legislative reforms and the reality for women and children separating from abusive men. Although we recognize that men can also be victims of domestic violence, the majority of victims who suffer serious harm and live in fear of their partners are women (Statistics Canada, 2001; Tjaden & Thoennes, 2000). Therefore, the focus of this article is on the barriers faced by these women and their children. We identify seven common misconceptions about the existence and relevance of domestic violence in the context of child custody disputes. Furthermore, the salience of these issues is illustrated by the findings from a 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. Thus, after each of the following misconceptions are identified and exposed, a summary of the results of this study pertaining to that particular misconception will be provided. The practical implications of each issue will also be highlighted.

**Misconception #1:** *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.*

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 (Johnston, 1994). 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 (Jaffe & Austin, 1995).

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 (Hirst, 2002). 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 (Johnston & Campbell, 1988).

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 (Websdale, 1999). 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 (Johnson & Bunge, 2001).

**Our study:** In our 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. 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.

**Implication:** 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.

**Misconception #2:** *Domestic violence ends with separation for abused women.*

**Reality:** *Abused women often face continuing risks from their partner after separation.*

Most laypersons assume that domestic violence ends when an abuse victim finally leaves her partner. In reality, separation may be a signal to the perpetrator to escalate his behavior in an attempt to continue to control or punish his partner for leaving. According to Statistics Canada (2001), 24% of domestic violence victims reported that the violence became more serious after separation. Thirty-nine percent reported that the violence first started after separation. Furthermore, physical abuse, stalking, and harassment may continue at significant rates post-separation (Statistics Canada, 2001).

When children are involved, there may be additional complications and considerations. In a study of abusive men referred to a parenting group, the use of custody proceedings to control or harass former partners was a strategy

commonly identified by the men themselves (Scott, Crooks, Francis, & Kelly, 2002). Indeed, threats to obtain custody are often used by abusers as weapons against the abuse victims to enhance power and control post-separation.

Although we live in an era that recognizes the importance of fathers and encourages more equal partnerships in pre- and post-divorce parenting, batterers need to be distinguished from non-violent fathers. Research has shown that batterers are more likely to apply for custody and equally likely to have it granted in comparison to non-violent fathers (Zorza, 1996). In addition, access to children can be abused by batterers to get access to their former spouses. As part of an access agreement, transitions from one parent to the other entail proximity that provide the opportunity for further abuse. In one study, 25% of the women reported that their lives were threatened during access (Leighton, 1989). Indeed, the ongoing risks to abused women and children are so high at the point of separation that supervised visitation centers have become an essential domestic violence service (Sheeran & Hampton, 1999).

**Our study:** In our study, most of the women had experienced some type of abuse following separation, and the nature and extent were comparable to the abuse experienced during the marriage. The majority of women reported that their partners had threatened them, often with respect to the potential of physically harming them or taking away custody of the children. A large percentage of women also described various types of financial abuse including financially ruining women (61%), hiding money or quitting a job to reduce support payments (56%), threatening a woman's employment or opportunities to work (43%), and spending money in the joint bank account (41%). Taking all of the money out of the joint account was particularly problematic for a number of women because it was their sole source of savings.

Women experienced abuse through conflicts over custody and visitation arrangements. Some abusive partners who were reported to have little interest in the children during the marriage, applied for custody as a control tactic against their ex-partners. For example, one woman recalled her partner threatening her by saying, "I am going to get what matters to you most." In cases where women wanted to promote access in a safe manner through a supervision center, the abuser refused to cooperate, even on a short-term basis (e.g., "No one is going to tell me when I can see my kid.").

Many women reported that their children had either regular or irregular contact with their fathers and that access was used as an opportunity to continue the domestic violence. In most of the cases where a former partner had access to the children, the children were a conduit for the abuse (78%). The abuse included put-downs, encouraging children to live with their father, and coaching children to make false allegations of abuse by their mother. In addition, 22% of the women within this group reported that their former partners were often verbally abusive and/or harassing during exchanges.

**Implication:** Clearly, abused women have an ongoing need for safety planning after separation. Furthermore, courts and court-related services need to consider a range of options in cases of domestic violence including no access, limited supervised access, supervised exchanges, and regular visitation, based on a case-by-case assessment. The role of supervised access or supervised exchanges may be essential to the protection of women and children from ongoing abuse. These thoughtful considerations counter the prevailing assumption that all children need frequent contact with both parents after separation.

**Misconception #3:** *As long as children are not abused directly, they are not harmed by exposure to domestic violence.*

**Reality:** *Children exposed to domestic violence may suffer from significant emotional and behavioral problems related to this traumatic experience.*

Research on children's exposure to domestic violence has consistently identified a range of negative outcomes for these children (Wolfe, Crooks, Lee, McIntyre-Smith, & Jaffe, 2003). Children who are exposed to domestic violence may show comparable levels of emotional and behavioral problems to children who were the direct victims of physical or sexual abuse (Jaffe, Wolfe, & Wilson, 1990). In addition to emotional and behavioral problems, difficulties experienced by child witnesses can encompass a variety of trauma symptoms, including nightmares, flashbacks, hypervigilance, depression, and regression to earlier stages of development (Graham-Bermann & Levendosky, 1998). Other identified difficulties include compromised social and academic development (Moore, Pepler, Mae, & Kates, 1989).

The effect of domestic violence cuts across all ages and stages of children's development. The impact of vio-

lent environments on very young children suggests that permanent negative changes in the child's brain and neural development can occur, such as altering the development of the central nervous system, predisposing the individual to more impulsive, reactive, and violent behavior (Perry, 1995). Furthermore, the adverse effects of exposure to violence are not restricted to young children. In adolescence, exposure to domestic violence is associated with drug and alcohol abuse, truancy, violent dating relationships, and involvement in the juvenile justice system (Buel, 2002). Exposure to domestic violence in childhood is also associated with significant problems in adult social adjustment (Henning, Leitenberg, Coffey, Turner, & Bennett, 1996).

**Our study:** In our study, most of the children (91%) had been exposed to domestic violence during their infancy. Almost a third of the children experienced this violence on an ongoing basis through each stage of their development into their adolescence. This exposure took different forms including being an eyewitness to the violence, hearing the violence, or seeing the aftermath (mother's injury or emotional state). Children's immediate reactions included yelling (63%), calling someone for help (19%), or becoming physically involved (29%).

The children were directly threatened but not physically harmed in some circumstances (42%) and in other circumstances, they were harmed, either directly and intentionally (27%) or indirectly and accidentally (45%). In half of the families, the children were victims of physical abuse in incidents totally separate from the abuse of their mothers. This overlap is consistent with estimates from the literature (Edleson, 1999).

Based on maternal reports of children's problems at home and school, many of the children were affected by the exposure to domestic violence. Significant behavior problems related to aggression (35%) or anxiety and depression (21%) were common. One-third of the children were reported to exhibit significant difficulties related to attention and hyperactivity, often resulting in a formal "Attention Deficit Disorder" diagnosis. An interesting finding arising from these data was that children who talked about the violence they witnessed were less likely to have adjustment problems in comparison to children who remained silent about these events.

In addition, children's adjustment was associated with the nature of their relationship to their father. The more the children feared their father, the more significant

anxiety and depression symptoms were present. Time appeared to be a healer for the children in this study when it was associated with an end to the violence. The longer the children had gone without seeing their father, the greater the improvement in their overall adjustment. This finding is contrary to the mainstream divorce literature, which suggests a positive relationship with both parents predicts better child adjustment. However, more recent findings suggest that in "high-conflict" cases, the psychological well-being of the primary caregiver and a cessation of the children's exposure to violence are the best predictors of child adjustment (Neilson, 2001).

**Implication:** Typically, the court system has focused on the needs of children who are physically or sexually abused by adults. Exposure to domestic violence was assumed to be innocuous and not worthy of careful attention, let alone specialized intervention. However, the emerging research on the potential harm associated with exposure to domestic violence suggests that these children may require comprehensive assessment and intervention services.

**Misconception #4:** *Since domestic violence is behavior between adults, it is not relevant for the determination of child custody.*

**Reality:** *Domestic violence is highly relevant to the determination of child custody by courts and court-related services.*

Domestic violence has an impact on victims and their children that is not conducive to an ongoing secure and safe relationship with the batterer. The foundations for a successful shared parenting plan or regular contact—trust, communication, respect, and equality—have been seriously eroded by past abusive behavior. Beyond the relationship dynamics with the victimized parent, perpetrators are poor role models for children in how to moderate emotions, control anger, and engage in healthy and nurturing relationships (Cummings, Iannotti, & Zahn-Waxler, 1985; Bancroft & Silverman, 2002).

Domestic violence perpetrators may have an indirect impact on their children's relationship with the non-offending parent by undermining that parent. Additionally, they may be involved in alienating and blaming behaviors, which lead to loyalty conflicts and compromise the children's ability to cope with the separation (Bancroft & Silverman, 2002). Even if contact between

the perpetrator and the children's mother is ceased, batterers may continue to expose their children to violence in subsequent intimate relationships and thereby may continue to traumatize their children (Woffordt, Mihalic, & Menard, 1994).

Finally, many researchers have identified the overlap between domestic violence and various forms of child maltreatment. Therefore, the identification of domestic violence suggests a 40% to 70% probability that direct abuse of children may be occurring (Edleson, 1999). The above factors demonstrate the importance of domestic violence as a factor in child custody decision making.

**Our Study:** In our study, issues of children's well-being and custody arrangements were foremost in the victims' minds when deciding whether or not to leave the abusive relationships. The most common reason given by abused women for leaving their partner was fear for their children's safety, as well as their own. An influential factor in staying was the perpetrator's threat to gain custody of the children in the eventuality that the victim decided to terminate the relationship.

Contrary to assumptions that a victim of domestic violence would automatically attempt to prevent access between the batterer and their children, the majority of women wanted the children to have a positive relationship with their father if safety needs could be addressed. Most women recognized positive qualities in the batterers and sought some plan that would keep the children in regular contact with their fathers.

Many of the women in our study expressed frustration that their perceptions of the harm their children experienced from domestic violence was overlooked in the court system. In their view, adjustment problems were often ignored by professionals, including judges and lawyers. In some cases, mothers felt that the harm to these children was seen as secondary to the court in comparison to the pressure to settle the case as quickly as possible.

**Implication:** Domestic violence and its impact on victims and children has to be a central area of investigation by courts and court-related services. Similarly, interventions with abused women must recognize their concerns about their children's safety and well-being.

**Misconception #5:** *Family courts, lawyers, and court-related services, such as mediation and custody*

*evaluation, can assess the needs of abused women and their children as well as the impact of the batterer.*

**Reality:** *The significance of domestic violence is often overlooked by family courts, lawyers, and court-related services.*

Domestic violence can be overlooked in child custody proceedings for three reasons: first, women may not raise the issue at all, or conversely, raise the issue but have difficulty proving the violence; second, the experience of domestic violence can affect the way in which victimized parents present in an evaluation; and third, even when domestic violence has been raised and validated, it may be overlooked in the decision-making process.

Even though mediation regulations require the identification of domestic violence as a mandatory screening criterion, the majority of victims of domestic violence do not raise concerns about their victimization in mediation. Even when violence is raised, the mediation process is not necessarily responsive. For example, in cases where allegations of violence are made, joint sessions between the perpetrator and the victim are held more than 40% of the time (Hirst, 2002).

Furthermore, domestic violence is notoriously difficult to substantiate. Most abused women have difficulty proving their abuse in family court proceedings because of insufficient corroborating evidence. Since the majority of abuse victims do not contact the police, independent evidence required by the courts is often lacking (Statistics Canada, 2001). This evidence is increasingly critical as courts have become more skeptical about the motivation of parents raising domestic violence allegations in the context of a custody dispute.

The presentation of batterers and victims is such that their competence as parents in child custody proceedings is difficult to accurately assess. Most batterers present with no obvious mental health problems. In comparison, many victims suffer from a variety of trauma symptoms related to their abuse. As a result, the court outcome may overlook the basic issues of safety of the victims and their children, and accountability for the perpetrator's behavior (Gondolf, 2001). Furthermore, abuse survivors may present as angry, distrustful, and suspicious with all professionals related to the court proceedings. This presentation undermines their effectiveness in dealing with the court system and may result in adverse inferences drawn about their attitudes, parenting skills, and ability to promote a relationship with the other parent (Jaffe & Geffner, 1998).

Even when the domestic violence is formally recognized, its relevance in determining child custody and access plans may be missed. Recent research has noted that documentation of domestic violence in a custody and access evaluation is not always reflected in the recommendations of the assessor (Logan, Walker, Jordan, Horvath, & Leukefeld, 2002; Horvath, Logan, & Walker, 2002). Furthermore, even if custody is awarded to the non-offending parent in the case of domestic violence, regular visitation may still be awarded to the perpetrator, providing ongoing opportunities of harassment, threats, and abuse (Shaffer & Bala, in press).

**Our Study:** The majority of abused women in our study described a high level of dissatisfaction with lawyers, courts, and court-related services such as mediation and custody evaluations. Abused women had the greatest satisfaction with specialized services (shelters, advocacy centers) and least satisfaction with agencies and professionals who appeared insensitive to their abuse histories.

Women's satisfaction with lawyers was split 50/50, depending on the sense of whether or not there was an understanding of the dynamics of domestic violence. Abuse victims perceived a lawyer to be effective when he or she appeared to be a good listener and inquired about issues related to safety and the children's well-being. Abused women's characterizations of ineffective lawyers were ones who minimized the abuse, were ill-prepared,

Further, the results of our study suggested that court-related services were also insensitive to the dynamics of domestic violence. More than 34% of the women were referred to mediation and felt pressured to attend because of the cost of litigation, or on the basis of legal advice to make a good impression by appearing cooperative. Only 25% of those women pressured into mediation felt that the mediator made them feel safe and was cognizant of the dynamics of the abusive relationship.

Similar concerns were raised with child custody assessors. In 25% of the cases, women felt that the history of domestic violence was minimized or ignored. In 50% of the cases where the issues of domestic violence were clearly raised during interviews, the impact of this violence and its relevance for custody/access arrangements were not mentioned in the report, according to the victims' accounts.

The inconsistency in quality and sensitivity of service providers was highlighted by the variability of the judges

who made decisions about child custody. Different judges varied in their knowledge about domestic violence and the weight that this issue should receive. According to victims' reports, the abusive spouses and their lawyers would play on these differences by "judge shopping" through various legal strategies, for example, triggering delays and adjournments until the "right judge" was presiding.

**Implication:** Family courts, lawyers, and court-related services need training to enhance their skills in responding to domestic violence. Although guidelines that underscore the importance of domestic violence have been developed for most court-related services and endorsed by various professional bodies, the widespread implementation of, and adherence to, these principles has not yet been achieved. For example, guidelines for psychologists completing child custody evaluations include the importance of assessing a history of domestic violence in determining the suitability of a parent for primary custody of children (American Psychological Association, 1996). The gap between these guidelines and professional practice has been confirmed by recent research (Logan et al., 2002; Horvath et al., 2002).

**Misconception #6:** *Legal and mental health (counseling) services for abused women and their children separating from batterers are readily accessible and well coordinated.*

**Reality:** *Abused women often experience difficulty accessing appropriate legal and mental health counseling services for themselves and their children.*

Abused women and children involved in child custody proceedings require a host of well-coordinated legal and social services. At a point of crisis, victims are required to navigate complex systems in order to access limited services. This situation can be further exacerbated by barriers such as isolation, poverty, and immigrant status (Vascoe, Jaffer, & Irwin, 2002).

Abused women often feel re-victimized by the court system's response to the violence. Rather than finding safety, protracted disputes may put the women and children at further risk (Sinclair, 2000). Access to legal assistance is limited by poverty, forcing abused women to choose between self-representation or an inadequate counsel hamstrung by minimal hours or lack of experience and specialization in the field (Neilson, 2001). Some research has indicated that limited access to legal repre-

sentation may be a factor for abused women remaining or returning to abusive relationships in as many as half of the cases (Ontario Association for Interval & Transition Houses, 1996).

**Our study:** In our study, the majority of the women reported that they did not know how to access legal services and were dependent on friends, family, or various community services. Seventy-five percent of the women applied for financial assistance for legal services. Twenty-five percent of these women were denied assistance because of the nature of the family law dispute or because they had savings or a house to use as collateral. Most women were grateful for any legal assistance but felt only minimal service was available. The complexity of child custody disputes with domestic violence required time and expertise beyond what they were offered. Some women had to go heavily into debt to access required services.

Beyond access to the court system, women had contact with multiple agencies and services. A significant number of women described that the stress and fear from the separation seemed to be compounded by the difficulty in accessing ongoing services and support. More often than not, the services were neither consistent in their advice nor coordinated with other agencies. Victims had a high level of satisfaction with specialized domestic violence services.

**Implication:** Court and community interventions for abused women require collaboration among many service providers. Specialized domestic violence services seem to be an essential component in these interventions.

**Misconception #7:** *There are no apparent solutions and community strategies to the complex dilemmas posed by abused women and children separating from batterers.*

**Reality:** *There are many emerging community and court innovations in responding to women and children separating from an abusive parent.*

Although this article has outlined numerous challenges and shortcomings in legal responses to domestic violence in child custody proceedings, the picture is not uniformly bleak. Indeed, there are numerous emerging legislative solutions being drafted that recognize the relevance of domestic violence in child custody disputes and attempt to redress some of the concerns noted here.

These legislative reform efforts have enhanced requirements for courts and court-related services to make safety of abused women and their children a priority (Jaffe, Lemon, & Poisson, 2003; National Council of Juvenile and Family Court Judges, 2002).

Training and education on domestic violence for judges, lawyers, mediators, custody evaluators, supervised access providers, and child welfare workers is an essential component of court reform. For example, in California, custody evaluators must attend 16 hours of training specifically on domestic violence (12 hours classroom and 4 hours networking with domestic violence service providers) before being accepted by the court as a qualified evaluator (Family Violence and Sexual Assault Institute, 2000). Parallel to improved training requirements, new assessment technology is also being advanced. For example, researchers and practitioners in the area of domestic violence are continuously developing new instruments and improving existing ones in an effort to predict future dangerousness of batterers, as well as the consequences to their victims and children (Campbell, Sharps, & Glass, 2000).

Innovative programs for batterers, victims, and children exposed to violence are being implemented and evaluated across the country. For example, effective model programs based on a group psychoeducational approach for children exposed to domestic violence have shown promise as a community strategy to deal with the aftermath of domestic violence (Graham-Bermann, 2001). In the field of batterer intervention, there are some hopeful signs that perpetrators do change when the intervention is embedded in an overall community and court response (Gondolf, 2001). As well, abused women can find meaningful support from knowledgeable agencies, which provide counseling for children and network with other systems and service providers (Vascoe et al., 2002).

**Our study:** In our study, abused women were asked to reflect on their experiences seeking help for themselves and their children through the court system and various service providers and to identify recommendations for improvements. A major theme in their recommendations focused on the need for training for all professionals in various systems to be better informed about domestic violence, especially the impact on victims and children exposed to this violence. Many victims also wanted enhanced and flexible services to meet the needs of themselves and their children.

Many abused women remember feeling overwhelmed at a crisis point while leaving their abusive partner and confused by the maze of services and choices ahead of them. Reflecting on their experiences, they felt that a more streamlined and centralized system would have led to increased access to appropriate services.

The majority of abused women expressed serious concerns about the safety and well-being of their children, and felt that these concerns were often overlooked by legal, social service, and mental health professionals. Since many of these children exhibit emotional and behavioral problems, access to services is essential. The majority of victims wanted the school system to be an effective partner in this response by training teachers around these issues and providing adequate resources to help these children cope with their difficult circumstances.

**Implication:** Promising practices have recently emerged in many family courts that capitalize on legislative reform, innovative programs, and collaboration among court and community partners. These ongoing attempts to enhance justice and service delivery in child custody disputes need to be informed by survivors of domestic violence. These survivors should be given an

essential voice in improving court and community responses to the plight of abused women and children. As noted in our introduction, we recognize that men are also victims of domestic violence and require comparable support in the context of their victimization engendering fear and concern over their children.

## Conclusion

Throughout this article we have outlined misconceptions with respect to domestic violence and child custody that represent barriers to safety and accountability in these cases. The emerging research in this field that is based on victims' accounts of their experiences in family court demonstrates unique opportunities for improved service and an integrated justice system. Each of these misconceptions was illustrated with examples from a research project based on the interviews with 62 women who had navigated the family court system following separation from a batterer. Despite suffering from years of abuse and great frustrations in accessing appropriate services, the women in our study maintained hope that our courts and community services could dramatically improve the interventions available for future women and children in crisis. Promising practices reviewed here suggest that this hope is well-founded.

## AUTHORS' ADDRESSES:

Peter G. Jaffe, Ph.D., C.Psych.  
Founding Director  
London Family Court Clinic, Inc.  
254 Pall Mall Street, Suite 200  
London, Ontario, Canada N6A 5P6

Claire V. Crooks, Ph.D., C.Psych.  
Clinical Research Scientist  
Centre for Research on Violence Against  
Women and Children  
The University of Western Ontario  
London, Ontario, Canada N6G 1G7

Samantha E. Poisson, M.Ed.  
Manager, Victim/Witness Assistance Program  
Municipality of Chatham-Kent, Courthouse  
425 Grand Avenue West, 3rd Floor  
Chatham, Ontario, Canada N7L 1X4

## REFERENCES

- American Psychological Association. (1996). Guidelines for child custody evaluations in divorce proceedings. *American Psychologist*, 49, 677-680.
- Bancroft, L. & Silverman, J. (2002). *The batterer as a parent: Addressing the impact of domestic violence on family dynamics*. Thousand Oaks, CA: Sage Publications.
- Buel, S. (2002). Why juvenile courts should address family violence: Promising practices to improve intervention outcomes. *Juvenile and Family Court Journal*, 53(2), 1-16.
- Campbell, J. C., Sharps, P., & Glass, N. (2000). 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.
- Cummings, E. M., Iannotti, R. J., & Zahn-Waxler, C. (1985). Influence of conflict between adults on the emotions and aggression of young children. *Developmental Psychology*, 21(3), 495-507.
- Edleson, J. L. (1999). The overlap between child maltreatment and woman battering. *Violence Against Women*, 5, 134-154.
- Family Violence & Sexual Assault Institute (2000). *Practical applications for custody evaluation: Domestic violence training*. San Diego, CA: Author.
- Gondolf, E. W. (2001). *Batterer intervention systems: Issues, outcomes, and recommendations*. Thousand Oaks, CA: Sage Publications.
- Graham-Bermann, S. A. (2001). Designing intervention evaluations for children exposed to domestic violence: Applications of research and theory. In S. A. Graham-Bermann and J. L. Edleson (Eds.), *Domestic violence in the lives of children: The future of research, intervention, and social policy*. Washington, DC: American Psychological Association Books.
- Graham-Bermann, S. A. & Levendosky, A. A. (1998). Traumatic stress symptoms in children of battered women. *Journal of Interpersonal Violence*, 13, 111-128.
- Henning, K., Leitenberg, H., Coffey, P., Turner, T., & Bennett, R. T. (1996). Long term psychological and social impact of witnessing physical conflict between parents. *Journal of Interpersonal Violence*, 11(1), 35-49.
- Hirst, A. (2002). *Child custody mediation and domestic violence*. Paper presented at the 2002 Family Court Services Statewide Educational Institute, Long Beach, CA.
- 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. & Austin, G. (1995). The impact of witnessing violence on children in custody and visitation disputes. Paper presented at the Fourth International Family Violence Research Conference, Durham, NH (Rep. No. July 1995).
- Jaffe, P. G., Crooks, C. V., & Wolfe, D. W. (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. & Geffner, R. (1998). Child custody disputes and domestic violence: Critical issues for mental health, social service, and legal professionals. In G.W. Holden, R. Geffner, & E. N. Jouriles (Eds.), *Children exposed to marital violence: Theory, research, and applied issues*. (pp. 371-408). Washington, DC: American Psychological Association.
- Jaffe, P. G., Lemon, N. K. D., & Poisson, S. E. (2003). *Child custody disputes and domestic violence: A call for safety and accountability*. Thousand Oaks, CA: Sage Publications.
- Jaffe, P. G., Wolfe, D. A., & Wilson, S. K. (1990). *Children of battered women*. Newbury Park, CA: Sage Publications.
- Johnson, H. & Bunge, V. P. (2001). Prevalence and consequences of spousal assault in Canada. *Canadian Journal of Criminology*, 43, 27-45.
- Johnston, J. R. (1994). High-conflict divorce. *Future of Children*, 4, 165-182.
- Johnston, J. R. & Campbell, L. E. G. (1988). *Impasses of divorce: The dynamics and resolution of family conflict*. New York: The Free Press.
- Leighton, B. (1989). *Spousal abuse in Metropolitan Toronto: Research report on the response of the criminal justice system*. Ottawa, ON: Solicitor General Canada.
- Logan, T., Walker, R., Jordan, C., Horvath, L., & Leukefeld, C. (2002). Child custody evaluations and domestic violence: Case comparisons. *Violence and Victims*, 17, 719-742.
- Moore, T. E., Pepler, D., Mae, R., & Kates, M. (1989). Effects of family violence on children: New directions for research and intervention. In B. Pressman, G. Cameron, & M. Rothery (Eds.), *Intervening with assaulted women: Current theory, research, and practice* (pp. 75-91). Hillsdale, NJ: Lawrence Erlbaum.
- National Council of Juvenile & Family Court Judges (1994). *Model code on domestic and family violence*. Reno, NV: Author.
- National Council of Juvenile and Family Court Judges (2002). *Family violence legislative update*. Reno, NV: Author.

## REFERENCES

- Neilson, L. (2001). *Spousal abuse, children and the legal system*. Fredericton, NB: Muriel McQueen Fergusson Centre for Family Violence Research, University of New Brunswick.
- Ontario Association of Interval and Transition Houses (1996). *Locked in, left out*. Toronto, ON: Author.
- Perry, B. D. (1995). Incubated in terror: Neurodevelopmental factors in the cycle of violence. In J. D. Osofsky (Ed.), *Children, youth and violence: Searching for solutions*. New York: Guilford Press.
- Scott, K. L., Crooks, C. V., Francis, K. J., & Kelly, T. (2002). *Caring dads: Program description and directions*. Panel presented at the Victimization of Child and Youth Conference, Portsmouth, NH, August 2002.
- Shaffer, M. & Bala, N. (in press). The role of family courts in domestic violence: The Canadian experience. In L. Baker, P. G. Jaffe, & A. Cunningham (Eds.), *Ending domestic violence in the lives of children and parents: Promising practices for safety, healing, and prevention*. New York: Guilford Press.
- Sheeran, M. & Hampton, S. (1999). Supervised visitation in cases of domestic violence. *Juvenile and Family Court Journal*, 50, 13-25.
- Sinclair, D. (2000). *In the centre of the storm: Fifty-two women speak out*. (Durham region steering committee for custody and access issues affecting woman abuse survivors and their children). [Online]. Available: [www.durhamresponsetowomanabuse.com](http://www.durhamresponsetowomanabuse.com)
- Statistics Canada (2001). *Family violence in Canada: A statistical profile 2001*. Ottawa, ON: Minister of Industry.
- Tjaden, P. & Thoennes, N. (2000). *Full report of the prevalence of incidence and consequences of violence against women: Findings from a National Violence Against Women Survey*. Washington, DC: U.S. Department of Justice, Office of Justice Programs.
- Vascoe, C., Jaffer, E., & Irwin, L. (2002). *Abuse through child custody and access: A critical site of women's work*. Vancouver, BC: British Columbia Health Research Foundation.
- Websdale, N. (1999). *Understanding domestic homicide*. Boston, MA: University Press.
- Woffordt, S., Mihalic, D. E., & Menard, S. (1994). Continuities in marital violence. *Journal of Family Violence*, 9, 195-225.
- Wolfe, D. W. Crooks, C. V., Lee, V., McIntyre-Smith, A., & Jaffe, P. G. (2003). The effects of exposure to domestic violence on children: A meta-analysis and critique. *Clinical Child and Family Psychology Review*, 6, 171-187.
- Zorza, J. (1996). 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 Publications.

