

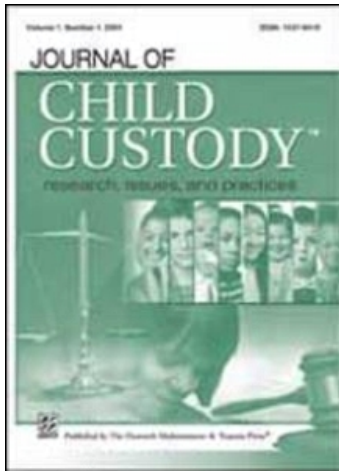
This article was downloaded by: [Leslie M. Drozd, Ph.D.]

On: 21 August 2009

Access details: Access Details: [subscription number 910268035]

Publisher Routledge

Informa Ltd Registered in England and Wales Registered Number: 1072954 Registered office: Mortimer House, 37-41 Mortimer Street, London W1T 3JH, UK



Journal of Child Custody

Publication details, including instructions for authors and subscription information:

<http://www.informaworld.com/smpp/title~content=t792306888>

Rethinking Custody Evaluation in Cases Involving Domestic Violence

Evan Stark ^a

^a Rutgers School of Public Affairs and Administration, Rutgers University, Newark, New Jersey

Online Publication Date: 01 July 2009

To cite this Article Stark, Evan(2009)'Rethinking Custody Evaluation in Cases Involving Domestic Violence',Journal of Child Custody,6:3,287 — 321

To link to this Article: DOI: 10.1080/15379410903084707

URL: <http://dx.doi.org/10.1080/15379410903084707>

PLEASE SCROLL DOWN FOR ARTICLE

Full terms and conditions of use: <http://www.informaworld.com/terms-and-conditions-of-access.pdf>

This article may be used for research, teaching and private study purposes. Any substantial or systematic reproduction, re-distribution, re-selling, loan or sub-licensing, systematic supply or distribution in any form to anyone is expressly forbidden.

The publisher does not give any warranty express or implied or make any representation that the contents will be complete or accurate or up to date. The accuracy of any instructions, formulae and drug doses should be independently verified with primary sources. The publisher shall not be liable for any loss, actions, claims, proceedings, demand or costs or damages whatsoever or howsoever caused arising directly or indirectly in connection with or arising out of the use of this material.

Rethinking Custody Evaluation in Cases Involving Domestic Violence

EVAN STARK

*Rutgers School of Public Affairs and Administration,
Rutgers University, Newark, New Jersey*

This article was prompted by the publication of “Assessing Allegations of Domestic Violence,” by Gould, Martindale and Eidman (2007). It critically reviews the family court response to domestic violence cases, highlighting evidence that most partner abuse consists of coercive control rather than physical assault alone. After outlining what is known about the prevalence and dynamics of domestic violence in the custodial context, I summarize findings from studies of the family court response, contrast this response with public expectations and the response by other courts and institutions, and argue that the failure to provide protective remedies is systemic rather than the result of individual factors or a lack of information. Basic reforms are required in assessment, adjudication, and accountability in these cases if the family court is to retain its legitimacy as an arbiter of family matters in disputed cases.

KEYWORDS child abuse, coercive control, disputed custody cases, domestic violence, evaluation, family court

No current issue divides the professionals who work in and around family courts more sharply than the appropriate response in divorce cases that involve domestic violence. Litigants are also deeply divided about the court response. List-serves of “protective mothers” and their supporters are filled with horrific stories of women who have lost custody to abusive husbands or been punished, even jailed, for disobeying court orders to provide these men with unsupervised access to their children. Almost as common are accounts from fathers’ rights groups claiming that men are as often the

Address correspondence to Evan Stark, 11 Forest Trail, Woodbridge, CT 06525. E-mail: eds203@juno.com

victims as the perpetrators of abuse, and scores of husbands have been denied access to their children after being unjustly accused of domestic violence by their wives. Nor are these complaints confined to cyberspace. When the Public Broadcasting Corporation (PBS) aired “Breaking the Silence” in 2006, a documentary focused on the plight of protective mothers in family court and featuring experts who criticized Parental Alienation Syndrome (PAS) as “junk” science, a letter-writing campaign spearheaded by Fathers’ Rights publicist Glen Sacks forced PBS to quickly produce a more “balanced” show. From California to Maine and Alaska, coalitions favoring court reform have challenged legislation making joint custody the default disposition in family disputes, advocated for the presumption of sole custody in abuse cases, and demanded greater transparency and accountability for the range of professionals involved in family court, including judges and evaluators. In response, Fathers’ Rights groups and their allies have publicized survey data showing sex parity in partner violence, campaigned for states to set aside a special day to recognize PAS and claimed that virtually all practice in the domestic violence arena—from the enactment and reauthorization of the Violence Against Women Act (VAWA) through the disproportionate arrest of men for domestic violence crimes—reflects a concerted, anti-male political campaign by “feminists.” Increasing acrimony directed at the family court threatens to undermine its legitimacy as an institutional arbiter of marital dissolution.

It is naïve to expect a resolution of the questions being debated without engaging the political vectors involved. Yet, as evaluators, we are expected to set political pressure and ideology aside, envision a unique family whose willingness or capacity to resolve critical disputes has broken down, perhaps irretrievably, and dispassionately apply our training, experience, and the limited assessment tools at our disposal to help courts map a workable post-separation arrangement that benefits children.

The current sentiment in family court is that children are best served when their access to both parents is preserved to the maximum extent feasible, if not through co-parenting, then through arrangements for shared care or liberal visitation.¹ Though there is compelling evidence that children require a strong bond to only one parent to thrive, a number of states have encoded a preference for co-parenting into law. In fact, most children express a preference to maintain contact with both parents after divorce. However, pressure to co-parent has less to do with children’s expressed wishes, which are rarely voiced directly in family proceedings, than with the value courts place on compromise and equity in family matters amidst a growing propensity for husbands to contest custody, alimony, and child support.

Nowhere are the prospects for future contact more in doubt than where one or both of the parties allege violence or other forms of abuse. No other problem encountered by evaluators is comparable to battering in its

prevalence, duration, scope, dynamics, effect on personhood, and, perhaps most relevant here, its significance for children's current well being or future prospects. Domestic violence is the context for as much as 45% of child abuse (Stark, 2002; Stark & Flitcraft, 1996). Moreover, contact is the most common context for abuse after separation. In three recent studies in England and Australia, for instance, 92%, 94%, and 97% of women who divorced violent partners were abused after separation, almost all during contact (Radford and Hester, 2006; Kaye, Stubbs and Tolmie, 2003). There is no evidence that children benefit in the longer term from having regular face-to-face contact with a violent parent and considerable suggestive evidence that the real and potential harms to children of being exposed to domestic violence or other forms of abuse of their mother outweighs any harms experienced by not seeing an abusive parent.

The high probability that harm will result if unsupervised contact with an abusive partner is allowed or encouraged tests the limits of our assessment skills as well as our ethical boundaries. Moreover, recent work makes it apparent that in most cases, abuse involves a spectrum of harmful tactics that extends far beyond the assaults and psychological degradation most evaluators, judges, and attorneys identify with domestic violence (Stark, 2002; 2007). The harms caused by these tactics are less tangible and so are harder to identify than violence. They account for many of the problems evaluators now mistakenly attribute to behavioral or psychological deficits in victims and often threaten both the parent and the children's social, psychological, behavioral, and physical well-being as much or even more fundamentally than threats to their physical safety. Yet, we still lack reliable ways to identify this pattern of abuse or to determine what its presence implies for custodial decisions (cf. Dutton & Goodman, 2005; Dutton, Goodman, & Schmidt, 2005).

Custody cases that come to family court for resolution are contentious by definition and both parties frequently allege deficits in character, personality or parenting in the other. While false allegations of abuse have been shown to be far less common than false denials, supporting a victim's unsubstantiated claims can threaten long-standing child-parent bonds. At the same time, devastating consequences frequently follow for women and children when genuine abuse is minimized or discounted. Successfully negotiating a path between colluding with one or another disputant in a custody case and minimizing real risk is made even more difficult by a growing propensity for family courts to view abuse allegations as tactical maneuvers rather than as factual claims and to insist that couples subordinate their differences for the sake of the children. In criminal court, a victim's testimony about abuse is highly valued. If the same woman presses claims of abuse during a custody dispute, she is likely to be labeled uncooperative, selfish, or even vindictive. Meanwhile, because it is assumed he has an equity interest in custody, the man identified as a perpetrator in a

criminal case may be redefined as “the good enough father” in family court. In a recent case in which I was the domestic violence evaluator, I was able to document several dozen instances of abuse, a number of which had been injurious and which the husband acknowledged. In one incident, the husband lifted the wife above his head and would have thrown her down the stairs had not their fifteen year old son intervened. Nevertheless, the judge insisted there was no domestic violence issue in the case and dismissed the testimony by the woman’s treating psychiatrist about bruises he had observed over the years as “biased,” turning to ask the plaintiff’s lawyer rhetorically “what do you expect in a 22 year marriage?” As we shall see from the research reported below, courts and evaluators have been reluctant to support abuse claims even in the small proportion of cases like this one, where partner violence is dramatic, children are exposed, and police have corroborated a victim’s claims. Even more challenging is the typical case, when evaluators are confronted by a court that values cooperation and co-parenting on one side and, on the other side, by a history of coercive and controlling acts without a compelling documentary record of injury or third-party corroboration. These are the cases where our assistance is most needed and the promise of our contributing to children’s well being is greatest.

In the current climate, evaluators are justifiably timid about pursuing, let alone supporting, domestic violence claims. The reality is that our professional standing, and so our financial security, depend on our work being perceived as useful to the court’s decision-making process, hence as accommodating its value system. At best, the emphasis in family court helps couples transcend long-standing grievances and abandon the zero sum assumption that if one party “wins” access to the children, the other “loses.” At worst, the normative emphasis on cooperation leads court professionals to misread partner abuse, rationalize unworkable proposals for contact as in the children’s best interest, and hold the abuse victim responsible when things go wrong, even limiting or blocking their access to children when they insist on protective rather than shared arrangements.

The remainder of this article focuses on what we know about the prevalence, dynamics, and consequence of abuse in custody cases, how evaluators and the courts are responding to allegations of abuse, and the best ways to correct current practice. It is prompted by the publication in this journal of “Assessing Allegations of Domestic Violence,” by Gould, Martindale and Eidman (2007), respected authorities on evaluation. The authors offer some sensible advice, suggesting that evaluators routinely assess for abuse regardless of whether it is claimed, a position I strongly endorse. On the whole, however, their article is symptomatic of an approach that sidesteps our professional responsibility by denying or minimizing the realities of abuse seen in custody cases rather than confronting them head on.

DEFINING THE CONTEXT: THE EXTENT, DYNAMICS AND CONSEQUENCES OF ABUSE

Prevalence

In most divorces, including those precipitated by abuse, couples arrive at custodial arrangements by agreement or default and without extensive court involvement. Partner violence is a factor in anywhere from a third to a half of the small proportion where custody is disputed (Johnston, Lee, Olesen, & Walters, 2005) and in about half of these cases, somewhere between 15% and 25% of all disputed cases, there is substantiating evidence of physical abuse such as a prior arrest, criminal court finding or court order (Kernic, Monary-Ernsdorff, Koespell, & Holt, 2005).

Child Exposure

Where domestic violence is identified, child abuse is a common consequence. Over 30 well-designed studies using a conservative definition of child abuse show a robust link between physical and sexual child abuse and domestic violence, with a median co-occurrence of 41% and a range of 30% to 60% (Appel & Holden, 1998; Fantuzzo & Mohr, 1999; McCloskey, Figueredo, & Koss, 1995; Stark, 2002). One large, multi-city study found that children were directly involved in adult domestic violence incidents from 9% to 27% of the time (depending on the city) and that younger children were disproportionately represented in households where domestic assaults occurred (Fantuzzo, Boruch, Beriama, Atkins, & Marcus, 1997). In these cases, the man who is abusing the mother is greater than three times more likely to be abusing the child than is the victimized woman (Stark and Flitcraft, 1996).

Where there is a history of domestic violence, child contact is the most common context for re-assault during the post-separation period (Shalansky, Ericksen, & Henderson, 1999; Kernic et al., 2005). Leighton (1989) reported that one quarter of the 235 Canadian women he interviewed had been threatened or assaulted during child visitations. As many as one-third of violations of court orders occur during child visitation exchanges (McMahon & Pence, 1995). Multiple violations are commonplace. Studies of so-called "high conflict" marriages and divorce indicate that children continually exposed to abusive encounters between parents in shared custody arrangements or in non-custodial visits have more behavioral problems in childhood and early adulthood than children in sole custodial arrangements (Hetherington & Stanley-Hagan, 1999).

While most children who are exposed to domestic violence do not suffer long-term harm as a result, on average, their risk is significantly increased and they exhibit more difficulties than those not so exposed. These difficulties can be grouped into the two major categories associated with recent

exposure: (1) behavioral and emotional functioning; and (2) cognitive functioning and attitudes. Children exposed to domestic violence exhibit more aggressive and antisocial behaviors (externalized behaviors) as well as fearful and inhibited behaviors (internalized behaviors) when compared to non-exposed children (Hughes, Parkinson, & Vargo, 1989; Fantuzzo et al., 1991). Exposed children also show lower social competence than other children (Adamson & Thompson, 1998) and show higher-than-average anxiety, depression, trauma symptoms, and temperament problems than children who were not exposed to violence at home (Maker, Kimmelmeier, & Peterson, 1998). When abuse continues through contact, children who had been initially enthusiastic about visitation become anxious and depressed (Radford & Hester, 2006).

Children are also harmed indirectly by partner abuse because of the consequences of abuse-induced problems in the primary parent (e.g., depression, substance abuse, suicidality) or because nonviolent abusive tactics may extend to the child through neglect, manipulation, or undermining a victim's ability to parent, a pattern I term "child abuse as tangential spouse abuse." The outcomes for children in these instances mimic the consequences of child abuse and include depression, suicidality, aggression, delinquency, anxiety, developmental delay, substance use, and inappropriate behavior at school (Stark, 2002; Edleson, 1999).

The quality of research on the overlap of woman abuse and harms to children is uneven and tends to minimize the incredible resilience of exposed children or of the women who mother through domestic violence as well as the buffering effects of coping skills, parental support, and developmental age (Sullivan, Nguyen, Allen, Bybee, & Jras, 2000; Radford & Hester, 2006). Whatever the limits of this work, however, there is no question that abuse of a female primary care-taker is far and away the most common context in which evaluators are likely to confront behavior that jeopardizes a child's best interest.

Family Violence or Violence Against Women?

Until the 1970s, the prevailing view was that violence in families was a relatively uncommon event that reflected an inordinate degree of "marital discord." Two developments changed this view: population surveys to which couples reported using violence to resolve disputes in alarming numbers, and the opening of shelters to provide emergency safety to "battered women." To the survey researchers, whose initial work was driven by moral opposition to any use of force to resolve family conflicts, sibling fights and partner homicides differed in degree, but not in kind. By contrast to this "family violence" approach, the principal concern to battered women's advocates was the use of violence by men to enforce "power and control" in personal life, particularly in the face of the formal or legal equality women

had achieved in other arenas. Both lines of thinking continue to generate significant bodies of research. If policy makers adapted the view that “violence against women” should be the primary focus of court attention rather than any use of force in relationships or families, this was largely because such attention was demanded by victims who sought help and their advocates, the vast majority of whom are female. The abuse of women and their children by male partners has been the primary focus of the criminal justice response to domestic violence cases; of the public funds made available through The Violence Against Women Act (VAWA) passed in 1994, 1999, and 2005 and other federal and state domestic violence legislation; and of the “Morella Resolution,” a Congressional recommendation in 1997 by Congress that state courts give battered women presumptive custody.

Going Beyond the Domestic Violence Model to Coercive Control

In their article on the proper evaluator response, Gould and his colleagues (2007) highlight differences between the “family violence” and “violence against women” schools, primarily the reluctance of the latter group to accept that abuse is “gender neutral.” For our purposes here, the more important fact is that both schools equate abuse with physical coercion almost exclusively. Both schools disaggregate a history of abuse into discrete episodes of assault, gauge severity using a calculus of largely physical harms, and assume that the “space” between violent episodes—referred to as the “time to violence” in the evaluation literature—affords the opportunity for victims and/or perpetrators of violence to exercise decisional autonomy with respect to continuing the relationship and/or the physical abuse. Virtually all domestic violence research and intervention is predicated on this model. Among the several dozen domestic violence assessment tools available that have been tested for construct validity, only a handful consider aspects of abuse other than violence (Strauchler et al., 2004; Dutton et al., 2005). All are scaled to reflect the array of violent tactics, and/or the frequency of their use, and physical or psychological effects.

As a description of the type of partner abuse seen in the custodial context as well as other service settings, the model of episodic, injurious physical violence is seriously misleading. A growing body of research suggests that in an estimated 60% to 80% of abuse cases where outside help is sought or required, the physical and sexual assaults are accompanied by a combination of tactics to intimidate, humiliate, degrade, exploit, isolate, and control a partner. This pattern has been variously referred to as intimate terrorism (Johnson, 1995; 2001), psychological maltreatment (Tolman, 1989) and coercive control (Okun, 1986; Jones & Schechter, 1992; Lischick, 1999; Stark, 2005; 2007), the term I prefer. In a typical case of coercive control, the forms of intimidation extend from open threats, stalking and harassment via phone or computer, to more subtle warnings only understood by the victim. In

addition to chronic name-calling, degradation often involves sexual humiliation or the coerced performance of shameful acts. Isolation tactics extend from perpetrator-enforced separation from family, friends, or helping professionals to a victim's voluntary isolation as a way to placate a jealous partner. Control tactics may extend from regulating a victim's access to vital resources (such as money, food, sex, clothing, transportation, or means of communicating) to rules governing self-care (dressing, eating, or even toileting), family maintenance (cooking, cleaning, and the like) and parenting (how children are disciplined, cleaned, schooled, etc.). Importantly, control tactics typically center on the performance of women's default gender roles, such as how a partner cooks or cleans, relationships with others, particularly potential lovers, and caretaking. Studies in the United States and England reveal that 40–89% of women who are physically assaulted by their partners are also kept from socializing, seeing their families, or leaving the house to name just a few of the many constraints imposed by abuse (Tolman; Rees, Agnes-Davies, & Barkham, 2006; Stark, 2007). In one well-designed study, more than half of the men arrested for domestic violence acknowledged they had taken their partner's money as well as assaulted them, for instance. (Buzawa, Hotaling, Klein, & Byrne, 1999).

The pattern of physical assault in these cases is also different than the dominant model leads us to expect. Well over 90% of all domestic violence incidents are relatively minor from a medical or criminal justice perspective. This is even more true in cases of coercive control where the typical pattern involves frequent or routine, but typically low level violence such as pushes, slaps, hair pulling, kicks, and grabbing, events that are likely to remain invisible if radar is set to pick up only injurious violence. The significance of these events lies in their cumulative effect on a person's sense of autonomy and on their decision-making, an outcome called "entrapment," rather than in their proximate physical consequence.

As opposed to the episodic experience predicted by the dominant model, the vast majority of victims experience abuse as "ongoing." This experience reflects both the frequent nature of the physical abuse involved and the presence of multiple additional tactics deployed to coerce and control a partner. Whatever the combination of frequent physical coercion, threats, isolation, and control that lead to entrapment, it is this result, the feeling of being structurally constrained to resist or effectively escape, that may lead victims to comply with demands that could be humiliating or contrary to their nature.

Risks Associated With Coercive Control

Reframing abuse as coercive control is critical to assessing risk. A large, well-designed, multi-city study shows that control factors predict fatality and the psychological, physical, and psychosocial outcomes, heretofore attributed to physical violence, far better than do levels or even frequency

of assault (Glass, Maganello, & Campbell, 2004). In fact, it is estimated that in one case in four of coercive control, these effects are elicited in the absence of physical assault or long after physical assault has ended (Lischick, 1999). With stalking or telephonic harassment as the most obvious examples, many of the tactics used in coercive control cross social space as well as extend over time, making them particularly effective as a way to continue abuse after couples are physically separated. The contexts in which these behaviors occur rarely involve "conflict" in any obvious sense, with 60% of victims who use shelters beaten in their sleep (Rees et al., 2006). Rather, the tactics are designed to keep conflict or challenges to authority from surfacing.

For children as well as their mothers, abuse is ongoing rather than episodic and its effects cumulative. In addition to the risks to children in abuse cases posed by violence against them or their mothers, perpetrators of coercive control also enlist children in their coercion or control of their mother, make them direct objects of control, and use children to extend and solidify coercive control, to sabotage parenting, and to spy on or otherwise intimidate their mother both during the marriage and after separation, examples of child abuse as tangential spouse abuse (Stark, 2002). This pattern is often signaled by efforts to win custody by a father who has had little previous involvement in parenting and is closely linked to "the battered mother's dilemma," when the abusive partner repeatedly forces the mother to choose between her own safety or compliance with his demands and the safety of the children. In part, conflicting court orders or the application of pseudo-psychiatric labels to describe a mother's resistance to orders that she believes jeopardize her own or her children's safety are so devastating because they reinforce these dilemmas, hence the abuser's control, particularly after separation. While the unique effects of coercive control on children have not been studied, given the prevalence of coercive control in partner abuse cases, it is clear that many of the harms attributed to physical violence alone are actually elicited by exposure to a combination of abusive tactics among which assault may not be the most important. In other words, a child may be severely affected by exposure to abuse even if s/he has never witnessed or been exposed to violence.

As a means of entrapping a spouse, coercive control is effective because intimacy affords a perpetrator personal knowledge of his partner shared by no one else. Conversely, acts that seem meaningless, inoffensive, or even loving to evaluators and other observers may cause intense fear and feelings of helplessness in a victim who can put them in the context of previous abuse. A dramatic example from my practice involved a husband who would offer his wife her sweatshirt ("because you're cold") when he felt she was getting attention from others he felt he deserved. Whereas her friends admired his attentiveness, she understood the message, that she would have to "cover up" that night because of his abuse. The offer of assistance in completing a menial chore, the insistence of overseeing a child's progress in

school or a sporting event, the sending of a text message in the middle of a job interview, accidentally preparing a child for a custodial visit on the wrong day—the significance of a behavior, look, or gesture in the larger pattern of coercive control—is much more difficult to decipher than physical violence and is unlikely to be documented. To the contrary, since we observe the victim's fearful response without appreciating its predicate, it is easy to mistake the reaction as exaggerated, paranoid, even “crazy.” These tactics are effective only because the partner targeted has been threatened or rendered vulnerable in other ways rather than because she is “weak” or psychologically damaged. In other words, the behaviors only are abusive in the context of a pattern of coercive control established over time.

Taken in isolation, a victim's response to a particular incident may seem disproportionate, even fabricated, her claims histrionic or paranoid, and her personality “borderline,” observations that may be supported by a husband's history of his wife's “acting out.” Coercive control has many of the same physical or psychological effects as traditional forms of partner assault. However, unlike cases where abuse is limited to physical violence and/or psychological abuse, coercive control involves harms to autonomy, personhood, and decision-making that can affect parenting in the post-divorce period, particularly if nothing is done to alleviate the threat.

Traditional assessment tools are no better suited to perpetrators than they are to victims of abuse. A common misconception, based almost solely on studies of violent men assigned to treatment, is that abuse perpetrators typically suffer from borderline, paranoid, or impulse control disorders. In fact, most men who abuse their wives test well within normal ranges on standard psychological assessments (Gondolf, 2001). Moreover, whereas impulse control may be a common problem for men whose main mode of oppression is physical violence, coercive control requires a degree of planning that is inconsistent with these diagnoses.

A number of population-based studies show that women are as likely as men to use force in relationships and are no less likely than men to cite “control” as their motive when they do so. Coercive control may also be initiated by women or occur in same sex as well as heterosexual relationships. But, there is neither empirical nor even case evidence to suggest that coercive control by women is widespread. This may be because, in both its structure and design, coercive control exploits persistent sexual inequalities, even as it takes its substance from the enforcement of stereotypic female gender roles.

The Response to Abuse by the Family Court

How have family courts in general and evaluators in particular responded to the realities of abuse and its well-documented effects on children?

After the passage of the “Morella” resolution (named after its sponsor, Maryland Republican Connie Morella) by the Congress in 1997, all but two

states changed their custody laws to favor abuse victims by giving them the presumption of custody, instituting a rebuttable presumption against joint custody, banning sole custody or unsupervised visitation for perpetrators, or identifying abuse as an important factor that judges have to consider. Moreover, the National Council of Juvenile and Family Court Judges (NCJFCJ) has strongly promoted its support for rebuttable presumption legislation through its “Green Book” initiative. Available data on case outcomes in custody cases do not provide a sufficient longitudinal picture of whether judicial decision-making in abuse cases has changed significantly as a result of these laws. There is, however, growing concern that it has not, particularly relative to changes in policing, child welfare, or the criminal court in abuse cases. For example, sole physical custody was given more often to fathers than to mothers in states where statutes favoring joint custody or friendly parent (FP) statutes competed with statutes denying custody to perpetrators of abuse (Morrill, Dai, Dunn, Sung, & Smith, 2005). In New York, fathers were actually found to be more likely to receive visitation when the mother had a protection order than when she did not (Rosen & O’Sullivan, 2005).

These findings suggest that, at best, the family courts remain deeply ambivalent about the changing normative response to abuse. This may reflect the fact that family courts are generally less responsive to legislative dictates because, unlike the criminal court, they are semi-autonomous and are ruled by judges with limited administrative accountability. Family judges are assisted in their decision-making (if they are lucky) by an array of functionaries whose accountability diminishes as we move from the government employees who prepare protection orders and conduct initial assessments in some states to the steady supply of lawyers, evaluators, and other outsiders who enter the court as independent or quasi-independent contractors. Mandating how courts must or should respond in these cases also threatens to diminish the need for outside evaluation or other expertise in these cases, undermining the legitimacy of a range of professionals who earn their livings largely through custody work.

Available evidence suggests that, with marked exceptions, most family courts continue to interpret partner violence as an instance of “high conflict” rather than as abuse and to view the illegitimate exercise of power and control to hurt and subjugate loved ones as different only in degree, but not in kind, from other types of animosities and family problems that bring disputants in custody litigation to court. For a variety of reasons that are beyond the scope of this article, family courts remain the sole province where the discredited psychological and systems theories of family violence continue to thrive.

There are mixed findings about whether the new mandates have changed the outcomes in family court. A number of case reviews include shocking evidence of malfeasance by the family court, particularly in response to attempts by protective mothers to call attention to partner abuse

of themselves or their children. It is hard to generalize from this work, because it is largely based on self-reports from selected or volunteer samples. What we can say with confidence, however, is that abusive partners continue to be given primary or shared custody in an alarming number of cases, even where abuse is well documented.

When evaluators are asked about their practice with respect to abuse, a substantial proportion report that they not only consider domestic violence allegations, but also use domestic violence assessment tools and make specialized referrals or protective recommendations when appropriate (Bow & Boxer, 2003). Gould et al. (2007) report these findings as if they reflected actual practice; a number of studies suggest otherwise. Research in Kentucky found domestic violence was not only overlooked by evaluators as a general rule, but that it played no role in recommendations even when it was mentioned in their reports (Horvath, Logan, & Walker, 2002). Moreover, studies in both Kentucky and California found that domestic violence couples were as likely as those without such allegations to be steered into mediation and that mediators held joint sessions in nearly half of the cases where domestic violence was substantiated in an independent interview, even though this was against the regulations (Hirst, 2002). In San Diego, mediators failed to recognize domestic violence in 57% of abuse cases. More importantly, revealing domestic violence was found to actually be detrimental to outcomes for victimized mothers. Indeed, mediators who said they were aware of abuse were actually less likely to recommend supervised exchanges than those who were not so aware of abuse (Johnson, Saccuzzo, & Koen, 2005). This finding helps capture a trend that has led many family lawyers to encourage their divorce clients not to discuss domestic violence with evaluators. If this practice is generalized, it could have tragic implications for children's well-being as well as for their mother's.

An important limit of research on the court response is failure to distinguish outcomes in cases involving partner abuse from cases where child abuse or other forms of parental unfitness are alleged. A well-designed study (Kernic et al., 2005) was able to overcome this limit and isolate the response to allegations of partner abuse by studying all Seattle couples with minor children who were petitioning for dissolution of marriage in the target year. The study then merged the marital dissolution files with police and criminal court files and compared the outcomes for mothers with a documented history of abuse (as well as those with allegations of abuse in the dissolution file) with those without this history. Importantly, of the cases with a documented pre-existing history of abuse ($n = 257$), almost three-quarters had either no mention of domestic violence in the marital dissolution file (47.6%) or only unsubstantiated allegations (28.9%). In other words, the family court was made aware of documented abuse in fewer than one case in four. After adjusting for a range of potential confounders (such as

allegations that the mother had used violence), mothers with a history of abuse were no more likely than the non-abused mothers to be granted child custody. Importantly, fathers whose abuse was substantiated in both criminal and family court files were significantly more likely to be denied child visitation and assigned to relevant services than comparison fathers, an outcome consistent with public policy. However, the vast majority of abusive fathers (83%) had no such restrictions. Meanwhile, the outcomes in cases that involved fathers with a documented history of abuse but whose abusive history was not included in the dissolution file and those with a documented history whose abuse was included only as an allegation by their wives were no different than the outcomes for nonabusive fathers. These findings are particularly instructive given the plaint on Fathers' Rights websites that men are routinely being charged with abuse in custody cases when this is untrue and unfairly losing custody as a result. The reverse appears to be the case.

Kernic and her colleagues (2005) did not specifically assess the role of evaluators in these cases. At best, we can say that evaluators made no difference in Seattle, since protections were only put in place in a small proportion of cases in which family courts already had documentary evidence of abuse from criminal courts. When combined with the findings from Kentucky and San Diego, however, the Seattle research strongly suggests that evaluators may actually reduce the probability that family courts will respond appropriately by failing to pursue documentation when it is available but not transmitted, as in Seattle; failing to assess when it is easily identified, as it was in San Diego; and failing to explore allegations when it is not documented. Indeed, when Meier (2003, p. 709, nt. 186) reviewed custody cases, the author concluded that recommendations by evaluators and law guardians were a principal reason abusive men won custody. These findings are particularly disturbing if we appreciate that only a small proportion of abuse victims report domestic violence to police or secure a protection order prior to divorce proceedings. Also, one of the principal myths operating in custody cases is that abuse cannot be serious if it has not been reported. The most positive finding from these studies is that judges who possessed information about abuse were more likely to take protective action that favored mothers and children, though they failed to do so in the vast majority of abuse cases. There is little doubt that the proportion of judges who responded protectively in abuse cases would rise dramatically if documented abuse was reported to the family court and all allegations were properly investigated by evaluators and recommendations shaped in response. One reason judges are reluctant to look closely at abuse is their belief that nothing can be done to protect the victimized parties. This highlights the evaluator's responsibility to know about local abuse-related resources, including resources for supervised visitation, and recommending them.

RE: GOULD ET AL. (2007), "ASSESSING ALLEGATIONS
OF DOMESTIC VIOLENCE"

We can now consider the arguments made by Gould and his colleagues (2007) about the nature of abuse in custody cases and ask whether the prescriptions they offer are likely to improve the response by evaluators. My answer, as readers may suspect, is that their depiction of abuse bears little resemblance to the empirical literature, let alone to what women and children in these cases actually experience. As a result, their assessment of the evaluator's role is deeply flawed.

The Argument

Gould et al. (2007) acknowledged that partner violence is a common factor in custodial disputes, that exposure to partner abuse may harm children, and that evaluators are ill-prepared to confront allegations of abuse or to conduct domestic violence assessments. They also recognized that state courts have a limited role in dictating parental behavior and that the "best interest" standard has become "a vessel into which unarticulated normative values are poured." (Gould et al., 2007, p. 8). But, although I endorse their suggestion that evaluators routinely enquire about abuse, they do not acknowledge, let alone discuss, two critical findings that bear directly on evaluation: that visitation arrangements are a common context for continuing abuse; and that evaluators, mediators, and other court professionals, including family court judges, are generally failing to initiate protective measures in these cases. To the contrary, the general conclusion of this article is that most violence that surfaces in custodial disputes is not abusive, poses no long-term harm to children, and so does not require enhanced advocacy or protections. We are left to presume, then, that the training they propose is designed to differentiate the few cases where genuine abuse is involved from the vast majority where it can be ruled out.

The argument by Gould and his colleagues (2007) is not always easy to decipher. For one thing, the authors make a number of points that they directly contradict. Two illustrations must suffice.

In their opening sections, Gould et al. (2007, p. 4) argued that broadening domestic violence beyond literal assaults seriously distorts understanding, drawing an analogy to the obvious absurdity of using the term "holocaust" to describe an individual's deliberate spread of the herpes virus to sexual partners. Subsequently, they pointed out that "too many forensic evaluators continue to think about domestic violence as characterized only by acts of physical aggression" and add their concern that "maintaining a focus only on acts of physical aggression will lead to continued underestimates of true cases of domestic violence and, as a result, place more families at risk for maltreatment and abuse" (p. 21). The second argument is correct; the first misleading.

The authors initially urged evaluators to employ a means to distinguish the veracity of abuse claims, but later acknowledged that determining credibility is not the evaluator's job (presumably it is the court's responsibility). Whereas the credibility of a witness is, strictly speaking, the province of the court, collateral interviews and a review of relevant documents (such as police files, medical reports, and diaries) should be part of any evaluation of abuse claims (external validity), as should an assessment of whether the account of marital history is consistent with what research tells us is characteristic of abuse. By this means, we should be able to substantiate or unsubstantiate abuse claims with a reasonable degree of certainty and form our recommendations accordingly. Another source of confusion is that Gould et al. (2007) intersperse frankly proscriptive advice—urging evaluators to adapt their recommendations to community norms, for instance—with conclusions they claim are research-based about the nature, dynamics, and consequences of abuse in custodial disputes. In fact, because the research they draw on is either nonexistent, too poorly designed to support their inferences, or transparently biased, the so-called factual information they provided is of little more utility than their advice.

Despite these confounding factors, Gould et al. (2007) make four major points:

1. Evaluators should choose “science” over the “political bias” perpetuated by “myths” about domestic violence.
2. The political context in which evaluators confront abuse is defined by pressure to adapt the “traditional” or “gender specific” model of abuse. Evaluators should “resist” this pressure, recognize that women are as likely as men to be the aggressors in abusive families, and remain “neutral” with respect to the three models of abuse—the gender specific model, the gender-neutral model, and the model that distinguishes “situational violence” from “intimate terrorism.”
3. The most common type of violence seen in custodial disputes is “separation engendered” violence rather than the more serious pattern of chronic abuse seen in service settings like shelters. This type of violence is usually a response to the stress associated with divorce, rooted in dysfunctional marital dynamics rather than in individual behavior, and poses little long-term harm to children, largely because it is episodic, unlikely to continue once the finality of separation is accepted, and is not linked to other forms of violence or control.
4. Rather than “cast a dark shadow” over the perpetrator's life by labeling the typical forms of violence in custodial cases abusive, evaluators should treat the episodic violence typically seen in custody cases as transitory, search for its cause in “family factors,” and recommend therapeutic interventions that can manage trigger events or otherwise facilitate the ongoing cooperation and access of both parents.

To enhance the utility of abuse assessments, Gould et al. (2007) introduced four assessment instruments. Unfortunately, they discouraged adaptation of the most useful of these tools and misrepresented the experiential base that led to its construction.

Separating “Myth” From “Science”

Gould et al. (2007) supported their argument favoring myth over “science” by reproducing a lengthy segment on domestic violence “myths” by Gelles that he has published with only slight variation over the years (e.g. cf Gelles, 1985, 1995, 2007). A sharp dichotomy between science and politics (as myth) is always suspect, not the least because it is often used, as it is here, to cloak personal biases. All but one of the “myths” they take from Gelles (1995, 2007) are isolated claims lifted decades ago from the popular press or websites rather than actual research. There is no evidence that anyone actually holds these views, let alone that they are sufficiently widespread to earn the status of “myth.” The single exception is the claim that domestic violence is the leading cause of adult injury for which women seek medical attention, a conclusion Dr. Flitcraft and I drew from the Yale Trauma Studies we conducted in the early 1980s (Stark & Flitcraft, 1996). In the quote cited by Gould et al. (2007), Gelles dismisses our finding as based on “a small study in a single emergency room.” In fact, our research involved a random sample of more than 3500 women who reported injuries to Yale-New Haven Hospital, one of the largest samples ever drawn in the domestic violence field.² We found that battered women accounted for approximately 40% of all injuries reported by the entire random sample and that domestic violence accounted for about half of these injuries, roughly twice as many injuries as auto accidents, widely believed to be the most common cause of adult injury at the time. Moreover, while the emergency room visit during the sample year was the point of contact through which women entered our sample, we considered all of their adult visits, including those to non-emergent as well as emergent medical sites. But the most important point is that our findings have been replicated in numerous health settings and found to be conservative.

Several hundred books and more than 12,000 research monographs on domestic violence have been published in the last two decades (MacMillan & Wathen, 2005). For evaluators who hope to narrow the gap between this burgeoning knowledge base and their practice, the challenge has less to do with exposing “myths” lifted from the internet than with identifying the best science available. Even evaluators who lack specialized training in methodology should strive to distinguish the quality of research they draw on by whether it has been peer reviewed; whether the samples reported are representative of some larger group to whom generalizations are applied; whether conclusions are based on randomization, control comparisons, comparisons

with baseline rates or a systematic, or sophisticated interpretation of qualitative data; whether study findings are pertinent to the situations encountered in custody disputes; whether their validity or reliability suggests instruments are measuring what they claim to be measuring; whether there is any objective evidence that what is reported has actually occurred; and whether alternative, competing, or contradictory explanations for observed phenomenon have been considered. None of the evidence cited as authoritative by Gould and his colleagues (2007) meets these standards, even minimally.

THE POLITICAL CONTEXT FOR EVALUATION DECISIONS: DOES “GENDER SPECIFIC” = BIAS?

The main obstacle to science-based practice in family court is not a lack of training or ignorance about how to distinguish good research from bad, but the political and normative context that constrains assessment and recommendations in this arena.

As we have seen, the larger political context for intervention in domestic violence includes a worldwide movement to provide safety and support for victims and to hold perpetrators accountable; federal and state legislation to foster these aims, usually through some combination of sanctions and counseling; and the education of professional constituencies to reform their traditional practices in response to new knowledge and policy about abuse. Equally important to this context is mounting counter-pressure from conservative opponents of the (VAWA) and so-called “Fathers’ Rights” groups and their allies to re-privatize abuse (e.g., ending mandatory arrest) and to get courts to minimize child support, recognize men as the “real” abuse victims, and acknowledge that women’s exaggerated claims about abuse are designed to turn children against them (PAS).

The only reference to this context Gould et al. (2007) provided is their unsupported assertion that the major pressure on evaluators is to adapt what they term the traditional model of domestic violence, a model they identify as “gender specific,” because it sees men as primary offenders in abuse cases and women as the primary victims. To this model, they juxtaposed what is termed the gender neutral model constructed by Canadian psychologist Dutton (1995, 2005a,b), which presumes that men and women are equally abusive, and a typology introduced by sociologist Johnson (1995, 2001, 2005). Johnson’s typology distinguished the gendered violence predominantly seen in clinical samples (hospitals, shelters, batterer intervention programs, criminal courts, etc.) and crime or victimization surveys, what he terms “intimate terrorism,” from the “situational couple violence” he believes is more typical among the couples whose violence is identified in general population surveys, and from the “violent resistance” many female victims offer when confronted by intimate terrorism.

Proponents of the gender neutral view base their conclusions on findings of sexual parity in violence from general population surveys in the United States and Canada such as the National Family Violence Survey (NFVS), and identify the gender specific view of violence with “feminism,” a term they use pejoratively. Although Johnson’s distinctions have garnered only limited empirical support, his typology is appealing because it helps to resolve a long-standing dispute about whether population surveys, crime surveys, or point-of-service studies provide the more accurate picture of domestic violence. As I have suggested, much of this debate involves whether abuse is identified as a form of conflict or as an expression by one partner of “power and control” over the other.

Citing M. Johnson (2005), Gould et al. (2007) claimed that “situational” violence is typical of custody cases and, therefore, the partner violence involved is more likely to be mutual or initiated by wives and less likely to be serious than the violence seen in other contexts. I will return to the nature of abuse seen in custody cases momentarily. But even if the violence seen in custody disputes were situational rather than terroristic, this would not mean it is minimal. In Johnson’s typology, the crucial distinction is the centrality of control tactics in intimate terrorism, not the level or frequency of the violence involved or the tendency for violence to escalate over time. Moreover, when violence has been separated by its context, close to 70% of the incidents classified as situational involve severe violent acts and approximately 50% cause minor or serious injury (Guzik, 2009). This is a slightly lower level of injury than in intimate terrorism, but certainly not justification to direct courts to turn away from abuse. Importantly too, the same proportions (30%) of situational violence cases and cases of intimate terrorism are motivated by money or children, issues that are central to custody disputes (Guzik). The types of protections afforded to parents might differ depending on the context in which violence occurs. For instance, no contact orders are likely to be more effective where violence, but not control, is a major issue, largely because coercive control crosses social space. However, the need for protective interventions would not differ.

Gould et al. (2007) failed to grasp that whether or not men and women are equally prone to use force in relationships has little bearing on whether evaluators should view abuse through the lens of gender dynamics. This is because the “abuse” to which evaluators are expected to respond is defined by the context, dynamics, meaning, and consequence of violence, not by the use of force per se, which is the sole focus of the population surveys on which D. G. Dutton (2005a) and Gould and his colleagues relied. Even Gelles (1995) and Straus (as cited in Ellis & Stuckless, 1996), the authorities most frequently cited as supporting the gender parity or gender-neutral view, distinguished the violent acts they studied from the abuse or battering that is the proper focus of court concern. Gould et al. neglected to reproduce one of the claims Gelles identifies as myth, “that Men and Women are equal perpetrators of “domestic violence,” which he calls “a significant distortion of

well-grounded research data.” He concluded: “It is misogynistic to make it appear as though men are victimized by their partners as much as women.”⁴ Similarly, Straus also distinguished the incidence of physical violence from the pattern of coercive and controlling behaviors that comprise battering. He wrote, “It would be ridiculous and unethical” to ignore “the psychological assaults, sexual coercion, subjugation, and economic situation of battered women, or the behavior of men who engage in other forms of degradation” (p. 13).

The so-called gender neutral model, which Gould et al. (2007) asked evaluators to consider, is merely a set of assertions about the distribution of force in relationships. Women may be no less prone than men to use force against partners or to seek control when they do so.³ Moreover, children can be inadvertently or deliberately hurt when women use violence just as they can when men do so. But as Gelles (1995), Straus (as cited in Ellis & Struckless, 1996), and so many others have pointed out, in clinical assessments, the key differential is between “fights”—situations in which one or both parties use force amidst conflicts that typify millions of otherwise “normal” relationships—and situations in which force is part of a larger pattern of abuse or coercive control designed to install a regime of dominance over the targeted partner. Regardless of who uses force or why, it is this larger pattern that threatens children either directly, because there is a high probability that children will be harmed physically or psychologically, or indirectly, by undermining the capacity of a primary parent to protect and provide. Thus, the challenge to evaluators is to contextualize violent behavior in relation to the illegitimate use of power and control.

Evaluators may well encounter wives who are physically abusive. However, to my knowledge, apart from the population surveys, there is no clinical evidence (i.e., evidence from sites where victims seek help such as police, criminal, or family courts, medical or mental health institutions, etc.) that any significant proportion of men consider themselves “abused” by female partners, need or seek help for abuse by female partners, or suffer anything even remotely resembling the array of harms well documented among female victims, including but by no means limited to injury.⁴ Using evidence of violent behavior from surveys to critique the representation of abusive dynamics at points of service like the family court is analogous to criticizing cardiac intensive care units for excluding persons whose chest pain is caused by heart burn. Mothers may abuse children as well as the fathers who cause the largest proportion of serious and fatal pediatric injuries, and battered mothers are somewhat more likely to abuse their children than non-battered mothers (Stark, 2002; Stark & Flitcraft, 1996). However, none of the hundreds of studies of how children are harmed by partner abuse identifies mothers’ violence as a major cause of this harm.

Gould et al. (2007) neglected another critical fact. Far from being one among many models, the gender specific or traditional model of domestic violence comprises the overarching legislative, interpretive and normative

framework for virtually all abuse-related intervention and evaluation in the United States as well as in most other countries. Like domestic violence laws, the overwhelming body of research and intervention in the domestic violence field has been guided by the view that battering is primarily a crime committed by men against women and a proper matter for arrest and punishment; that it is supported by the larger culture, either by example or implication; and, that it has far reaching consequences for health, safety, and personal autonomy. Gould et al. advised us to “resist” pressure to adopt this view. Evaluators must realize that this means distancing ourselves from the normative consensus, much as it would were we to deny the gender-specific nature of rape because men rape other men as well as women.

Identifying the gender specific model as the source of bias in research on abuse confounds the epidemiological reality which evaluators confront—that the types of abuse that prompt concern for children’s welfare are overwhelmingly committed against women—with feminist or non-feminist theories about its social and behavioral causes. To mainstream psychology or social science, domestic violence has multiple causes, but is rooted primarily in family dynamics and a learning process through which partners who have been exposed to violent role models (either in childhood or by the larger culture) carry these behaviors across generations. Feminist scholars argue that abuse is rooted in sexual inequality and that its typical motive is to extend or secure privileges to which men believe themselves entitled simply because they are men. A rich body of evidence supports the feminist understanding. Moreover, it is possible to adapt this understanding of what causes abuse and still accept the reality of women’s violence, as I do. But, it is by no means necessary to believe that sexual inequality explains abuse as to recognize that it is typically constructed to enforce women’s performance of their default gender roles as mothers, homemakers, and sexual partners.⁵ Given this focus, the vastly disproportionate rates of serious injury that result from partner violence against women, and the sharply skewed ratios of female/male help-seeking related to abuse, approaching it as gender neutral is a analogous to rejecting global warming.

THE NATURE OF ABUSE SEEN IN CUSTODIAL DISPUTES

Evaluators should be aware that not all domestic violence among partners is the same. A rich literature is emerging that attempts to type the varied contexts in which abusive partner violence occurs by distinguishing its aim (instrumental vs. expressive, e.g.); motive (self-defense or to hurt, control, or settle a dispute with a partner); scope (whether it is limited to family members or includes others as well); or its behavioral dynamics. None of these typologies has a sufficient empirical foundation to be considered definitive, though they have some utility in targeting clinical and judicial resources.

To reiterate the point made earlier, coercive control is the most common context for abuse. It is also the most devastating, largely because it targets women's personhood and capacity for independent decision-making as well as their physical integrity and can instill paralyzing levels of fear, loss of self-esteem, and dependence, even after couples separate. When Glass et al. (2004) conducted a multi-city study to determine which factors were associated with lethal outcomes in abuse cases, they identified three that increased a woman's risk nine-fold, separation, the presence of a weapon, and the existence of control. By contrast, factors commonly thought to signal dangerousness, such as the frequency or the severity of previous violence or the role of substance abuse, did not do so. Since separation is a constant in divorce cases and control is likely to be present in a majority of abuse cases, there is good reason to suspect that abuse in the custodial setting is more dangerous than abuse seen in other service settings not less dangerous.

So critical is the presence of coercive control to the future prospects of a primary parent's relationship to her child, so elusive and eclectic are the signs and symptoms of intimidation, isolation and control, so easily are the behavioral dynamics of coercive control hidden from view, and so commonly are the reactions to control mistaken for psychological dysfunction that, much like the cardiologist confronted by complaints of chest pain, evaluators should conduct a full workup to rule out this worst case scenario at any hint of its presence. Some evaluators may feel uncomfortable proactively exploring coercive control, particularly if, as a consequence, they feel compelled to recommend dramatic safety precautions (an issue strangely absent from Gould et al.'s (2007) article) they cannot support with clear documentation of injury. Moreover, many of the tactics involved—denying a partner access to a car or telephone or refusing to allow her to work, e.g.—are not criminal and have little significance outside the larger abusive dynamic. However, when evaluators omit such tactics in their assessments, abuse is identified only in the small proportion of cases where violence is severe and life threatening. As we saw in the family court research, this approximates the current situation of denial.

But is abuse or coercive control likely to be the dominant context for abuse in custody cases? Gould et al. (2007) argued in effect that the most common types of violence evaluators will see in custody disputes do not constitute domestic violence or abuse at all. They wrote:

It is our belief that the nature of allegations of domestic violence that most often are brought to the attention of child custody evaluators reflect 'separation engendered violence' or 'post-divorce trauma' described by Johnston and Campbell (1993) "... males and females identified (with-E.S.) this category . . . display acts of violence that were uncharacteristic of their everyday lives. Increased aggressiveness was associated with increased tension around the separation and divorce. Physical violence was absent during their marriage and abuses of power and control were also absent (p. 10)."

If the violence seen in custodial disputes is qualitatively different in its source, dynamics, and consequences from the abuse researchers have identified in other settings, many of my criticisms of their article are irrelevant.

In addition to relying on Johnston and Campbell (1993) for their conclusions about the nature of abuse in custody cases, Gould and his colleagues (2007) endorsed their view that those responsible for separation-engendered violence feel “shame” about their behavior, that focusing on the violence “casts a dark shadow” in a case, and that the risk of subsequent violence is small in these cases once the emotional and legal issues in the divorce are resolved. Gould et al. acknowledge that children may be harmed by these “sporadic” but “infrequent” outbursts of violence. But because this violence is transitory, they argue, these harms are also transitory and so should not be used to justify restrictions on visitation or other access to either parent, the “dark shadow” to which they, like Johnston and Campbell, refer.

What evidence is there to support this argument? Gould et al. (2007) claimed that articles by D. Dutton (2005a,b) and M. Johnson (2005) support Johnston and Campbell’s (1993) conclusions. Nothing I could find suggests this is so. Apart from its title (which refers to custody), the Dutton-Johnson exchange they cite focuses on the relative merits of the gender-specific vs. gender-neutral views. Neither author reviewed any research on custody nor makes any empirical claims about the prevalence of one or another type in custody cases, let alone claims that the most common type of violence among custody litigants is separation engendered or situational. In fact, Dutton explicitly criticized Johnston and Campbell’s study of custodial litigants because it is qualitative, subjective, preliminary, and found that female initiated violence is trivial “until the male partner loses control,” a conclusion with which he disagreed. Johnson did make a passing reference to the possible relevance of his argument to custody, noting that intimate terrorists may pose greater danger to children than does the use of violence by a mother who is resisting his control. He then speculated that it is “less clear” whether children are at risk in cases involving situational violence where the violence was “singular and mild” rather than “chronic and severe.” However, rather than endorse this view, he closed with this warning:

The issues are complicated and differ depending on the type of violence, but one thing is clear: The assessment of the violence must include information about its role in the relationship between the contesting parties. A narrow focus on acts of violence will not do . . . we need to err on the side of safety. Assume that all violence is intimate terrorism. (Johnson, M., 2005, p. 52)

M. Johnson shared my belief that evaluators should focus on the broad context in which violence occurs. As Johnson saw it, the major risk in these cases is not that “a shadow will fall” on one partner because of exaggerated

allegations of abuse, a problem that has been shown to characterize a tiny proportion of such cases. The major risk is that abuse will be minimized and children left at risk from the perpetrator.

This leaves us with the single source, the Johnston and Campbell (1993) study. To their credit, Johnston and Campbell acknowledged that their work is “preliminary” and “exploratory” “rather than presenting “established findings” and that their two relatively small samples of divorcing parents “may not be representative.” Despite these caveats, Gould et al. (2007) proceeded to generalize from their work.

Johnston and Campbell (1993) classified a small sample of volunteer couples into one of five predetermined types. These types were theoretically derived rather than derived from empirical evidence and the typology was impervious to modification based on actual reports, let alone on conflicting reports from a couple. The researchers were not interested in how common each type was but only in whether the custody cases could be usefully classified using their schema. They reported no tests of statistical significance and have no way to know from this study what proportion of actual divorce cases fall into any of the types, including what they term “separation and post-divorce” violence.

Even as a conceptual framework, Johnston and Campbell’s (1993) typology is seriously flawed. To start, the researchers limited their understanding of abuse to unilateral violence that “rises to dangerous, life threatening levels.” This excluded the most serious type of partner abuse, as we have seen previously, the pattern of frequent but low-level assault that is dangerous because of its cumulative effect on autonomy and safety. Equally strange is their exclusion from the abuse definition of what they term “male-controlled interactive violence,” where a controlling male who is willing to use force to win compliance escalates his assaults if his partner physically or otherwise resists his efforts at control. Even though their own description identifies the “controlling male” as the initiator of violence in this instance, they dub this dynamic “interactive” (hence not abuse) because both parties use force and because there would be no escalation of violence, hence presumably no threat to children, if the woman simply complied with his control rather than resisted. In the family system model that Gould and his colleagues (2007) endorsed, the violence could be ended if both sides compromise: the assailant agrees to limit his physical abuse and the victim abandons certain claims to autonomy. Since this compromise achieves the proximate goal sought by the husband, namely to get his way with the threat of force, supporting this sort of compromise raises a significant ethical dilemma for evaluators by putting them squarely in the abuser’s corner. Moreover, by equating a woman’s refusal to submit with a husband’s abuse, evaluators send a signal about how to win compliance in negotiations that can be used to advantage in the post-separation period. Asking a mother who may have chosen to end a relationship rather than compromise her

autonomy to now revisit this decision in the interest of her child's is an example of the battered mother's dilemma. As Dalton (1999) argued, insisting that abuse is only real when violence is unidirectional has helped evaluators rationalize moving the vast majority of abuse cases into the "conflict" or "high conflict" categories.

The alternative to the position advocated by Gould et al. (2007) and Johnston and Campbell, (1993) and the only position consistent with our responsibility in these cases, is for evaluators to do the work needed to identify the primary source of violence, in this case, the man's use of coercion to control his partner and to define this behavior as abusive on its face. In his typology, Michael Johnson identifies this pattern of behaviors as "violent resistance," tracking the wife's reactive use of force to her husband's illegitimate use of control, which he recognizes as abusive. By reframing this dynamic as a form of dysfunctional "interaction," Gould et al., like Johnston and Campbell, minimize the harms involved and obliterate the vectors of power in this relationship to which a court must respond if it hopes to protect the child.

Separation-Engendered Violence?

Despite the absence of any empirical evidence for doing so, Gould and his colleagues (2007) made Johnston and Campbell's (1993) category "separation engendered violence" the centerpiece of their understanding of partner violence in custody cases. In their view, the "intolerable sense of abandonment and loss" that accompanies separation and divorce prompts some partners to engage in "one, two or several incidents" of violence, including "sometimes very serious ones." Because violence in these instances is not only new but directly related to separation, they argued it is reasonable to treat it as transitory and suggested counseling rather than cast a "shadow" over the husband's prospects by labeling his behavior abusive.

But how are we to know if the violence that surfaces after separation is long-standing or engendered by divorce? It is well known that many abuse victims only feel safe enough to reveal violence when they are apart from their partner. Additionally, because the anxiety of living with a constant threat can be unbearable, minimization is a survival tactic for many victims. Moreover, since we can only know that violence is limited to "one, two or several incidents" after-the-fact, where violence of any kind surfaces during separation, the most conservative approach is to rule out chronic abuse, coercive control, and domestic violence before proceeding from the assumption that the situation is low risk.

Attributing violence to a sense of loss or abandonment is also problematic as is the assumption that this source is likely to yield less dangerous forms of abuse. In my work with abusive men, I have repeatedly found that the intolerable sense of abandonment they describe after separation is rooted

in the loss of control over an abused partner and can excite a rage that culminates in lethal or near lethal attacks on women and children, sometimes followed by the man's suicide. The controlling husband may obsess over his loss, deprive himself of food or other basic necessities, "slip" in his personal hygiene, and experience many of the same health and behavioral symptoms due to the loss of control over his partner that we observe in women who are being abused. Some of these men believe, "I am nothing without her." Even where violence is not the result, the man who blames his wife for disloyalty or abandonment may seek to sustain control over his partner through extended custody battles in which children in whose upbringing he has shown little previous interest suddenly become mere pawns, an example of "child abuse as tangential spouse abuse." Violent outbursts can sometimes be occasioned by an ordinary sense of mourning for which arrangements for "parallel parenting" may be appropriate. But Gould et al. (2007) provided no clues about how to distinguish this possibility from the far more dangerous—and in all probability more common—violence precipitated by a perceived loss of illegitimate control.

If there is no empirical evidence that abuse in the custodial setting has a unique dynamic, there is good reason to believe it is as or even more dangerous than the violence seen elsewhere in the service system. Data from hospitals and arrests or from criminal court show that domestic violence almost never appears as an isolated incident. Instead, it is typically repeated in abuse cases and frequently involves "serial abuse," with as many as 35% of victims in cases where men are arrested reporting being abused daily (Brookoff, O'Brien, Cook, Thomson, & Williams, 1997). Presumably Gould et al.'s (2007) rejoinder to this data is that it is culled from "clinical" instead of "community" samples. However, while abused women identified in cross-sectional population studies reported lower frequency rates of victimization than "clinical" samples, these histories are still sufficiently impressive to justify universal protections. According to every major population survey, including the National Family Violence Survey, the National Violence Against Women Survey and the National Youth Survey, abused persons are assaulted on average 3 to 4 times annually and the proportion who report "serial" abuse, where abuse occurs at least once a week, is 25–30%, roughly equivalent to the proportion of serial assaults culled from arrest data or reported by the National Crime Victim Survey (Teske & Parker, 1983). I know of no findings from any setting that show domestic violence to be anything but frequent or that, without dramatic protections in place, it ends with separation or divorce.

As we have seen, separation, divorce, and visitation have been identified as common sites for the continuation and escalation of partner violence. If the perception persists that "real" abuse is relatively rare in custody disputes nonetheless, this may reflect the fact that battering is only identified as such in less than one case in four where there is positive documentation

that it has occurred. Conversely, the failure to identify abuse is perpetuated by its equation only with severe, unilateral violence.

Assessment

If the types and levels of abuse seen in custody cases resemble the partner violence and coercive control seen elsewhere, is there any rationale for being less vigilant about putting stringent protections in place than we would be were the same case to come to criminal court, for instance?

Gould et al. (2007) pointed out that significant numbers of children have “warm” relationships with parents who have violent relationships with one another and caution evaluators not to be influenced by parental “conflict” in their recommendations for contact, presumably to avoid casting the “shadow” over these “good enough” fathers. They supported this contention by citing evidence that 60% of children in these families were not physically abused. One hopes they would limit contact in the remaining 40% of cases, though they do not say so. As we have seen, physical abuse is only one of a range of ways in which children are damaged when one parent employs coercion and control. Not only is there mounting evidence that children’s exposure in abusive families is multi-faceted and continuous, often extending over their entire childhood, but that the indirect harms caused by the estranged partner interfering with parenting after separation presents a major issue even when visitation is limited or supervised. Moreover, a 40% probability of abuse is higher than the probability of any number of events that cause us to initiate extreme precautions in medical or family court settings.

Evaluators who have worked on such cases are aware that a child’s apparent closeness to an abusive parent can have many explanations just as can his supposed “alienation.” These range from identification with the aggressor and frank Stockholm syndrome to the child’s belief that s/he can magically protect the victimized parent by placating an abusive father, perhaps in response to his threats to hurt himself if he loses custody or his complaints about abandonment. As an extension of this self-presentation, children often portray their abusive fathers as the weaker of two parents and as requiring their support. In a number of my cases, children with a well documented history of having witnessed their father’s abuse and even of having experienced it first-hand as co-victims denied any abuse had occurred, identified their mother as the “enemy” (in one case, the sons testified she was “Jezebel” and their father “the Truth”) and insisted on living with him. In these instances, children’s expressed feelings or wishes regarding a violent parent should reinforce the decision to provide protective measures, not counter it. An exclusive focus on what children want in these cases serves to keep evaluators, judges, and other family court personnel from following the implications of parental abuse wherever they may lead.

The quality of a child's relationship to the abusing parent is important, but less because it points to whether limits should be placed on access and protections implemented than to how boundaries should be established and separation facilitated. Protective custody arrangements may certainly involve providing an opportunity for a child to say goodbye to an abusive dad or for the abusive parent to relieve the child's burden of guilt by accepting responsibility for creating chaos in the home, particularly if a supervised visitation center is available in the area where this meeting can take place safely.

Gould et al. (2007) concluded their article by presenting four assessment tools that evaluators might use in domestic violence cases. The most widely used of these four, the Spouse Abuse Risk Assessment (SARA) Guide, is really a manual of risk factors drawn from the literature on physical violence rather than an assessment tool. It was originally developed to determine the risk of serious or fatal violence among offender populations, the groups with which it was normed, and to aid structured decision-making among prison administrators. Even so, it omits key factors known to predict seriousness, such as the frequency of violence, the presence of a weapon, and the degree of control in a relationship. More importantly, since the typical presentation of domestic violence involves frequent, but relatively minor forms of coercion, use of the SARA in family cases minimizes the significance of abuse and masks its more typical presentations. Finally, the SARA completely neglects coercive control, the context of domestic violence that is arguably the most harmful to a child's welfare.

The second tool, developed by Austin (2000), addresses the investigation process rather than the elements of abuse. It directs evaluators to consider abuse in previous relationships, to investigate third party sources, and to seek out disconfirming information. Although these steps can offer important support for or contradict abuse claims. They are insufficient. Because denial, minimization, and secrecy are widely recognized elements in most abuse cases, and, almost by definition, domestic violence mainly occurs "behind closed doors," claims regarding abuse must be judged primarily on their internal validity, not on the basis of external verification. This judgment requires a broad understanding of the tactics used in coercive control.

The third (Drozd & Olesen, 2004) and fourth assessment instruments (Bancroft & Silverman, 2002) highlighted a number of the tactics other than physical violence that are identified as facets of abuse. Gould et al. (2007) urged readers to reject the most comprehensive of these tools by claiming that Bancroft and Silverman drew their model from "research on women in battered women's shelters." In fact, as Bancroft and Silverman made clear in the *Batterer as Parent*, the book in which this tool is presented, their instrument is based on direct experience with over 1000 men who batter, in supervising other batterer counselors, Bancroft's experience as a custody evaluator, and 4–5 hour interviews with battered mothers. Most of the batterers Bancroft and Silverman interviewed were court referred, presumably

after being arrested. But their research base included a large group of self-referrals. Moreover, neither the custody work nor the interviews with mothers involved women in shelters. Here, as elsewhere, bias is the most generous explanation for the authors' misrepresentation of sources.

There are other assessment tools available which tap a broader range of abusive behaviors than domestic violence. These include the Index of Spouse Abuse (ISA) (Hudson & McIntosh, 1981), the Measure of Wife Abuse (MWA) (Rodenburg & Fantuzzo, 1993), the Partner Abuse Scale: Nonphysical (PASNP) (Attala, Hudson, & McSweeney, 1994), the Propensity for Abusiveness Scale (PAS) (Dutton, 1995), designed for use with males, and the Psychological Maltreat of Women Inventory (PMWI) (Tolman, 1989) and a recently developed coercive control scale (Dutton & Goodman, 2005). None of these tools has been validated for content against the actual experiences of abuse victims, only the SARA and the PAS have been tested for predictive validity, and only a few have questions on child abuse or on the use of children to control a parent. If these assessments have limited prognostic utility, however, they can be extremely useful as a general guide to the types of questions that should be asked to elicit a history of abuse.

CONCLUSIONS

Taking the evidence presented in this chapter as our context, we can revisit the core question of the responsibility of evaluators in custodial disputes involving domestic violence.

Present practice seems clear. There is overwhelming evidence the partner abuse is a common dynamic in disputed custody cases and that it poses significant risks to all parties involved unless it is effectively assessed and countered with protective measures. Despite this reality, studies from California, New York, Kentucky, Washington, and California suggest that abuse is rarely identified or validated by evaluators, almost never becomes the primary focus of their assessment, and is even less often included in custodial recommendations to the court even when a history of abuse is well documented in a man's criminal records. One consequence is that, in a disturbing proportion of cases, abusive husbands are given sole custody, joint custody, or unsupervised access to children. There is some research evidence and a good deal of anecdotal evidence that, against the prevailing pressure to cooperate for the sake of the children, a significant proportion of abuse victims and their children may actually fare worse if they identify domestic violence than if they do not, as was the case in California and New York, an outcome which is contrary to not only the laws governing custody dispositions in most states, but arguably violates women's constitutional right to equal protection.

Gould et al. (2007) and Johnston and Campbell (1993) are not alone in downplaying the criminal, malevolent and intentional elements of abuse in

family proceedings in the name of preventing the risks attendant on the most severe cases from trumping the interests of children in parental cooperation in the vast majority of cases. Evidence shows that the problems caused when evaluators, mediators, and the range of other professionals respond inappropriately to victims of coercion and control and their children far outweigh the risk that non-abusive behaviors will be mislabeled or that “a shadow” will be cast over some non-abusive men. The proportion of cases where abuse allegations are falsely denied far outweigh the tiny proportion in which such allegations are fabricated.

Evaluators are arguably well suited to assess abuse by their training, experiences, mandate to prioritize safety in the child’s best interest, and by the aura of neutrality that allows them to be confrontational and objective. So, is it likely that the current situation can be easily remedied by reforming the professional curriculum or by the sort of spot trainings in domestic violence assessment currently in vogue? Unfortunately, I don’t think so, though a significant proportion of my professional income comes from conducting these trainings. The current state of affairs is explained less by the prevailing ignorance among evaluators than by the political context in which we do our work. Not merely evaluation science, but the entire family court system lags far behind the rest of the justice and service system in its understanding of and response to abuse, clinging to attitudes and practices that have been discredited in policy, child welfare, medical, criminal justice, mental health, and social welfare settings. This is almost certainly because facing reality, in this case the true scope and meaning of abuse, threatens the core paradigm on which family court practice rests in custodial matters, a paradigm built around the conceit that most family problems are interactive, reducible to psychological dynamics, and readily assessed and managed through a combination of cooperation, counseling, court-imposed constraints, and good will. The durability of this paradigm even in the face of hard evidence of harm suggests that a systematic bias is at work here that can only be remedied by systemic reform.

The blinders that keep evaluators from seeing abuse are many and complicated. Assessing violent or controlling parents is unlike working with persons whose inappropriate behavior is rooted in their background, personality, or in psychological problems. Even with the best tools in hand, coercive control and domestic violence can be intimidating as well as hard to detect. Evaluators are no less prone than other professionals (or than are victims) to ward off the fears elicited in the presence of violent or controlling parents by employing the defense mechanisms of minimization, denial, or scapegoating. In family proceedings, these defenses are particularly insidious because their most common expressions, managing the bearer of bad news rather than its source, stigmatizing abuse victims with pseudo-psychiatric labels, and reframing their protective strategies as resistant, uncooperative or obstructive, are consonant with the family court emphasis on cooperation and liberal access. In other words, the systematic

misreading of abuse is reinforced because it enhances the credibility of evaluation by confirming the bias in family court.

Most evaluators have some experience in penetrating attempts to dissemble, and some of our more sophisticated psychological tests can pick up a propensity to present oneself in a favorable light. But even the best instruments at our disposal are no match for the self-interested concealment that characterizes perpetrators of domestic violence or coercive control. Even if we set aside pressure to facilitate co-parenting at almost any cost, evaluators are no better prepared to accurately identify coercive control than police detectives are to administer or interpret the MMPI. Victims are likely to respond more honestly to abuse assessments than perpetrators. Still, the continuation of abuse during separation often inhibits their revelations and causes them to adapt a defensive posture replete with minimization and self-blame. In the proper assessment of abuse, there is no substitute for an informed, thorough, and objective forensic investigation.

When we initially trained child welfare workers on the hazards domestic violence posed to children, we were shocked to find that they responded punitively, unconstitutionally removing children and charging victimized mothers with “neglect” for causing their child’s exposure (Stark, 2002). We now appreciate that this victim-blaming response reflected the narrow statutory mission that drives child protection rather than any ignorance or malevolence on the part of caseworkers (Stark, 2005). Confronting custody evaluators with information about domestic violence presents a similar conundrum, though here it is not the mission that constrains practice, but the larger political and economic context in which family court dispositions are made. Appropriately responding to abuse would dramatically up the ante in custodial disputes, lengthen the time and cost of these proceedings, and lend an air of acrimony that would be hard to accommodate in the family court setting let alone to reconcile with our economic interest in pleasing divorce lawyers and family judges. If the family court has lost legitimacy in the eyes of thousands of mothers, the reaction from abusive husbands held to account could be even stronger.

I end on what some will consider a negative note. I have worked with any number of highly skilled evaluators who have identified abuse, recommended protections be put in place, and defended their assessments even against skeptical judges, leading to positive outcomes for families. However, I do not believe that our psychology/social work training, orientation to theories of personality, or family systems prepares us to fully grasp the manipulative and calculated use of coercion and control in marital relationships. Before we initiate yet another round of “upgrades” for custody evaluators, I suggest we consider whether all family members would not be better served if, once abuse was identified as an issue in custody disputes, the case was triaged for assessment to domestic violence experts or left to independent fact-finding by the court. Some form of custodial preference in

abuse cases is already the rule in most states. At present, these rules are honored mainly by neglect, a process that is rationalized by setting the bar in recognizing domestic violence at unilateral injurious violence, thereby missing or minimizing abuse in the vast majority of cases where it is present. If family courts were held accountable to even these imperfect rules, the sole issue in disputed custody cases involving abuse would be to set the terms of limiting access by the perpetrator and suggest relevant protective services. As Nicholas Wall (2005), a Lord Justice of Appeal in England, put it recently, "it is a non-sequitur to consider that a father who has a history of violence to the mother of his children is, at one and the same time, a good father" (p. 9). Starting from this assumption, access to their former spouses and children would be made contingent on a perpetrator accepting responsibility for the harms caused and changes in attitudes and behaviors. Because perpetrators would be helped to reframe their behavioral choices, as many now do in the context of criminal proceedings, they would benefit from this reform as well as their victims and children, opening up the possibility of a long-term relationship with their children. Acknowledging the limits of our expertise is no less critical to professional integrity than utilizing our skills appropriately and should enhance our standing in the eyes of our clients and the court rather than diminish it.

NOTES

1. This approach was popularized in divorce theory by Wallerstein's influential defense of the "good enough" marriage, in *The Unexpected Legacy of Divorce* (2000).
2. In fact, Gelles was well aware of the size of our research study when he wrote this, since he endorsed the book in which the sample was described.
3. In addition to the credibility they give the notion that women are as violent as men in relationships, Gould et al. (2007) also refer to "the small group of women who initiate violence or are equal contributors" (p. 16), another example of the contradictory statements that plague their article.
4. The absence of evidence that women's "abuse" poses a major problem to men (or to children) is irrelevant say some dissenters because "battered men" are too embarrassed to seek help. It is hard to disprove an explanation for something that does *not* happen. All I can say is that, both as a clinician who co-led groups for men for many years and as a forensic evaluator who has worked on several hundred cases involving allegations of abuse, I have generally found male clients are as ready as female clients to complain about their partner's behavior, including their jealousy, manipulation, "control," emotional, and physical abuse.
5. The Congress is hardly a feminist institution. Yet, until the U.S. Supreme Court found this provision of VAWA unconstitutional in *U.S. vs. Morrison* (2000), Congress defined abuse as a crime motivated by "an animus based on the victim's gender." This view was supported across a broad political spectrum that extended to Senator Orin Hatch (R-Utah), the bane of reproductive rights.

REFERENCES

- Adamson, J.L., & Thompson, R.A. (1998). Coping with interparental verbal conflict to spouse abuse and children from nonviolent homes. *Journal of Family Violence, 13*(3), 213–232.

- Appel, A.E., & Holden, G.W. (1998). The co-occurrence of spouse and physical child abuse: A review and appraisal. *Journal of Family Psychology, 12*, 578–599.
- Attala, J.M., Hudson, W.W., & McSweeney, M. (1994). A partial validation of two short-form partner abuse scales. *Women and Health, 21*(2/3), 125–139.
- Austin, W.G. (2000). Assessing credibility in allegations of marital violence. *Family and Conciliation Courts Review, 38*, 462–477.
- Bancroft, L., & Silverman, J. (2002). *The batterer as parent: The impact of domestic violence on family dynamics*. Thousand Oaks, CA: Sage.
- Bow, J.N., & Boxer, P. (2003). Assessing allegations of domestic violence in custody evaluations. *Journal of Interpersonal Violence, 18*, 1394–1410.
- Brookoff, D., O'Brian, K., Cook, C.S., Thompson, T.D., & Williams, C. (1997). Characteristics of participants in domestic violence: Assessment at the scene of domestic assault. *Journal of the American Medical Association, 277*(17), 1369–1373.
- Buzawa, E., Hotaling, G., Klein, A., & Byrne, J. (1999). *Response to domestic violence in a pro-active court setting: Final report*. Washington, DC: National Institute of Justice.
- Dalton, C. (1999). When paradigms collide: Protecting battered parents and their children in the family court system. *Family & Conciliation Courts Review, 3*, 273.
- Drozd, L.M., & Olesen, N.W. (2004). Is it abuse, alienation and/or estrangement? A decision tree. *Journal of Child Custody, 1*(3), 65–105.
- Dutton, D. (1995). A scale for measuring propensity for abusiveness. *J. Family Violence, 10*, 203–221.
- Dutton, D.G. (2005a). Domestic abuse assessment in child custody disputes: Beware the domestic violence research paradigm. *Journal of Child Custody, 2*(4), 23–42.
- Dutton, D.G. (2005b). On comparing apples with apples deemed nonexistent: A reply to Johnson. *Journal of Child Custody, 2*(4), 53–64.
- Dutton, M.A., & Goodman, L.A. (2005). Coercion in intimate partner violence: Towards a new conceptualization. *Sex Roles, 52*(11/12), 743–756.
- Dutton, M.A., Goodman, L., & Schmidt, R.J. (2005). *Development and validation of a coercive control measure for intimate partner violence in Boston, Massachusetts and Washington, D.C.* 2004 (Computer file) ICPSR04570-v1. Bethesda, MD: COSMOS Corporation [producer], 2005. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [distributor], 2008-09-26. doi:10.3886/ICPSR04570
- Edleson, J. (1999). Children's witnessing of adult domestic violence. *Journal of Interpersonal Violence, 14*, 839.
- Ellis, D., & Stuckless, N. (1996). *Mediating and negotiating marital conflict*. Thousand Oaks, CA: Sage.
- Fantuzzo, J.W., DePaola, L.M., Lambert, L., Martino, T., Anderson, G., & Sutton, S. (1991). Effects of interparental violence on the psychological adjustment and competencies of young children. *Journal of Consulting and Clinical Psychology, 59*, 258–265.
- Fantuzzo, J.W., & Mohr, W.K. (1999). Prevalence and effects of child exposure to domestic violence. *The Future of Children, 9*, 21–32.
- Fantuzzo, J., Boruch, R., Beriana, A., Atkins, M., & Marcus, S. (1997). Domestic violence and children: Prevalence and risk in five major U.S. cities. *Journal of the American Academy of Child and Adolescent Psychiatry, 36*, 116–22.

- Gelles, R. (1995). *Domestic violence not an even playing field*. Retrieved November 4, 2006 from <http://www.serve.com/zone/everyone/gelles.html> (1998).
- Gelles, R.J. (1985). *Intimate violence in families*. Newbury Park, CA: Sage Publications, Inc.
- Gelles, R.J. (1995). *Domestic violence factoids. University of Rhode Island Family Violence Research Program Published: 1995*. Retrieved July 1, 2009, from www.mincava.umn.edu/documents/factoid/factoid.html
- Gelles, R.J. (1997). *Intimate violence in families* (3rd ed.). Thousand Oaks, CA: Sage.
- Gelles, R.J. (2007). The politics of research: The use, abuse, and misuse of social science data—The cases of intimate partner violence. *Family Court Review*, 45, 42–51.
- Glass, N., Manganello, J., & Campbell, J.C. (2004). Risk for intimate partner femicide in violent relationships. *Domestic Violence Report* 9, 2(12), 30–33.
- Gondolf, E. (2001). *Final report: An extended follow-up of batterers and their partners*. Atlanta, Ga.: Centers for Disease Control and Prevention.
- Gould, J.W., Martindale, D.A., & Eidman, M.H. (2007). Assessing allegations of domestic violence. *Journal of Child Custody*, (V.4), 1–35.
- Guzik, K. (2009). *Arresting abuse: Mandatory legal interventions, power and intimate abusers*. Dekalb, IL: Northern Illinois University Press.
- Hetherington, E.M., & Stanley-Hagan, M. (1999). The adjustment of children with divorced parents: a risk and resiliency perspective. *The Journal of Child Psychology and Psychiatry and Allied Disciplines*, 40, 129–140.
- 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.
- Hudson, W.W., & McIntosh, S.R. (1981). The assessment of spouse abuse: Two quantifiable dimensions. *Journal of Marriage and the Family*, 43(4), 873–888.
- Hughes, H.M., Parkinson, D., & Vargo, M. (1989). Witnessing spouse abuse and experiencing physical abuse: A “double whammy”? *Journal of Family Violence*, 4, 197–209.
- Johnson, M.P. (1995). Patriarchal terrorism and common couple violence: Two forms of violence against women. *Journal of Marriage and the Family*, 57, 283–294.
- Johnson, M.P. (2001). Conflict and control: Symmetry and asymmetry in domestic violence in couples in conflict. *Violence Against Women*, 12(11), 1003–1018.
- Johnson, M.P. (2005). Apples and oranges in child custody disputes: Intimate terrorism vs. situational couple violence. *Journal of Child Custody*, 2(4), 43–52.
- Johnson, N.E., Saccuzzo, D.P., & Koen, W. (2005). Child custody mediation in cases of domestic violence. *Violence Against Women*, 2(8), 1022–1053.
- Johnston, J., & Campbell, L. (1993). A clinical typology of interparental violence in disputed custody divorces. *American Journal of Orthopsychiatry*, 63(2), 190–199.
- Johnston, J., Lee, S., Olesen, N.W., & Walters, M.G. (2005). Allegations and substantiations of abuse in custody-disputing families. *Family Court Review*, 43, 283–294.

- Jones, A., & Schechter, S. (1992). *When love goes wrong*. New York: Harper Collins.
- Kaye, M., Stubbs, J., & Tolmie, J. (2003). *Negotiating child residence and contact arrangements against a background of domestic violence*. Research Report 1, June Socio-Legal Research Centre, Natham-Griffiths University.
- 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, 2*, 991–1021.
- Leighton, B. (1989). *Spousal abuse in metropolitan Toronto: Research report on the response of the criminal justice system (Report no. 1989-02)*. Ottawa, Canada: Solicitor General of Canada.
- Lischick, C. (1999). *Coping and related characteristics delineating battered women's experiences in self-defined, difficult/burtful dating relationships: A multicultural study*. (Doctoral dissertation, Rutgers University).
- MacMillan, H.L., & Wathen, N. (2005). Family violence research: Lessons learned and where from here?. *Journal of the American Medical Association, 294*, 618–620.
- Maker, A.H., Kimmelmeier, M., & Peterson, C. (1998). Long-term psychological consequences in women of witnessing parental physical conflict and experiencing abuse in childhood. *Journal of Interpersonal Violence, 13*, 574–589.
- McCloskey, L.A., Figueredo, A.J., & Koss, M.P. (1995). The effects of systematic family violence on children's mental health. *Child Development, 66*, 1239–1261.
- McMahon, M., & Pence, E. (1995). Doing more harm than good: Some cautions on visitation centers. In E. Peled, P. Jaffe, & J. Edleson (Eds.), *Ending the cycle of violence: Community responses to children of battered women* (pp. 186–206). Thousand Oaks, CA: Sage.
- Meier, J. (2003). Domestic violence, child custody and child protection: Understanding judicial resistance and imagining the solutions. *Journal of Gender, Social Policy and the Law, 2*(2), 656–731.
- Morrill, J., Dai, J., Dunn, S., Sung, N., & Smith, K. (2005). Child custody and visitation decisions when the father has perpetrated violence against the mother. *Violence Against Women, 11*(8), 1076–1107.
- Okun, L. (1986). *Woman abuse: Facts replacing myths*. Albany: State University of New York Press.
- Radford, L., & Hester, M. (2006). *Mothering through domestic violence*. London: Jessica Kingsley.
- Rees, A., Agnew-Davies, R., & Barkham, M. (2006). *Outcomes for women escaping domestic violence at refuge*. Paper presented at the Society for Psychotherapy Research Annual Conference, Edinburgh.
- Rodenburg, F.A., & Fantuzzo, J.W. (1993). The measure of wife abuse: Steps toward the development of a comprehensive assessment technique. *Journal of Family Violence, 2*, 203–228.
- Rosen, L., & O'Sullivan, C. (2005). Outcomes of custody and visitation petitions when fathers are restrained by protection orders. *Violence Against Women, 2*(8), 1045–1075.
- Shalansky, C., Ericksen, J., & Henderson, A. (1999). Abused women and child custody: the ongoing exposure to abusive ex-partners. *Journal of Advanced Nursing, 29*(2), 416–426.

- Stark, E. (2002). The battered mother in the child protective service caseload: Developing an appropriate response. *Women's Rights Law Reporter*, 23(2), 107–131.
- Stark, E. (2005). Nicholson v. Williams revisited: When good people do bad things. *Denver University Law Review*, 82(4), 691–721.
- Stark, E. (2007). *Coercive control: how men entrap women in personal life*. New York: Oxford University Press.
- Stark, E., & Flitcraft, A. (1996). *Women at risk: Domestic violence and women's health*. Thousand Oaks, CA: Sage.
- Strauchler, O., McCloskey, K., Mallow, K., Sitaker, M., Grigsby, N., & Gillig, P. (2004). Humiliation, manipulation and control: Evidence of centrality in domestic violence against an adult partner. *Journal of Family Violence*, 19(6), 339–354.
- Sullivan, C.M., Nguyen, H., Allen, N., Bybee, D., & Juras, J. (2000). Beyond searching for deficits: Evidence that physically and emotionally abused women are nurturing parents. *Journal of Emotional Abuse*, 2(1), 51–71.
- Teske, R.H.C., & Parker, M.L. (1983). *Spouse abuse in Texas: A study of women's attitudes and experiences*. Criminal Justice Center, Huntsville, TX: Sam Houston State University.
- Tolman, R.M. (1989). The development of a measure of psychological maltreatment of women by their male partners. *Violence and Victims*, 4(3), 159–177.
- United States v. Morrison, 529 U.S. 598,627 (2000).
- Wall, N. (March, 2005). *Twenty-nine child homicides: Lessons still to be learnt on domestic violence and child protection with particular reference to the five cases in which there was judicial involvement*. A Report to the president of the Family Division on the publication by The Women's Aid Federation of England. London: Royal Courts of Justice.
- Wallerstein, J. (2000). *The unexpected legacy of divorce*. NYC: Hyperion.