

# **Managing Your Divorce: A Guide for Battered Women**

National Council of Juvenile and Family Court Judges

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## Introduction

This booklet is intended to be used by battered women who are representing themselves, without an attorney, in court cases involving child custody. This is not a recommendation to go into court unrepresented. In fact, we start the booklet with a piece on “How to Find an Attorney.” What we recommend strongly is that if there is any dispute or conflict about the arrangements for custody and visitation, **get a lawyer!** Battered women have spoken repeatedly about the loss of custody as the greatest threat in their lives, saying that it is more painful than the physical violence they have suffered. The stakes are extremely high in custody disputes; get a lawyer.

You may say, “If I could afford an attorney, I wouldn’t need this booklet.” It’s true; usually the reason a battered woman is not represented by counsel is because she can’t afford it. This may be true at the beginning of a court case, or it may be even more devastating and true when she loses her house, runs out of money, and her attorney withdraws before the case is concluded. Read the first piece. Make sure you have exhausted every resource that might be available to you. Your children are worth the effort, and you deserve the expert support.

Okay, you’ve left no stone unturned, and still you can’t find an affordable lawyer (please, no lawyer jokes). The rest of the booklet is designed to help you build a strong, focused, and thorough case. This information cannot guarantee the outcome you want, but it should increase your chances. It is also an important process in which you will learn and practice advocacy skills for yourself and your children as you rightfully demand safety and justice.

We hope your pursuits are rewarded. Stay safe, and love those babies!

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# How to Find an Attorney

Maureen Sheeran<sup>1</sup>

If at all possible, secure experienced legal counsel for your case. Proper legal counsel will ensure better representation, reduce some of the stress associated with your case, and probably lead to a better overall case outcome.

Once you decide you are able to retain an attorney for your case, there are a variety of things to consider in selecting an appropriate one who can represent you well. Because domestic violence raises a host of complicating circumstances, it is best to retain an attorney who understands the dynamics of domestic violence and has experience in handling cases where domestic violence is involved.

## **IDENTIFY AN ATTORNEY WITH EXPERIENCE IN DOMESTIC VIOLENCE CASES**

To identify an attorney experienced in handling domestic violence cases, ask your local victim service provider. Often, these organizations are well connected with your community and are aware of competent attorneys with experience in handling cases involving domestic violence. They may also know of attorneys who will work on a reduced-fee or no-charge (*pro bono*) basis.

Ask other victims or former victims of domestic violence. They may have had a good experience with an attorney and can refer you to that person. You can also ask the local legal services or pro bono program to see if you are eligible for their services.

In addition, check with the State Bar in your state (see appendix) to ask about low-cost or free legal services.

## **QUESTIONS TO ASK**

Questions to ask an attorney you are considering hiring include:

- How many years has she/he been in practice?
- How much experience does she/he have in the area of family law?
- Would she/he be able to represent your particular view?
- Why would she/he be a good attorney for you?
- What is her/his fee schedule?

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<sup>1</sup> Adapted from "How to Choose and Work With An Attorney," *Nothing More, Nothing Less*, June/July 1995, p. 2.

- What is her/his caseload like right now? (Heavy? Moderate?)

It is most important that you feel comfortable with and trust your attorney. This consideration may outweigh other factors, such as experience and cost.

## **FEES**

Usually, an attorney can give you a ballpark figure or range for the cost of your legal matter, though it is often impossible to do more than this. Find out what services this ballpark figure or range would include. Find out what would **not** be covered and what the charge would be for those matters. For example, does the attorney charge for phone calls? Most do.

If a charge is hourly, find out at what rate. Most attorneys ask to be paid a retainer fee (like a deposit) up front that is applied toward the total fee. Again, find out what services will be performed for the amount of the retainer and how you will be charged once the retainer fee has been used.

A good way to monitor the progress of your case and to determine what costs are being incurred is to request that you be billed monthly and that bills be itemized. Many attorneys routinely use this method to keep you informed. Ask if the billing and itemization adds to costs. Ask about monthly payments instead of paying off fees as they are incurred. For example, can you make \$100/month payments until your bill is settled?

Once you arrive at an agreement about how fees will be computed and billed, get a written *retainer agreement* that includes these terms. You have a right to such a written agreement. If you know what you are being billed for and how you are being billed, you will have much more control over the cost of your attorney's services and a better understanding of the services being performed for you.

## **WHAT TO EXPECT FROM YOUR ATTORNEY**

You can expect your attorney to do at least the following:

1. Keep you informed about the progress of your case.
2. Answer your questions in an understandable manner.
3. Return your phone calls in a reasonable amount of time.
4. Keep statements you make to her/him confidential.

You may wish to ask the attorney to explain this confidential aspect of your relationship.

5. Provide advice about the law, legal alternatives, and their consequences.
6. Represent you with zeal and competence.
7. Ask you ultimately to make all decisions in your case.

For example, it should be your decision what you will agree to in a property settlement.

She/he will be your employee and will work for you. As such, she/he can be discharged by a letter from you stating that you no longer wish to retain her/his services. You will then be billed for work done to date. Your new attorney (if you hire one) will continue your suit and get all past records on it from your former attorney.

#### **WHAT YOUR ATTORNEY EXPECTS FROM YOU**

Your attorney will expect you to:

1. Be realistic. You are not your attorney's only client.
2. Avoid phoning repeatedly.
3. Keep appointments with your attorney, and use the time to the utmost.

Come prepared with the necessary information, documents, and questions. It may be useful to have a list of questions and concerns with you whenever you speak to your attorney over the phone or in person.

4. Make your priorities clear, and listen carefully to what your attorney tells you about how the law may impact your wants and needs.



# Financial Considerations

Joan Zorza, J.D.

Women can successfully represent themselves in fighting for custody of their children. This may be the only choice when money is a critical issue and a low cost or free lawyer is not available. When domestic violence is also a factor in the divorce, there will be special considerations in the custody dispute. Whenever possible, use the information and expertise available through local domestic violence programs, legal clinics in law schools, or the *pro bono* lawyer referral service of the American Bar Association. Many offer advice on representing oneself or can guide women through the process. Take advantage of whatever help is available.

Certain expenses cannot be avoided but can be minimized. Some jurisdictions will require you and the children's father to attend parent education classes or see a mediator to try and resolve the dispute before the court will hear it. These services may be free in your area, but they generally cost money. Because mediation is often dangerous for battered women, you may be able to avoid going to mediation if you ask the court to waive the requirement because you were abused. Similarly, see if you can get parent education classes waived or arranged so that you and your abuser do not attend at the same time. Also ask the court to waive filing fees and the cost of serving court papers on your ex-husband if you are unable to pay. Other expenses that some courts can waive (or order your husband to pay) include the costs for:

- Subpoenaing witnesses or records.
- Notary fees.
- Attending parent education classes.
- Going to mediation.
- Having an expert witness evaluate the parties involved.
- Assessing your house or anything of value owned by you or your husband.
- Depositions, transcripts, or recording a court order.
- Sheriff's fees to arrest your abuser if he's held in contempt of court.
- Certified copies of court orders.

Some records are absolutely free and important. They're the ones you've carefully created. For example, keep written records of all interactions with the children's father, including the exact times and dates when the children were picked up and returned, dates and amounts received for child support, and exactly when and what he did to violate a court order of protection. Also have documents ready for the court to inspect, such as:

- Certified copy of marriage certificate.
- Rent receipts.
- Bank statements.
- Utility bills.
- Credit card records.
- Children's report cards.

If he destroyed some records, tell the court, and get duplicates. Ask the court to order your husband to pay. Make copies of all relevant documents for your protection, and keep a set with a trusted friend.

Have documentation of the battering, including police reports, medical records, and photographs. If you have filed a claim for crime victim compensation, the claims specialist might be able to help you get free copies of these kinds of records.

Get sample court forms from the courthouse or the local battered women's program. Sometimes the court clerk will be able to assist you in completing them. If not, ask the battered women's program where you can get help with the forms. Go to court to watch other cases. Listen to the questions the judge asks. What seems important to her/him? What seems unimportant or irritating to the judge? Familiarize yourself with the process. Some hints in working effectively with the judge are included later in this booklet.

Don't bring the children to court. If they are small, it will be too distracting for you and everyone else. And you will probably be discussing sensitive issues that would be difficult for them to hear at any age. Call the courthouse or battered women's program for information on childcare. Sometimes free childcare is available while you're attending court.

You may need expert witnesses to support your case. Many jurisdictions require that an expert do a custody evaluation. This is usually a mental health professional and can be very expensive. Ask the court to waive the fee. If that is not possible, look for a sliding scale fee assessment. Some courts will order the children's father to pay the fee if you cannot afford the cost. However, this may mean that

the expert witness becomes biased for the father. While that's not always true, it's enough of a problem to consider seriously when deciding what you will do. Sometimes your health insurance can pay for some or all of the costs of the evaluation.

You might not have a say in who the expert witness will be. It's still important to find out how they treat domestic violence in custody considerations. Some custody evaluators either do not consider domestic violence, or they trivialize it. Ask someone in the domestic violence service community to contact the expert and explain your position. Domestic violence advocates can help educate the expert witness and the court on the relevant issues. For example, joint custody is usually dangerous for women and children when domestic violence is an issue. Unless the evaluator understands this, they may assume you are being hostile towards the abuser and trying to keep the children from a good relationship with their father.

Schools can do core evaluations of children, and most will do it free. Schools have nurses and doctors who may be able to document something you couldn't afford otherwise. Also schoolteachers make good witnesses and are usually free or will testify for the usual witness fees or travel expenses.

Clergy are good witnesses to the revelations you have made to them. They can testify to their belief that you were physically or emotionally abused. They can describe injuries you showed them, and they can testify that they think you are a good mother. You will need to waive your right to confidentiality if you ask your minister (and often counselors and advocates) to testify on your behalf or share their records. Discuss what they would say or what their records would reveal before making that decision.

Don't assume that mothers are favored in custody disputes. The law sometimes favors the "friendly parent;" that is the parent who is more likely to promote a good relationship for the children with the other parent. It is a good idea not to say anything negative about the children's father to the custody evaluator or the court. Talk about what the children need and focus on that. Speak respectfully about the father. Don't call them "my" children. Don't refer to the children's father as "that man" or use other insulting language. If you are requesting sole custody and restricted visitation, be able to explain the basis for your request in terms of emotional or physical harm your children may have suffered or will suffer if the abuser is allowed access.

Some researchers have noted a definite bias against mothers who raise the issue of child sexual abuse. It's difficult to prove because there is often no medical evidence or psychological tests to confirm it, or because the children are too young or too scared to report the abuse in a clinical or courtroom setting. Once the allegation is made, however, you will have to prove it. If you cannot, the court may disbelieve you and instead see you as paranoid or vindictive. Strategies and support for raising allegations of child sexual abuse should be carefully considered with help from child abuse experts who also understand domestic violence. Ask your local domestic violence program for recommendations. Talk to one of their child advocates. Educate yourself on the issue. An excellent

book for mothers fighting for custody against fathers who sexually abuse their children is *A Mother's Nightmare-Incest: A Practical Guide for Parents and Professionals*, by John E.B. Myers (Sage Publications, 1997).



# Custody and Divorce Mediation

Barbara J. Hart, J.D.

Traditionally, custody and divorce disputes reach resolution either by *negotiation* (attorneys for each party negotiate the terms of a custody or divorce agreement) or *litigation* (judges preside over hearings in which both parties offer the court evidence to assist the judge in deciding how custody should be arranged, property divided and other economic matters resolved). In a growing number of communities today, however, *mediation* is the method by which custody and divorce matters are handled.

Custody or divorce mediation is a process in which a trained, neutral third party helps a divorcing or separating couple agree on how to resolve some or all of the issues in their case in order to avoid a lengthy, expensive trial. The idea is that, in cases such as a marriage, especially where there are minor children, the parties are going to have to maintain some kind of ongoing relationship. If they can reach agreement through mediation, they can:

- Emerge from the divorce with a plan in place for dealing with ongoing issues such as child-rearing.
- Avoid spending on litigation valuable family resources which family members will need in order to support the two households resulting from the separation.

In mediation, after careful consideration of all the issues the couple decides to address, the mediator attempts to help the parties reach agreement on each issue. The parties then have each of their lawyers review the agreement and draft it into a legal document that can be submitted to the court. The court enters it, just as it would an order resulting from a trial; and it has the same binding effect.

## **EQUALITY OF CAPACITY AND POWER ESSENTIAL FOR MEDIATION**

Mediation may be a fine idea in cases where there is no domestic violence and, in fact, where the parties are both willing to work together for a fair outcome. However, where there is domestic violence, the analysis changes. It is a principle of mediation that the parties should have relatively equal power in the relationship, full information about the resources available to each person and the family, comparable financial sophistication, equivalent skills in negotiation and planning, a willingness to recognize the post-separation needs of the other party and any child, and the ability to protect their own interests in the process of mediation.

Domestic violence creates huge power imbalances. Men batter their wives and partners through a variety of tactics all designed to achieve power and control over them. The batterer

commonly claims the right to make all the decisions for the family and to have his partner and children follow the rules unquestioningly. Battered women report that batterers almost always prevail in major disagreements in the relationship. Batterers frequently monopolize speaking time, interrupt to stop any dispute, and use subtle and in-your-face methods of intimidation to control dialogue. They believe they are entitled to control all aspects of their partners' lives and are justified in resorting to any and all methods, including violence, to keep that control.

Therefore, batterers cannot “cooperate” in the mediation session and are unwilling (and virtually unable) to “cooperate” thereafter in the implementation of any agreement produced. On the contrary, they seek only those separation and divorce arrangements which permit them maximum access to their victims, i.e. the power to intrude upon their lives at will and to require interaction with them to make decisions or to acquire economic resources. Batterers thus almost invariably prefer mediated agreements or court orders which require frequent and continuing contact between themselves and their victims one which require a high level of cooperation between the parties in implementation of the agreement or order.

#### **VOLUNTARY/PRIVATE VS. MANDATORY/COURT-AFFILIATED MEDIATION**

Mediation may be either voluntary or ordered by the court. In voluntary mediation, the parties decide they would prefer this route to their final court order, select their mediator, meet for several sessions to work out the details of their agreement before giving it to their lawyers for final drafting and presentation to the court, and pay their mediator for each session by whatever terms they have agreed to. As indicated, a victim of domestic violence rarely if ever should volunteer for mediation with her abuser.

But what if she doesn't have a choice? A growing trend today is for state law or court rules to require separating parents and divorcing couples to try to reach agreement about custody and divorce issues in mediation and to give them access to litigation in court only if mediation fails. Couples generally start the mandatory mediation process by going to mediation orientation or screening. The court typically contracts with mediators to conduct these sessions. The couple is usually assigned to a mediator and has only a limited number of mediation sessions available to settle their differences. Where mediation is court-ordered, the parties may have to pay court fees which cover mediation costs, however the state or county may pick up some of the cost of mandatory mediation, especially for those who cannot afford these expenses.

Although in private mediation, the mediator is bound by state law or rules of ethical practice not to reveal what transpired in the mediation session and the reasons why the couple did not reach agreement, some communities require the mediator in cases where court-ordered mediation fails to report to the court the reasons for the failure and perhaps to make recommendations to the court about outcomes the judge might order. Thus, unless the mediator is well-trained and experienced in handling

matters involving domestic violence, he or she may fail to understand a victim's fear and distrust of engaging in the mediation process with her batterer and report unfavorably to the court about the victim.

Chances that the mediator will have such training and experience are slim. Certification requirements are minimal. They may require as little as two hours training on domestic violence, and none specify that the mediator should undergo the 40 hour minimum training that domestic violence programs offer to their volunteers and staff. Thus, in reality, most certified mediators are not knowledgeable about domestic violence, the patterns of abuse inflicted against adult and child victims and the adverse impact on survivors.

### **HOW TO ESCAPE MANDATED MEDIATION IF YOU DECIDE IT IS NOT RIGHT FOR YOU**

In view of the inappropriateness of mediation where there is an imbalance of power such as exists in cases of domestic violence and the risk that the victim may be the one penalized if mediation proves unsuccessful, the question becomes how to get out of mandatory mediation if you want or need to. There may be several ways available:

- Opt out—in some communities, a victim can simply choose not to take part in mediation which otherwise would be required. The process may be as simple as including a statement in your pleadings or court papers that you and/or your child have been abused. In other communities, you may be able to opt out only if legal action has been taken against the abuser. In that case, you will have to include in your court papers the dates, court docket numbers, charges or legal action taken in order to exercise the opt-out option.
- Screening—although screening for domestic violence is still the exception rather than the norm, an increasing number of jurisdictions are requiring mediators to screen all court-referred or -mandated cases for the presence of domestic violence. The process is new and screening tools are still in the developmental stage, but screening might include such information as a review of any prior litigation between the couple, criminal and child abuse histories, prior and current protection orders issued, and compliance with support orders. Screening usually involves filling out a questionnaire which attempts to identify the details of the parties' history of family violence. A pamphlet is available from the National Domestic Violence Hotline entitled -- Quiz, How is Your Relationship? Designed to help adults evaluate whether their marriage or partnership might be identified as abusive, the pamphlet might help court personnel and mediators screen for domestic violence. Call 800/799-SAFE to obtain a free copy.
- Assessment—in some jurisdictions, cases where domestic violence or child abuse is found are immediately screened out of mediation. More often, the mediator assesses the case to evaluate whether, despite the violence, it is appropriate for mediation. The assessment should follow these steps:

1. Assess past abuse. Where violence is frequent, injurious, terroristic; involves weapons (including firearms, motor vehicles, knives, and blunt instruments); includes multiple, sustained acts of violence; is witnessed by children or establishes patterns of coercive controls, mediation is not appropriate.
2. Assess “separation violence,” violence which occurs at or after the time the abused person leaves the batterer, or even when the abuser suspects that his partner is thinking about leaving the marriage or relationship. Separation violence is often even more severe, frequent or frightening than prior abuse in the relationship and may involve stalking. It is designed to coerce the victim to return to the batterer and to make it clear that it will be safer to return than to pursue separation. If those tactics don’t work, the violence may escalate to murder. Violence which continues after separation should rule out mediation as a process for resolving custody and divorce matters.
3. Assess the risk of future violence. A number of risk assessment tools have been devised, which typically look at a variety of factors:
  - Whether the abuser has made threats of homicide or suicide; and the extent to which he has attempted or planned either.
  - Whether the abuser is in despair over the ending of the marriage or relationship, including whether he sees death as a way to deal with the loss; whether he is without hope for the future; whether he can imagine life without the partner; and, where there are children, whether he can visualize a parental role independent of the relationship with the abused partner.
  - The extent to which the abuser believes he owns or is inalienably entitled to the battered partner and to her loyalty, service, obedience, care-giving, deference, and devotion.
  - Whether the batterer is increasingly risking his own personal safety or social and legal adverse consequences in pursuit of the abused partner.
  - Whether the abuser is acutely depressed or suffering from other severe mental health problems.
  - Whether the violence is escalating in frequency or severity.
  - Whether the abuser has used or is threatening the use of firearms against the partner or children.

- Whether the batterer is increasing the amount of drugs or alcohol consumed; is more frequently intoxicated or is otherwise changing patterns of consumption.
- Whether the abuser has unprotected access to the battered partner and children.

While the prediction of future violence is not certain, research demonstrates that the best predictor of recurring violence is past violence. When more than one of these factors is present, the danger of life-imperiling violence is significant and mediation should be found inappropriate.

4. Assess the impact of domestic violence on abused adults, the children and the batterer in evaluating whether mediation might yet be a safe and appropriate method for resolving divorce and custody disputes. The assessment must consider two things -- capacity of the parties, and the possibility of reaching a fair agreement which fully protects the abused adult and vulnerable children. Will the battered woman be able to engage in any negotiation with the abuser in which she must assert a claim against his interests? Is she likely to trust that he will agree to conditions which would restrict his access to her or the children or include firm protections against future abuse? Is the batterer able to cooperate in pursuit of a fair and safe agreement through mediation? Can he engage in arms-length, non-coercive negotiation? Can he cooperate in carrying out the terms of a fair agreement? If the answer to any of these questions is negative, the case is inappropriate for mediation.

## **MAKING A DECISION ABOUT MEDIATION**

You should carefully evaluate all the dispute resolution options available in the community where you will be seeking a divorce or an order of custody. Mediation, negotiation and litigation may all be possible; but there are likely to be advantages and drawbacks to each. In evaluating whether to choose mediation, you should:

- Make a thorough assessment of the violence inflicted by the batterer and the continued risks posed by the batterer toward you and the kids.
- Evaluate whether you and the batterer can safely, competently and fairly participate in mediation.
- Figure out what the necessary outcomes of any custody or divorce process must be to assure that you and your children can live safely and independently.
- Become knowledgeable about legal rights related to divorce and custody.

- Identify protections necessary to participate safely in divorce or custody proceedings and assess whether mediation or other method(s) can offer adequate protections.
- Investigate whether there is a specially designed mediation system for domestic violence cases.
- Determine whether mediators in your area are experts on domestic violence and child abuse.
- Evaluate whether participants are penalized if they withdraw from mediation before an agreement is reached.
- Ascertain what issues the law and/or court rules in your area allow to be mediated.
- Find out if mediated custody or divorce agreements in the context of domestic violence in your area contain standard protections; e.g. limitations on the abuser's access to you and the children, protected exchanges of the children for visitation, supervised visitation, posting of a bond by the batterer to assure that he will comply with terms of the agreement, batterer counseling, prohibitions related to drug and alcohol consumption, and any costs resulting from carrying out the agreement assigned to the abuser.
- Ask to see several orders previously entered after mediation and determine if they contain any obvious biases unfavorable to battered women.
- Evaluate the costs of mediation and the amount of time it typically takes, as contrasted with the other methods of dispute resolution.

Taking all the above into consideration, you can make an informed assessment about whether mediation is a safe and just process for resolution of your divorce or custody matters. Before making a decision for or against participation in mediation, you should discuss your analysis with your advocate and your attorney if you have one. Whichever dispute resolution method you choose, you should continue regular consultation with counsel and advocates throughout.





# How To Gather Evidence To Present At Trial

Ruth Jones, J.D.

## UNDERSTANDING THE LAW

Before you can decide what evidence to gather for trial, you need to understand what you must prove in court. The court will generally consider the best interests of the child in making custody decisions. In determining the best interests of the child, the court may consider factors such as which parent has been the primary caregiver, whether there has been a history of abuse, and financial ability to care for the children. Usually, the particular factors the courts in your jurisdiction will consider are listed in state statutes.

To find the applicable statute and learn what you must prove, consult with local organizations. Many communities have domestic violence organizations, victim services offices, and law school clinics that can probably help you. These organizations often have materials explaining the legal process and the relevant statutes. These groups may also help you prepare legal documents, gather evidence, and even accompany you to court.

## GATHERING EVIDENCE

Once you have learned what you must prove in court, you need to prepare evidence to convince the judge to award you custody of your children. There are different types of evidence, including testimonial, documentary, and physical evidence. All of these different types of evidence can be used to prove your case.

## TESTIMONIAL EVIDENCE

The most important evidence the court will consider will be the testimony of witnesses. You will probably be the most important witness in your case, so it is important that you present the most effective testimony. When you go into court, you must prove to the judge that you should get or retain custody of your children. Many people have difficulty testifying in court because they want to tell the judge their story in the same way they would tell a friend a story.

The judge, unlike your friend, will be less interested in hearing about your feelings than hearing facts about why you are the better parent. Therefore, you should describe events or state facts that show why you should have custody of the children. For example, stating that the children would be better off with you because you love them will not be the most effective testimony. The more effective testimony will not only tell the judge that you love the children, but will also describe how you have been the parent responsible for feeding the children, taking them to school, and taking them for medical checkups.

When describing events for the court, it is important to provide the date, time, and place that events occurred. If you cannot remember the exact dates when events occurred, you can give approximate dates. You should also give the details of events. An excellent way of preparing your testimony is to write an outline of what you need to tell the judge. This outline can also guide you in

gathering physical and documentary evidence to corroborate your testimony and the testimony of other witnesses.

Most jurisdictions now require the judge to consider evidence of abuse between the parents in making custody decisions. The court's primary concern will be the impact of any abuse on the children. Therefore, your testimony should describe any abuse in detail and include a description of how it has affected the children. You can explain how the children were affected by describing incidents of abuse when the children were present and any behavior or statements the children have made showing their awareness of the violence.

Besides hearing the testimony of the parents, the court will also consider the testimony of other witnesses. If there are witnesses to the abuse, you should ask that they accompany you to court to describe what they saw to the judge. Also consider witnesses who can testify about your parenting skills and your relationship with the children. Your witnesses may be able to testify about events to show that the other parent should not have custody. Although your children may have witnessed violence against you, many courts will not hear testimony directly from the children. Depending on the age of the children and the practice of the court in your state, the judge may appoint a lawyer or social worker to tell the court what the children observed and their views on custody.

Although each case will require different testimony based on the particular, consider the following topics when drafting your testimony.

## **TESTIMONY TOPICS**

### **A. Relationship Between the Parents**

1. What is the current status of the parties?

Are you married, divorced, living together?

2. Is the father named on the birth certificate, or must paternity be proven?
3. Which parent has had primary responsibility for the children?

Who prepares them for school, prepares their meals, arranges childcare, takes them to the doctor for checkups, and helps with homework?

4. If you have not been the primary caregiver, how have you been involved with children?

### **B. Evidence of Abuse**

1. How long has the violence been going on?
2. How have you been injured? Describe incidents of violence in detail with dates, times, and places if possible.
3. Has the violence increased in the last few years or months?
4. Does the abuser have access to a weapon?

5. Have the children been abused? If so, describe the incidents in detail, giving dates, times, and places.
6. Have the children witnessed the abuse against you?
7. How have you protected the children from abuse?
8. Have the children made any statements about the abuse, had nightmares, or difficulty in school?

C. Custody Arrangement Requested

There are various custody arrangements the court can order, such as joint custody, physical custody with visitation to the non-custodial parent, and supervised visitation.

1. What type of custody arrangement are you requesting, and why would this arrangement be in the best interest of the children?
2. If you are seeking supervised visitation, how and where will the visitations take place?

D. Response to Respondent's Allegations

The other party may attempt to contradict your evidence or to show that you are not capable of properly taking care of your children. Usually, the other party must provide a written notice of his/her allegations against you. You must not only deny these allegations or explain the circumstances in your testimony, but you should also gather other evidence to support your testimony. You may need to respond to the following allegations:

1. That you have acted abusively toward him and/or the children.  
He may describe the way you look and act.
2. That you have been using drugs .  
He may describe the way you look and act.
3. That you have been neglecting your children.  
He may have phoned Child Protective Services.
4. That you have been unstable or have a mental condition that prevents you from being a good parent.
5. That you have been acting immorally in front of your children (e.g. engaging in sexual activity in front of them.)
6. That you have been unable to get or hold a job (on welfare.)
7. That you are living in a bad neighborhood and leaving the children in a stranger's care all or most of the time.

## E. Other Respondent Arguments

The children's father may make additional arguments to prove that he should have custody. These arguments may include the following:

1. He may have a new wife or girlfriend who doesn't work and is able to take care of the children at home.
2. He may have a steady income with which he can give the children more than they need.
3. He may own his own home and live in a safe, quiet neighborhood.

## PHYSICAL AND DOCUMENTARY EVIDENCE

Once you have outlined the possible trial testimony, you need to gather physical and documentary evidence to corroborate the testimony. You should start gathering evidence as soon as possible because there will frequently be a lengthy delay in getting a response to your request for documents. You should bring at least two copies of the documents to court so that you can leave one copy with the court. The type of evidence needed in each case will depend on the specific factual allegations. In considering the evidence, you must prove your case. Consider the following examples of physical and documentary evidence:

### A. Evidence of the Relationship Between the Parties

Courts can only hear cases when there is a certain relationship between the parties. This means that you must be ready to prove the relationship. Evidence of the relationship, includes a marriage license, birth certificates, baptismal papers, and divorce or separation papers. If you don't have copies of these documents, you can get copies for a small fee at a local government offices, usually the county clerk's office where the event occurred.

### B. Evidence of Abuse

In addition to your testimony about abuse, you should bring to court as much documentary or physical evidence as possible to prove that you were abused by the other party. Such evidence might include:

1. Certified copies of medical and dental records.

Since medical records are usually confidential, you will probably have to sign a release for your medical records. If your doctor or hospital does not have a release form, you can write a letter requesting a certified copy of your medical records. Include the dates of treatment, your date of birth, and the name of the treating physician in the letter requesting the record.

2. Photos.

Bring to court any pictures of injuries caused by the other party. You don't have to remember who took the picture, but be able to state when the picture was taken.

3. Copies of police reports and 911 calls.

States differ in how you can get copies of these materials. Contact the precinct where you filed the police reports to learn how to get copies. Local victim services organizations may also be able to help you.

4. Threatening letters or cards written by the batterer.
5. Answering machine tapes of threats or other statements by the abuser.

Make sure to bring a tape recorder to court to play the tape.

6. Diary or letters you have written describing the abuse.

Keep in mind, however, that if the diaries or letters are considered by the court, they will not be kept confidential.

7. Copies of restraining orders, petitions, etc. issued by court.

If you do not have copies of these documents, get certified copies from the clerk's office where the orders were issued.

#### C. Other Legal Proceedings

In some jurisdictions, abuse cases are handled in several different courts. You should know the status of all proceedings and have copies of any settlements or judgments.

The status of criminal cases is also important information to present. If there are criminal cases against the other party, bring the name and phone number of the prosecutor handling the case. You should get the status of the criminal case before going to court on the custody case.

#### D. Evidence About the Children

The court will be interested in the physical and emotional condition of the children. Even if the judge appoints a lawyer or social worker to give an opinion on the best interests of the child, you will want to bring your own evidence to show that the existing custody arrangement should be made permanent or that the custody arrangement should be changed. The following are some suggestions for custody evidence:

1. Copies of the child's school or daycare records.
2. If the children are in counseling, a copy of the counseling records.
3. Medical records of the children.
4. Letters of support.

If you can't get witnesses to come to court and testify about your parenting skills, bring a notarized letter from a doctor, teacher, school principal, or a scout leader describing observations of you with your child.

5. Pictures of your home.

If there is an issue about your ability to provide an adequate home for the children, you may want to bring pictures to court of where the children will live.

6. Evidence of proposed visitation arrangement.

If you are requesting supervised visitation, you need to have a plan for who will supervise the other parent's visits with the children. You should have a letter from the individual or group that agrees to supervise visitation.

E. Information About the Other Parent

It is useful to have a recent photo of the other parent in case you need to give it to the police or process servers so that they can locate and serve papers on the other parent. In addition, if you know that the other parent has a criminal record, request his record from the police department. You will need to provide them with his name and date of birth.

F. Response to the Other Parent's Allegations

If your mental health has been raised as an issue by the other party, you must carefully consider how to present evidence of your mental condition. If you have been in counseling, consider having your counselor testify to explain your condition. Find out what they would say in advance, however, so you can make an informed decision about whether or not they should testify.

You will need to present information about your financial resources and show how you will support the children. Consider including pay stubs and letters from employers. If you are looking for a job, be prepared to describe what you have done to find employment. If you have other sources of funds, such as savings or friends, bring bank statements or letters to verify them.

Allegations of drug and alcohol abuse are a serious charge. If you do not have a problem with drugs or alcohol, you must tell the court this and provide explanations for any unusual behavior. If you have had a problem with drug or alcohol abuse in the past, provide evidence that this is no longer a problem. Such information might include the treatment you have received and how long you have been drug or alcohol free. More information about drug and alcohol abuse is also included in this booklet.

## CONCLUSION

Evidence can be a powerful tool in proving to the court that you should have custody of your children. The key is to think creatively about proving what happened to you and your children.



# Unsupervised Visitation and Safety Planning

Donna Medley

Because safety planning cannot *guarantee* safety in unsupervised visitations, the best initial strategy may be to pursue vigorously an order for supervised visitation (if *any* paternal contact is desired). Whether you get an order for supervised or unsupervised visitation, you should ask the court to include terms that support a safety plan. For example, the judge can:

- Order the father to attend a batterers' education program, an alcohol/substance abuse program, and parenting classes.
- Restrict the batterer from consuming drugs or alcohol before and during the visitation.
- Designate a safe, neutral drop-off/pick-up location.
- Require anything reasonable to accomplish the purpose of the order.

If you think unsupervised visitation would not be safe for you or your children but the court did not rule in your favor, there are still some measures you can take to protect yourself and your children better.

## SAFETY PLANNING

How you approach your children to present the idea of safety planning will set the tone. If you appear fearful and hopeless, the children will probably share your feelings and are not likely to follow the plan. On the other hand, you can explain to them that there are times when children or adults might be hurt or be afraid of getting hurt, so planning and practicing what a person can do to get away from being hurt or to get help is a smart thing to do.

The point is to communicate a sense of purpose and action and to place the possible harm involved in the visitation in the same category as other events in a person's life that might be harmful. A safety plan can be developed for situations like fire safety, keeping persons safe, safe touch, bicycle safety, street and school safety, etc. This larger view of safety planning takes the focus away from the personal. It will help the children know that they are not being asked to blame their father or to choose one parent over the other. At the same time, multiple safety plans can reinforce basic principles, such as:

- No one has the right to be violent.
- Children have the right not to be harmed.

- A person can't control another person's violence.
- Children have the right to plan how to avoid or respond to harmful situations.
- Children have the right to get help to stop someone from hurting them.

Safety plans are generally done with a child seven years or older. However, some pre-schoolers can be taught to dial 911 and not to hang up, even if they can't utter a word. Also, many 911 services can track calls even if the caller hangs up. The safety plan should be kept simple and age appropriate. Review it regularly and make changes for changing circumstances. It should also be practiced regularly.

The following are some steps to child safety planning that have been suggested by formerly battered women, shelter staff, and other child advocates:

- A. Name everything you have noticed in the past that may be a clue that violence is about to happen.
1. Who was around? What did their faces look like? What did their voices sound like?
  2. What words and hand movements were used?
  3. Where were people hurt? Where might you get hurt?
  4. What time of the day or night was it when people got hurt?
  5. What was on TV?
  6. What special thing happened that day?
  7. What were people talking about before the violence started?
  8. Were people using drugs or drinking a lot? How did they act?
  9. If you were a light in the room where the violence took place, what else would you notice?
- B. Draw a safety map.
1. Draw the places where you weren't safe because you or someone in the house was hurt. Color code those places "red".
  2. Color "green" the doors, windows, elevators, stairwells, or fire escapes that you could safely use to escape an unsafe place.
  3. Mark black dots where each telephone or computer is located.

If you make a call or use a computer to contact someone for help, the call or computer message might be stored, so don't use them if you have other ways to get help, unless it's okay if the contact is discovered or in an emergency.

4. Place an X if you know where any guns or other weapons are kept.
5. Place yellow dots anywhere you can easily and privately keep your "safety treasure box."

A safety treasure box is your own collection of help tools, like:

- An address book with helpers' names and phone numbers;
- Pictures of your mom, dad, and you;
- A copy of your mom's custody or protective order;
- Emergency cash for phone calls or bus or taxi fares;
- A small note pad and pen to write messages;
- A cell phone or a panic button, if needed and available;
- Any special thing that makes you feel strong, safe, and loved.

C. Practice asking for the help you need.

1. Make a list of all your helpers, their addresses, and their phone numbers.

Your helpers are mom, mom's friends, family, police, doctors and nurses, domestic violence hotline, school teachers, counselors, friends of faith, dad's neighbors, etc. They must be trusted adults who agree to help if you call them or use a code word for "help."

2. Choose your code word for "help."
3. Know how to dial 911, say where you are, and ask for help.

Don't hang up, even if you don't know where you are. Know how to leave a message with an answering service. Know how to use automatic dial numbers on the cell phone.

4. Even if you don't know what kind of help you need, you can tell a helper what made you upset or hurt.

Always tell the truth when you're asking for help. If an adult asks you a question, it's okay to say you don't know or you don't remember if that's the truth.

5. Know when you need to yell or run for help.
6. Besides asking for help, you can try things to keep safe.

What have you tried in the past? How did it work? What didn't work? What else could you do?

D. Know and trust your feelings.

1. Keep a visitation journal.

When you return home, write down (or draw) important feelings you had (good and bad). What was happening? Why do you think you felt that way? Do you want a trusted adult to help you understand your feelings?

2. Sometimes words can hurt a great deal.

This includes not just name-calling, but words that are used to threaten you or someone you love; to make you promise to keep secret something that's uncomfortable; or to make you think something terrible has happened when it hasn't. Check out words that have scared you or made you uncomfortable with a trusted adult. Ask for examples of things you can think, say, or do when someone uses words to hurt or confuse you.

A child's safety plan can be developed by the child and you, the child and an advocate or counselor (sometimes advisable when your credibility or motivation is under attack), you alone, or you and an advocate (when the child is too young to participate). There is no single format or a 'right' set of questions.

A short version of a safety plan may be useful for immediate situations. A thorough plan can be developed over time. A safety plan is only as good as it is useful; feel comfortable revising it or seeking court protection if it doesn't work.

Even though a safety plan cannot be expected to control violence, it can help children to learn and practice protective and empowering skills. It can strengthen the relationship between you and your children by sharing feelings. It can teach children to respect themselves and to expect respect. And, finally, safety planning should involve your community in stopping violence and providing the help that you and your children deserve.<sup>1</sup>

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<sup>1</sup> Please see Appendices for sample safety plans for adults and children.





# Do's And Don'ts For Pro Se Litigants In Divorce And Child Custody Cases: A Judge's Perspective

Hon. Michael Town, Hon. Linda Dakis, Hon. Stephen Herrell, Hon. Scott Jordan

## DO'S

### A. Judge's Role

Do understand that the judge's role is to be fair, listen carefully to the facts, weigh the evidence, and follow the law in making a timely decision. The judge cannot be an advocate for you or treat you differently from the opposing party and lawyer. The judge cannot give you extra consideration because you don't have a lawyer.

### B. Settlement

Do agree to settle if it is a reasonable, safe, and child-centered solution to issues in the case. Do give it much thought. Once a contested hearing begins, it is in the judge's hands and may no longer be a decision you can make.

### C. Civility

Do expect to be treated with patience, dignity, and courtesy by the judge, court staff, and attorneys. Everyone understands that this proceeding is an emotional time for you. However, do make every effort to be patient and courteous with the judge and court personnel.

### D. Courtroom Etiquette

Do be early for your hearing, and dress appropriately for court. Probably the most important advice is *do be prepared*. Do understand that the judge will consider all factors, such as tardiness, lack of preparation, your demeanor, and overall appearance.

### E. Balance

Do expect that the judge will hear from you and your witnesses and from the other party and their witnesses. Do understand that every person and family has strengths and weaknesses. Explain any problems you might have had before the other side brings them out. Don't be shocked or amazed if incidents you thought were minor are emphasized by the other side.

### F. Brevity

Do be as brief as possible. Do not expect to spend hours or days explaining your case. This is a matter of preparation and common sense. Do have a friend, advocate, or attorney help you prepare and practice your testimony. The judge will place great value on careful preparation and time management.

## G. Priorities

Do know what you're asking for. Think about and write down what you want in the judge's decision. Make a list of the reasons that custody of your child or children should be with you. If you feel there should be restrictions on visitation, write down specifically what you feel is necessary and why, and stick to it. Do the same with child support, division of property, debts, and any other issues the judge will decide. Several solid reasons are more convincing than many trivial or petty reasons. Do not attack the other side. Do speak with the judge and be prepared to tell the judge as specifically as possible what you are asking for.

## H. Acknowledgment

Do concede or acknowledge the positive qualities or facts of the other. People fall in love, marry, have children, and break apart. It is difficult to believe that the opposing party has no redeeming qualities.

## I. Prepare, Prepare, Prepare

Do the work needed to fill out the forms, motions, financial statements, and other documents required by the court. Do not expect to get by on your perception of what happened. You will need solid preparation, careful thought, and straightforward delivery.

## J. Respond

Do respond to written documents. If you receive written documents, you may lose by default if you do not respond to them. Find someone who can advise you about whether you have to respond and how much time you have to do so. If you can't find someone to advise you, go to the courthouse, and ask an employee there.

## K. Safety Planning

Do engage in safety planning for yourself and your children. Even when there is a history of domestic violence, it is likely that the opposing party will receive some visitation with the children. Develop a safety plan to assure safe exchanges and so your children know what to do if there is a problem during a visit.

## L. Retain Legal Counsel

Do retain a lawyer if it is at all possible. There are good and sympathetic lawyers out there, many of whom will accept payments or make other fee arrangements. No matter how much the courts try to be fair and accessible to unrepresented litigants, it is still better to have counsel if possible.

## **DON'TS**

### A. Sympathy

Don't assume you have a good case because others have told you so. Don't assume that the judge will agree or give you extra consideration or sympathy. The role of the court is different than that of a counseling or advocacy agency. A courtroom is a neutral forum. You begin on *a level playing field* with the other party and must show the judge objective evidence and testimony that your position is the valid one. A courtroom is a forum to reach a reasonable result after the judge considers the evidence and evaluates the testimony.

### B. Present the Facts

Don't assume that the judge knows anything about your case. The judge's decision will be only as good as the information it is based upon. Assume that the judge knows only what is presented in court. If you feel a fact is important, tell it to the judge. In preparing for a court hearing, think about the important facts you want to present, then decide what evidence or witnesses are necessary to present those facts effectively to the judge.



## Tips For Dealing With Custody Evaluators, Gal's And Casa's

Lee S. Rosen, J.D.

When you deal with people who are investigating what goes on in your family, you need to think about what you tell these people. Probably the most important thing to understand is that court personnel may not have had adequate training in the issues of domestic violence. Even if they had some training, they may not have had much experience with cases involving domestic violence. Therefore, you may need to educate these people about what your life has been like and about why you acted the ways you did.

Before you talk to evaluators, guardians *ad litem* (GAL's) or court appointed special advocates (CASA/s), you should step back and look at the ways that your abuser tried to maintain control and power over you. Once you think about the things he did and how you reacted, you may realize that you acted in ways that would reduce both the severity and/or the frequency of the domestic violence. So even when you were not taking any obvious actions, you might have been preventing greater harm.

Above all, evaluators, GAL's and CASA's want to know that you did everything you could to protect yourself and your child from violence, even when what you did do might look, to the uninformed observer, as though you were 'sitting tight.' Evaluators and GAL's need to see that you may have chosen not to take action precisely in order to prevent further and worse violence. This is a fundamental thing to keep in mind when you are involved in interviews with people whose job is protecting children. You need to explain to them why you didn't leave or why you didn't remove the children from the house sooner than you did. The reason is often that you were afraid everyone would get more hurt, or killed, if you did take such action.

But, there are other things you should remember as well when you meet with evaluators, GAL's and CASA's. First, ask questions about what particular matters or issues the GAL or CASA had been assigned to investigate. In other words, find out as much as you can about how the GAL or CASA sees his or her own function in the court process. Ask whether what you say will be repeated to anyone else (the batterer; the judge, a district attorney, an agency case worker) or whether what you say is kept confidential. Find out, too, what specific tasks the GAL or CASA intends to carry out, and over what period of time. With whom will he or she be conducting interviews? Are there other people you can suggest they should talk to? If so, tell them what you think these people have seen or know about. What records will the evaluator be reviewing? Are there other records you think they should see? If so, let them know about those, too.

For all of your own interviews with the evaluator, be as prepared as possible. This means being able to present detailed information about your child's life: what the child's daily schedule is like; what sort of clothing, health and school needs the child has; the names of other professionals who have been involved with the child (for example, doctors, school officials); the names of all other people who have regular contact with the child; and what your child has disclosed to you about life with your batterer. Be able to explain, too, how you chose the child's physicians, dentists, and daycare facilities. Remember that the evaluator should see you as a person who is very involved in your child's life and as active as possible in looking out for your child's welfare. Taking in your child's drawings and school records to show the evaluator will also demonstrate your level of involvement with the child.

With respect to incidents of domestic violence, try to give as clear a picture as possible about what went on between you, the batterer and the child or children. When did the violence occur? How many times? Whom did the batterer abuse each time? What action(s) did you take, if any? If you called the police, do you have the names of the officers you spoke with? If you went to the hospital, when was that? Did anyone take pictures of the physical effects of the battering? If possible, gather up photographs and other physical evidence to show to the evaluator. Were there eyewitnesses who can corroborate the abuse incidents? Do you have any suspicions of sexual abuse of the child? If so, what did you do about such suspicions? If you didn't take any action, be prepared to explain why or what other ways you explored for safeguarding the child.

In addition to being (1) careful that the evaluator understands why you did the things you did and (2) as prepared as possible to talk about your child's needs and your child's life, take an active role in the evaluation process by (3) doing the things outlined in this short article. Be cooperative in coordinating appointments for evaluation interviews with yourself and the child; speak up about what you would see as the best outcomes for yourself and the child; take care that the child's comfort will be assured in his or her interviews with third parties. With this sort of planning and advance preparation, a system that sometimes goes awry is less likely to go awry.

## **SAMPLE LANGUAGE FOR PRO SE CUSTODY/VISITATION ORDERS**

### **General provisions.**

Visitation between father and child shall take place every (specify which day, or which days, of each month) from (time of beginning) to (end of visitation) at (fill in place) in the presence of (name supervising person, if the visitation is to be supervised).

Mother (or her designate) shall be responsible for dropping off the child for visitation at least 10 minutes prior to the beginning of the visitation period and for picking up the child no later than 15 minutes after the end of the visitation period. Father shall leave the place where visitation occurs prior to the arrival of mother or her designate for pick-up of the child; and father shall not stay in that area awaiting mother's arrival for pick-up of the child. Father's failure to obey this anti-harassment provision

shall entitle mother to suspend all future visitations in order to protect herself and the child. If she wishes, mother may travel accompanied to and from these drop-offs or pick-ups from visitation.

Father's visitation shall be supervised by (name of professional). Father shall pay \$\_\_\_\_\_ per visitation to defray the costs for such supervised visitation.

**Provision concerning use of public place (for exchange).**

(For use when there is no third-party supervision of visitation and no other person assists with exchange of child) Drop-off and pick-up of the child shall occur at the police station at (address), in the lobby. Father shall remain with the child at least 20 minutes at the station after the mother has dropped off the child and mother has left the station. At the end of visitation, father must remain at the station for 20 minutes while mother leaves with the child.

**Provisions regarding particular conditions.**

Commencement of father's visitation with the child shall be triggered by father's completion, to the satisfaction of this court, of the following program for perpetrators of domestic violence: (name of program). Or until father has completed, to the satisfaction of this court, the (name of program) for perpetrators of domestic violence, father shall not have any overnight visitation with the child.

Visitation between father and child shall be conditioned upon father's receiving weekly counseling from (name of group or person) for (fill in number of) weeks, beginning with (date). The goal of such counseling shall be (fill in blank, whether parenting therapy or individual therapy or some combination thereof). Mother shall be entitled to contact (group or person) to verify that father is attending such sessions; and father has agreed to waive his therapist-patient privilege to the extent of permitting mother to receive this information about father's attendance. Should mother learn that father is not attending these counseling sessions, mother shall be entitled to deny visitation to father.

Continuing visitation between father and child shall also be conditioned upon father's paying for the child's mental health treatment with (name of provider). Such treatment shall consist of (specify frequency of visits between child and mental health professional), and shall continue until the treating professional deems treatment had been satisfactorily concluded. Father may pay for such services directly, or through his health insurance. Those charges not reimbursed by health insurance, however, shall be paid for entirely by father.

In the event that father is unable, because of his work schedule, illness or other emergency, to arrange for a particular visitation, the parties shall endeavor to arrange for an alternate day to replace the missed visitation for the same period of time.

Father shall not use alcohol or illegal drugs during visitation with the child, and also not during the twenty-four hour period prior to visitation. Should the person monitoring drop-off of the child for visitation suspect that father has violated this provision, then visitation shall be denied on that occasion.

During visitation with the child, father shall not travel with the child more than \_\_\_\_ miles from the drop-off/pick-up point for visitation.

Visitation with the father may be denied as to any specific scheduled visitation under this order, if father is more than 30 minutes late for a scheduled visitation and has not contacted mother (or her designate) to explain the reasons for his delay.

**Provision concerning assistance of third party.**

(Name of person) has agreed to assist the parties in transporting the child from mother's place of residence to father's place of visitation. If father is not at the place for visitation at the appointed time and the delay has not been announced in advance and excused by mother, (name of person assisting) shall be entitled to return the child to mother.

**Provision concerning protection against abusive non-parents.**

While the child is visiting with father, father shall protect the child from emotional and physical abuse by other persons, including but not limited to (name[s]). If mother deems it necessary for the child's protection, she may prohibit father from bringing the child into contact with such person or persons, including but not limited to (name[s]). Father's violation of this provision shall disqualify him from continued visitation under this order.





# **Problems Associated With Children Witnessing Domestic Violence**

Jeffrey L. Edleson, Ph.D.

## **BEHAVIORAL AND EMOTIONAL PROBLEMS**

Children who witness violence have more problems with anxiety, self-esteem, depression, anger, and temperament than children who have not witnessed violence at home. Children from homes where their mothers were being abused also show less skill in understanding how others feel and examining situations from others' perspectives compared to children from nonviolent households.

Peer relationships, autonomy, self-control, and overall competence are significantly lower among boys who have experienced serious physical violence and have also been exposed to the use of weapons between adults living in their homes. Overall, studies indicate consistently that child witnesses of domestic violence exhibit a host of behavioral and emotional problems.

Another aspect of the effects on children is their own use of violence. Children who witness violence may also learn to use it. Carlson (1990) found that adolescent males who witnessed spouse abuse were significantly more likely to use violence than non-witnesses. There were no significant differences found for females.

## **COGNITIVE FUNCTIONING AND ATTITUDES**

A number of studies have measured the association between cognitive or learning development problems and witnessing domestic violence. Children residing in family violence shelters show significantly lower verbal and quantitative skills. In addition, children's exposure to adult domestic violence was significantly associated with greater immaturity and inadequacy among both boys and girls.

One of the most direct consequences of witnessing violence may be the attitudes a child develops concerning the use of violence and conflict resolution. Children's exposure to adult domestic violence may generate attitudes justifying their own use of violence. Studies support this, showing that adolescent boys who are incarcerated for violent crimes and have been exposed to family violence believed more than others that "acting aggressively enhances one's reputation or self-image." Believing that aggression would enhance their self-image significantly predicted violent offending.

Boys and girls appear to differ in what they learn from these experiences. Carlson (1991) found that boys who witnessed domestic abuse were much more likely to approve of violence than were girls who had also witnessed it.

## **PHYSICAL FUNCTIONING**

Few studies have reported on children's physical conditions. One found that Swedish children living in families where adult domestic violence was occurring had "almost twice as many admissions to the hospital. The majority had been hospitalized during their pre-school age." Another study found that children residing in a Montreal shelter were almost twice as often absent from school for health problems when compared to government data on the general population of Canadian and American children.

## **FACTORS INFLUENCING THE DEGREE OF PROBLEMS**

Several factors appear to affect the degree to which a child is affected by witnessing violence. As will be seen below, a number of these factors also seem to interact with each other, creating unique outcomes for different children.

### **A. Children Who Witness Violence and are Also Abused**

Studies suggest that both witnessing abuse and also being abused is a "double whammy" for children. As you might expect, the combination of being abused and witnessing violence appears to be associated with more serious problems for children than witnessing violence alone. However, witnessing domestic violence may result in traumatic effects on children that are distinct from the effects of child abuse.

### **B. Child Characteristics**

The most consistent findings associated with witnessing violence point to different factors for boys and girls. In general, studies have shown boys to have more frequent problems and ones that are categorized as externalized, such as hostility and aggression, with girls showing more internalized problems, such as depression and other physical symptoms.

Children of different ages also appear to respond differently to witnessing violence. Children in preschool showed lower than expected self-concept scores, while older, school-aged children showed gender differences on aggression, with boys being more aggressive than girls. However, other research shows that girls, especially as they get older, also exhibit more aggressive behaviors.

Few studies have found differences based on race and ethnicity. A study of white, Latino, and African-American families of battered women found that all the children were viewed by their mothers as having serious emotional and behavioral problems. The only difference found between the groups was on social competence; African-American mothers rated their children more competent when compared to other mothers' ratings of their own children.

### C. Time Since the Violent Event

The longer the period of time since exposure to a violent event, the fewer effects a child experiences. For example, one study found more social problems among children residing in shelters than among children who had at one time in the past been resident in a shelter. The effect of the immediate turmoil may temporarily escalate child problems as observed in a shelter setting.

### D. Parent-Child Relationship

A number of authors have discussed a child's *relationship to adult males* in the home as a key factor. Peled (1996) suggests that children's relationships with their battering fathers were confusing, with children expressing both affection for their fathers as well as resentment, pain, and disappointment over his violent behavior.

Family support and children's perceptions of their parental relationships have also been identified as key parent-child variables. For example, one study found home environments to be important among the 225 urban black adolescents they studied. Adolescents exposed to community and domestic violence appeared to cope better if they lived in more stable and socially connected households.

## RESEARCH METHODS USED TO STUDY CHILD WITNESSING

Interpreting this literature raises several problems based on how the research was done. These include problems with definitions, samples, sources of information, measures, and research designs. While these flaws raise serious questions about this literature, these problems should not cause us to dismiss findings that are consistent among studies using different methods and samples.

### A. Definitions

A significant problem is that many researchers have failed to differentiate abused children from those who are not themselves abused but who witness family violence. Some authors do not even identify the degree to which the children studied are both abused and witnessing violence. Rather, they sometimes present their data as representative of children who only witness violence.

### B. Samples

Another issue is that most studies draw on samples of children and their mothers who are located in shelters for battered women. While this research generates very important information for shelter-based programs, residing in shelters may be a very stressful point in a child's life that is not representative of his or her mental health in the long run. Not only have shelter-resident children most

likely witnessed a violent event, but they have also been removed from the familiar surroundings of their homes, friends, neighborhoods, and often their schools.

### C. Sources of Reports

Who reports the child's problems in a study may also skew the information we receive. Almost all of the studies described above relied on mothers' reports of their children's problems. Many parents report that their children are unaware of the violence between adults, when the children, in fact, report awareness of it. Studies that rely on the reports of only parents may incorrectly classify significant numbers of children as non-witnesses. Child witnesses of violence and their parents differ significantly on the problems they report.

### D. Design

A final weakness in this area of study is that most studies only show *associations* between being a witness and some other variable, such as a behavior problem. We generally speak of the effects of witnessing violence on children's development. In reality, however, these studies reveal only an association between the variables, without predicting that one variable caused the other to occur or vice versa. Many people make the assumption that finding an association is the same as finding that a particular event, such as witnessing violence *caused* a child's problems.

## IMPLICATIONS

The studies provide strong evidence that children who witness domestic violence at home also exhibit a variety of behavioral, emotional, cognitive, and physical developmental problems. Each child will experience adult domestic violence in unique ways depending on a variety of factors that include direct physical abuse of the child, his or her gender and age, the time since exposure to violence, and his or her relationship with adults in the home.

These data are primarily based on samples of children living in shelters for battered women. This has been used as a criticism of these studies on the grounds that shelter residence is a time of crisis and not representative of a child's ongoing life. These data do, however, provide shelters with a much better understanding of the problems many of their resident children may be experiencing. And despite the limitations of some individual studies cited, the number and variety of studies so far reported provide a strong basis for accepting the overall findings.

There is a danger that these data may lead some child protection agencies to more frequently define child witnessing of violence as a form of child abuse or neglect. It is not uncommon to see battered women charged with "failure to protect" their children from a batterer. Many child protection agencies continue to hold battered mothers solely responsible for their children's safety. These actions are often based on the belief that separating from a batterer will always be the safest path for the battered woman and her child.

Yet these actions on the part of the child protection system ignore the reality that the majority of assaults and murders of battered women occur after they have been separated or divorced from their perpetrator. Such actions also ignore the reality that battered mothers often make decisions about their relationships with male partners based on their judgments of what will be best for their children.

The responsibility for creating a dangerous environment should be laid squarely on the shoulders of the adult who is using violent behavior, whether or not that adult is the legal guardian of the child. Responsibility and blame should not be placed on adult survivors in the home. Holding the violent abuser responsible for ending the use of violence is the path that leads to safety for these children and their abused mothers.

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# Child Support, Paternity Establishment, and Privacy Protections

Marilynn Sager\*

For many battered women, regular child support payments are crucial to making ends meet and remaining independent. This section will tell you about some of the basics of getting support for your children. Every case is different, though, so this is not a substitute for getting legal advice from a local attorney or child support agency staff person who knows your situation and the laws in your state.

## CHILD SUPPORT ENFORCEMENT AGENCIES (IV-D AGENCIES)

Child support is one of the only areas of family law where the government will help you with your case for free or for a very low fee. Every state receives Federal money to enforce child support and is required to have certain kinds of child support laws. The state child support enforcement agency is often called the “IV-D agency” (pronounced “4-D”), after the section of Federal law that covers child support. The IV-D agency in your state may be part of the welfare department, the department of social services, the department of revenue, the family court, or the district attorney’s office. Also, some states have local child support enforcement agencies in each county, instead of one state agency.

If you receive welfare or Medicaid, your case will automatically be sent to the child support enforcement agency, unless you claim “good cause.” (See “Child Support and Public Assistance” section below.) If you do not receive public assistance, you can receive child support enforcement services by filling out an application and, in some states, paying a small fee.

Your child support enforcement agency can help you:

- Find the address of the other parent of your children.
- Establish paternity.
- Get court orders for child support and health insurance.
- Collect and keep track of payments.
- Enforce your support order if the other parent does not pay.

## CHILD SUPPORT ORDERS

Every state has its own “child support guidelines,” which are used in almost all cases to calculate how much support one parent must pay the other. These guidelines are mathematical formulas that look at factors like the parents’ income, how many children there are, how old they are, and other needs such as day care and health insurance. The formulas are often complicated and are different from state to

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state. You should be able to get a copy of your state's child support guidelines from your child support enforcement agency, family court, or an attorney.

Using guidelines means that in most cases, the court simply asks for each parent's income, does the math, and enters a child support order. If the other parent of your children works at a job with regular hours where taxes are taken out of his paycheck, there will be very little to argue about when it comes to deciding the amount of child support. Your case may be more difficult if the other parent's income is hard to predict because he is self-employed, works seasonally, or is currently unemployed. In these cases, you should gather as much information as you can to show the court what you think the other parent is or could be earning. This could include information about special skills (for example, an electrician's license), lifestyle (an expensive house or car), and past earnings (tax returns and old pay stubs). Also keep in mind that unemployment benefits, workers compensation, and certain other benefits count as income that can be used to pay child support.

In some states, both parents are required to bring information about their income to court. In other states, you may need to find out the rules for getting the other parent to produce financial records and for getting the judge to accept them as evidence.

Child support orders are usually set for weekly or biweekly amounts, depending on how often the parent paying support is paid. The parent who owes support is also called the "obligor." As long as the obligor is regularly employed, payments should be made through "income withholding" (also called "wage attachment" or "wage garnishment"). This means that the obligor's employer must take child support out of his paycheck, just like taxes, and send the money to the child support agency, or sometimes the court, which forwards the payments to you. (If you receive welfare, see "Child Support and Public Assistance" section below for more information.)

Federal law requires courts to order income withholding in all cases, unless a judge finds there is a good reason not to order it (usually that the parent is self-employed or not working regularly) or both parents agree not to have income withheld. Income withholding is the most reliable way to ensure that you and your children receive the support you need and deserve. Since the checks are written by the employer and processed by the child support agency or the court, you can avoid contact with an abusive parent who might otherwise insist on delivering checks in person to harass you or could include threatening notes with checks sent by mail. As long as the obligor has income that can be withheld for support, you should insist on having the court order withholding.

In addition to cash support, child support orders should require the parent paying support to provide health insurance for your child.

Child support will generally be ordered until a child turns eighteen. In a number of states, support is available past age eighteen for children who are still in high school or attending college.

## **INTERSTATE CASES**

If you live in a different state from the parent who owes you support, your case is likely to be more complicated and take longer. Congress has required states to put in place many child support laws and procedures that will make it easier to process interstate cases. As of January 1, 1998, all states are to have made the Uniform Interstate Family Support Act (UIFSA) part of their state laws.

UIFSA is a set of standard rules for which state's courts can decide a child support case when the parents live in different states. These rules are very complicated - if you have an interstate case, you should seek assistance from your child support enforcement agency.

## **ENFORCEMENT**

When the other parent does not pay what he owes under a support order, you will need to take action to enforce the order. Some of the ways that your local child support agency may help you collect on your order include:

- Filing a contempt case in court.
- Intercepting tax refunds.
- Putting liens on houses and other property.
- Seizing money from bank accounts.
- Revoking driver's licenses.
- Reporting child support debts to credit bureaus.
- Criminal prosecution.

Some of these enforcement actions, such as contempt, are also available through private attorneys.

## **PATERNITY ESTABLISHMENT**

If you are not married to the father of your children, you will have to establish paternity, or make him the legal father, before you can receive child support. The easiest way to establish paternity is for both parents to sign a voluntary acknowledgment of paternity. Federal law now requires that unmarried parents have a chance to sign one of these forms in the hospital when their child is born. The father's name cannot be put on the birth certificate until both parents sign an acknowledgment form or a court enters an order establishing paternity.

If you have any doubt that a man is the father of your child, you should not sign the acknowledgment form and should ask your child support agency for help getting genetic testing. In most states, these tests no longer require you to give blood. Instead, there is a much easier process called buccal swab testing. This involves collecting cells by wiping large cotton swabs inside the mouths of each parent and the child. The test can be done on infants.

It is important for you to think about paternity establishment issues before you have your baby - in most hospitals, you will be offered the chance to sign an acknowledgment form right after you give birth. Establishing paternity gives your child a legal father and allows you to seek child support. It also gives the father a right to seek visitation or custody. In a few states, the mother has custody of the child if she is unmarried until a court orders differently. In other states, both parents have equal access to the child. If the father of your child is abusing and you have concerns about your safety or the safety of your child, you may need to assert "good cause" (see Safety and Privacy Protection) for not identifying the father of the child. Or you may live in a state that provides a confidential address for battered

women receiving child support. Consult a local battered woman's program, a family lawyer, or the IV-D agency about the rights and remedies available to you.

If you are married when your child is born, your husband is generally presumed to be the legal father of your child. This is true in most states as long as you are not divorced, even if you have been separated for a long time. If you are married to someone else and want your child's biological father to be named the legal father, you will probably need to go to court. The law in these cases is complicated and different in every state. You should speak with an attorney or your child support agency for more information.

Sometimes, a husband will try to fight paying child support by saying that he is not the father of children born during the marriage. Usually, courts will dismiss these accusations, especially if your husband is the only father your children have ever known. However, if your husband asks for genetic tests and you object, it is important for you to do so before the tests are done. Again, the law in these cases can be complicated, and you should seek legal advice.

### **CHILD SUPPORT AND PUBLIC ASSISTANCE**

If you receive public assistance, you are required to sign over your right to receive child support to the state. Your case will be automatically referred to the child support agency, which will start a case to establish paternity, if necessary, and to get a child support order. You will be asked to provide information about the father of your children and to show up in court. If the amount of support paid by the father of your child, combined with any money you earn, is more than your monthly benefits, you will stop receiving public assistance. If the support payments are not high enough for you to leave welfare, the state will keep the support to reimburse it for your benefits. In some states, you will receive some of the child support paid, up to a certain amount.

If you believe that helping the state to collect child support from the father of your children could endanger your safety or your children's, tell your caseworker that you want to claim "good cause." Each state has its own rules for good cause, but you usually can make a claim if you are a victim of domestic violence or your child was conceived as a result of rape or incest. You will need to provide evidence to support your good cause claim, such as a restraining order, medical records, or your own written statement. Battered women's programs, legal services lawyers, and the welfare agency itself may be able to help you with collecting evidence and proving good cause. If the state approves your good cause claim, you will not be required to cooperate with child support enforcement.

### **SAFETY AND PRIVACY PROTECTIONS**

If you have been in an abusive relationship, a strictly enforced child support order can help you be financially independent, but it may also provoke a violent partner who sees he is losing his economic control over you. Your safety plan should include plans for when and how you can seek child support without risking harm to yourself or your children. Ask your child support agency how they can help you get support safely. They may be able to keep your address off of court papers, keep the other parent in court longer so you can leave without being followed, or ask the judge to excuse you from coming to court.

Finally, if you have fled domestic violence and live in a confidential location, you should ask your state child support agency what you need to do to safeguard information about yourself in the Federal Parent Locator Service (FPLS) databases. FPLS is a Federal information service that is used to locate parents in child support cases. FPLS information can also be used to locate parents in custody, visitation, and parental kidnapping cases.

To improve child support enforcement, FPLS will be expanded over the next two years to include information about child support orders, addresses, employers, and social security numbers of parents and children. Information from FPLS is only available to certain categories of people, but your batterer could get your address as part of a custody, paternity establishment, or support case.

Under a new Federal law, FPLS and state child support agencies must take steps to avoid releasing the addresses of domestic violence and child abuse victims in certain circumstances, although courts will still be able to get this information. Your child support agency should be able to tell you what privacy protections are available and what actions you can take to reduce the chance that your address will be released to your batterer.



# Guidelines For Selecting An Expert Witness

Terry Risolo, Psy.D.

Domestic violence is fostered in an atmosphere of silence. Frequently, women are ashamed and afraid to reveal the nature and frequency of the violence they experience. Once a woman can pursue legal action against her batterer, either in civil or criminal court, she may need to use the services of an expert witness. The role of the expert witness is to provide a framework in which past and current events can be understood by the Court. The expert witness may be key to having the Court understand the validity of the victim's claims, thereby leading to a finding of liability against, or the conviction of the perpetrator.

There are several considerations in the selection of your expert. Prior to choosing an expert to work with you on your case, it is important to decide what you want the expert to do. Professionals in the field of mental health call this a "Referral Question." You must specify in advance the scope of the work you want the expert to perform. By developing a precise "referral question," you can find the expert who can provide you with the most help.

For example, do you want/need an expert to "educate" the Court? An expert can explain who the victims are, how the issues of power and control come into play, and the demographics of this crime, including the social and economic attributes of victim and abuser. An expert can provide an opinion about child visitation issues and/or custody, since these are frequently problematic in domestic violence cases.

In other cases, you may need an expert who can educate the Court about mental health diagnoses. If so, you want an expert who can provide a "diagnostic evaluation," as it relates to clinical states, such as Post Traumatic Stress Disorder. Do you need a child custody evaluation, recommendations for treatment? You may need someone who can provide all of these services: educative, diagnostic assessment, and treatment recommendations.

Careful consideration in the selection of an expert will increase your ability to present the Court with relevant information about the issues of domestic violence as they relate to you and your family. Once you have selected your expert, provide her/him with all relevant information. Your expert can best prepare for the case with a thorough understanding of the facts and issues involved in your situation. The following checklist will assist you in deciding what factors are important in retaining an expert in your case.

## CRITERIA CHECKLIST

- A. What is the educational background of the expert you are considering?

Know the laws that define who is allowed to testify as an expert. Are there any special provisions in the state domestic violence codes or mental health codes about testimony? Must the person hold a doctoral level degree (M.D., Psy.D., Ph.D.), or can the expert's training be at the Master's level (M.S.W.)?

B. What is the professional background of the individual you are considering?

Know the kind of professional experience that can help provide the Court with relevant information. Is it more important for the expert to have child welfare experience, or is it necessary to have an individual who is a diagnostician? Is experience with individuals who have been abused the more relevant work experience? Is there an administrator of a domestic violence shelter who can help?

C. Which records or other information might your expert need?

Documentation is important for the expert's review and evaluation. Provide police reports, medical/hospital records, school records, absenteeism records of all children and yourself, calendars that show dates of important events, and diaries.

D. Will the interviews/assessment result in a written report? Is this expert willing to testify in a deposition, a court hearing, in chambers with a judge?

Know the scope of the work to be completed, including interviews, review of documents, and psychological testing.

E. What is the expert's experience in providing testimony or written reports?

Know the other kinds of cases in which the person you're considering has acted as an expert witness. Request a list of trials or hearings in which she/he has participated. Do not eliminate a qualified individual with limited trial experience. These candidates are often more appealing to Courts because they do not appear to be a "hired gun."

F. What compensation is requested for different types of work, e.g. assessment versus trial work?

Know if the expert has a retainer agreement. Ask about the fee schedule and if you can pay over a period of time.

G. What kind of rapport is developed in your conversations with this expert? Can you be open and honest with this person?

Know the kind of qualities that are important to you in a professional relationship. It is most important that you are comfortable with them. You must reveal intimate details of your life, many of which may make you feel ashamed or embarrassed. Your contact with the expert will require honesty and vulnerability; be certain that you can establish a good working relationship.

## **RESOURCES**

The search for a competent, experienced expert can begin in a variety of ways. You can ask friends or family members if they know of anyone. Your domestic violence service providers are often very familiar with individuals who work in this area. Your local community mental health agency is another resource.

School social workers and local hospitals may be able to provide a list of individuals who have experience with the issue of domestic violence. Your local community college or university's psychology department can provide research information that will help. National and state professional organizations (i.e., American Psychological Association) can often help identify a member who specializes in the area of domestic violence.



## **Relocation: Things You Should Know Before You Relocate With Your Children**

Billie Lee Dunford-Jackson, J.D.

If your abuser is the father of your children and you are planning to relocate, it is important to take certain steps to make sure you have and keep custody, whether you will stay in the same state or move to a new one. There are four possible combinations of facts, including whether or not you have a custody order and whether or not you will move to a new state. What follows are the things you need to know about each of these possible combinations of facts in your situation:

### **YOU HAVE A CUSTODY ORDER AND PLAN TO MOVE ELSEWHERE IN THE SAME STATE**

If you have a custody order and plan to move somewhere within the same state, check your order to see whether it requires you to get the court's permission to move. If it does, you must take whatever steps are necessary in your state to get before the court to let the judge know the following:

1. The reasons you are moving.

For example, when you are the victim of domestic violence, you may need the safety of not living near your abuser. You may have access to a better support system in your new location (friends, family). You may be moving to get or better your employment.

2. Your need for the court to keep your new home and work addresses and phone numbers under seal so the abuser cannot get them.
3. The need for visitation, if any, to be supervised, and the need for the abuser to pay all visitation expenses and do the necessary traveling to the place where the visits will occur.

One of the steps to take is to serve your abuser with notice of the date and time of the court hearing and what you intend to ask the court to do (allow you to move; keep your new address and phone numbers confidential; require visitation, if any, to be supervised). Each state has laws about how to serve the other party and how far in advance of the hearing the notice must be served.

Even if your order does not require you to get the court's permission to move, it is probably a good idea to go through these steps in order to give the court advance notice of your plans. This keeps the abuser from taking you to court and asking the judge to change custody on the grounds that your moving will interfere with his visitation or his relationship with the children. It would be difficult for him to convince the judge that the reason for your move is to interfere with his rights if you are the one bringing this to the court's attention and you are doing it before you move, even though your order doesn't require you to.

### **YOU DO NOT HAVE A CUSTODY ORDER AND PLAN TO MOVE ELSEWHERE IN THE SAME STATE**

If you don't have a custody order and plan to move somewhere within the same state, you need to get a custody order to keep the abuser from getting custody. The only question is whether you should get it in the county or city where you and the children have been living or wait and get it in your new county or city. Every state has its own laws about the county or city in which a custody petition must be filed. Usually, a person asking for custody must file the petition in the court of the city or county where the child has been living, since that is where witnesses from school, daycare, doctor, circles of friends and family members, etc. are likely to be located.

### **YOU HAVE A CUSTODY ORDER AND PLAN TO MOVE TO A DIFFERENT STATE**

If you have a custody order and want to move with the children to a new state, what is your abuser likely to do? Will he go to court to try to get custody? Will he follow you and continue the abuse? These questions bring up another one: which state's court will hear any matter that you or your abuser files? The last thing you want is to be fighting in the courts of two different states at once. That is why every state has enacted some form of a law called the Uniform Child Custody Jurisdiction Act (UCCJA). When you move across state lines with your children, the UCCJA will determine which court will hear any matters that you or your abuser files about your case.

The state where you, your abuser, and the children have lived for at least six months is called the "home state." It is usually the state where any matters having to do with the parties and/or their children will be heard. Sometimes there are exceptions, though. Here are some examples:

- If an emergency exists so that your or the children's safety is at risk after you move, you may be able to get your new state to take emergency jurisdiction and make a temporary ruling to protect you and/or them.
- If the abuser has moved out of the home state as well, so that no one in the immediate family now is living where you lived together before, the court in your new state will probably take jurisdiction.
- If by the time you go to court, most or all of your and/or the children's significant contacts (school, job, daycare, medical records, counselors, friends, family members, etc.) are in the new state, that state's court might take jurisdiction.

The UCCJA allows the judge in the new state to refuse to take jurisdiction if it appears you have moved across state lines with the children with the specific purpose of interfering with their father's parental rights. Therefore, you must make sure your evidence shows the court that you were forced to flee to escape domestic violence. You also need to make sure the court keeps your address and phone number sealed and allows only supervised visitation, if any.

Even if your abuser convinces the home state court to keep the case, all is not lost. First, this is the court that gave you custody in the first place. Second, you do not have to go back to that court to give evidence in person. You can arrange to give your testimony in the court in your new state, and it will be sent back to the old state for the proceeding there.

Usually, the courts of one state will honor and enforce valid orders from another state. Things get a little more complicated if you are asking the court in the new state to change, rather than merely enforce, the old state court's order. Normally, as long as the abuser lives there, the old state will be the one to modify its own order. Again, it helps to know that, though you may have to use the old state's court, you do not have to go there physically.

### **YOU DO NOT HAVE A CUSTODY ORDER AND PLAN TO MOVE TO ANOTHER STATE**

If you don't have a custody order and plan to move to a different state, again, you *must* get a custody order to make sure the abuser doesn't get custody. Can you go to court in the new state, or do you have to use the old one? The new state might find it has jurisdiction for one of the reasons listed above. However, in most cases, the abuser remains in the old state and, at least for some period of time immediately after your move, most contacts are still there. So chances are you'll have to use that court, even if you do so by presenting your evidence in the new state's court to be used in the old one. The key thing is to get a custody order as early as possible.

Finally, you can get the home state court to give you a protection order to keep your abuser from following you or harassing you in your new state. The clerk of court in the city or county you move to, or the sheriff or chief of police there, can tell you how to register your order so that if your abuser comes looking for you, the police can locate the order on the computer and arrest the abuser for violating it. The court in the new state will enforce the order and punish the abuser.



# **Alcohol, Drugs, And Domestic Violence: What A Woman Should Know Before Going To Court**

Andrew R. Klein, Ph.D.

Your batterer may abuse alcohol and other illicit drugs. He may blame his abuse of you on his drug and alcohol use. He may promise the Court that by controlling his alcohol and drug use, he can be trusted to be a good father or husband, notwithstanding his past history of abusing you and the children. The Judge may be prone to accept this on face value as true. It isn't.

## **THE RELATIONSHIP BETWEEN FAMILY VIOLENCE AND ALCOHOL AND DRUG USE**

It is important that you understand the relationship between partner and family abuse and alcohol and drug abuse. Drug and alcohol abuse does not cause a person to become a batterer. Many people abuse alcohol and drugs but don't batter their partners or families. Even if the only time he abuses you is when he is under the influence, there is no guarantee that if he stopped drinking and drugging tomorrow, he would never abuse you again.

Some abusers drink or take drugs in contemplation of battering. In other words, they abuse drugs and alcohol specifically to give themselves an excuse to assault or abuse their families. Some batterers, if they stopped drinking and abusing drugs, would become worse batterers, inflicting more injuries than they do when they are drunk or high.

On the other hand, some batterers who are alcoholics or drug abusers might change their behavior, including their battering, if they stopped abusing drugs and alcohol. Part of recovering from alcohol and drug abuse in a twelve step recovery program, Alcoholics or Narcotics Anonymous, for example, is realizing how you have hurt people and making it up to them, in addition to stopping drinking and drugging.

This we know, however, substance abusing batterers cannot be trusted to change their behavior if they continue to drink and take drugs. No matter what kind of batterers intervention program or court-ordered program they are in, promises they have made, or fear they have of re-arrest, the minute the batterer gets high or drunk, the chances are good that he will forget everything he has promised or learned, including his fear of being caught for abusing you.

For all of the above, it is important that you not only tell the Court of his alcohol and drug abuse, but also describe how his controlling and emotionally abusive behavior is not restricted to times he is under the influence, even if his physical abuse is so restricted.

## **IDENTIFYING ALCOHOL OR DRUG ABUSE**

Evidence of alcohol and drug abuse can be obtained simply through monitoring the quantity drunk or used. The average adult who drinks more than two drinks daily, whether beer, wine, or

distilled spirits, is drinking above the amount drunk by a normal, social drinker. If this person then drives after drinking more than several drinks in a one hour time period, he is driving under the influence, whether or not he happens to get arrested for it.

If he ever has been arrested for drunk driving, he probably has a problem. If he scored over 0.15 on the Breathalyzer, it means he has developed medical tolerance to alcohol that indicates chronic, abusive drinking. If he has ever lost his license due to drinking or drugging, make sure you inform the Court.

A simple way to gauge alcohol abuse is through the following test. If any of the following questions are answered "yes," the chances are great the person has a problem. If two questions or more are answered "yes," you can be absolutely certain.

- Has the person ever felt the need to cut down on his drinking?
- Has he ever felt annoyed by your or anyone else's criticism of his drinking?
- Has he ever felt guilty about his drinking?
- Has he ever taken a morning eye-opener drink?

If he has ever blamed his abuse of you on his drinking, he is admitting to alcohol abuse. By definition, social drinking does not effect the drinker's behavior. If he has ever lost a job because of drinking, that too is evidence of serious, chronic abuse. If he has ever received medical attention because of drinking, that is a sign of serious, chronic abuse.

Any illicit drug use is illegal. Use of an illicit drug more than once or twice is problematic. Certainly, weekly or daily use is indicative of chronic abuse and dependency. If family finances are tight, yet needed family income is going to buy drugs, that too indicates problematic use.

**Warning!** If you reveal to the Court that he has abused heroin, crack, or other illicit drugs, you may be asked how you know. If you answer that you were present when he did, you may be opening yourself up to a criminal charge. For example, in many states it is against the law to be in the presence of heroin use. Even if not charged yourself, you may be pressured by police or prosecutors who learn of your court testimony to reveal information about his drug connections and so on. They could prosecute you for contempt of court if you don't cooperate with them.

Certainly, if you know that he has been arrested for drugs or is on probation or parole, you should make sure that the Court is aware of this and accesses his criminal file.

If he has ever been in treatment for alcohol or drugs, been detoxified, or been in the VA for substance abuse treatment, or even attended AA in the past, let the Court know. People don't go in for treatment or attend AA meetings unless they have a problem.

If he has alcohol on his breath or is under the influence of drugs at the Court hearing, point this out to the Court. If he can't even go to Court straight, what are the chances of his being straight outside the court? On the other hand, if he is straight before the Court, you should explain that this is not what he is like when he is under the influence.

It is important that the Court know of his alcohol and drug abuse. It is also important for the Court to know that his abuse of you is not caused by alcohol or drug use alone. Chances are the man is a batterer and a substance abuser. We call this a "dual diagnosis," two separate behavior problems that need immediate, serious intervention and attention. It is important for the Court to understand that if he is under the influence, whether or not he is physically abusive, he is not safe to be with and is not a good role model for children or anyone else.

### **WHAT ABOUT A VICTIM'S SUBSTANCE ABUSE?**

Truthful or not, many batterers will inform the court of a victim's history of or current drug or alcohol abuse as a method of gaining custodial advantage or punishing their partners. If the victim has had a problem, she should be up front about it.

Many battered women have drug and alcohol problems and other emotional problems that may require medication. Often, these problems flow from the primary problem of being abused by a partner in the first place. Victims often self-medicate to deal with the terror of domestic abuse. Frequently, the abuser has convinced his partner that the abuse is her fault and so belittle her that she has become unable to cope without the crutch of drugs or alcohol. Abusers will also insist that their partners drink and drug with them, forcing their partners to behave on their level.

In both instances, the prognosis is good that the victim, once safeguarded from her abuser, will stop abusing drugs and alcohol. Even if the victim had a drug and alcohol history before she became abused, her ability to deal with that problem was certainly undermined by the ongoing abuse.

Victims who do have a problem should do what they can to enter treatment or attend AA meetings or the like as soon as possible to demonstrate to the Court their intention to stay straight. If you are falsely accused of drug use, you should deny that use. You can even offer to submit to a hair or urine test to prove nonuse. Hair analysis done at local and several national laboratories will reveal all drugs (but not alcohol) ingested for a three month period. Urine tests will reveal all drugs and alcohol ingested in the past 72 hours depending on the quantity used.



# APPENDICES



## APPENDIX A

### LEGAL WORDS YOU MIGHT NEED TO KNOW

The law uses words that have special meanings. Here is a list of some common legal words and their meaning.

**AJUDICATION** The judgment reached in a judicial procedure.

**AFFIDAVIT** A written statement by someone who swears it is true. It can be used in court as evidence.

**ALIMONY** An allowance for support made under court order and usually given by a man to his former wife after a divorce or legal separation.

**ALLEGATION** An assertion made by a party in a court proceeding that must be proved or supported with evidence during a trial.

**APPEAL** To make a request to a higher court for the rehearing or review of a case.

**APPLICANT** A person who applies for a petition i.e.; divorce, custody, protection order etc. Same as plaintiff, petitioner or complainant.

**ATTORNEY** Lawyer.

**BATTERY** Hurting someone in any way. Battery is always against the law.

**CHANGE OF VENUE** The removal of a suit begun in one county or district to another county or district for trial. The term is also sometimes applied to the removal of a suit from one court to another court of the same county or district.

**CIVIL PROTECTION ORDER (CPO)** Legal document to protect against an abuser. Requires the abuser to stay away from the person being abused. Sometimes called a temporary protection or restraining order.

**COHABITATION** Living together as spouses but not married.

**COMPLAINANT** The person who begins the case. Same as plaintiff or petitioner.

**COMMUNITY PROPERTY** Property owned jointly by a husband and wife.

**CONTEMPT OF COURT** Failure to obey a judge's order.

**CONTINUANCE or CONTINUED** A delay of a court hearing to another day. The case will be "continued."

**COUNTERCLAIM** A claim filed by a defendant against the plaintiff in a civil action.

**CUSTODY** Regarding children, the care and keeping of children as decided in a court procedure.

There are two kinds, physical and legal; a person having full custody has both. The person with physical has the right to have the child live with him/her; the person with legal custody has the right to make decisions for the child's welfare. And shared custody gives each the right to have physical custody part of the time and decision-making authority.

**CUSTODY EVALUATOR** Guardian Ad Litem (GAL) - Court Appointed Special Advocate (CASA) - A person, paid professional or volunteer, assigned to evaluate and interview family members during a custody dispute to make recommendations to the court in the best interests of the child.

**DEFAULT** Failure to come to court for a hearing. An abuser who fails to appear will lose the case "by default" and the judge will issue the CPO.

**DEFENDANT** The person against whom a charge is brought. The abuser is the defendant in a CPO hearing. Same as respondent.

**DEPOSITION.** Testimony taken under oath and outside the courtroom.

**DISOLUTION OF MARRIAGE – Divorce.**

**DISTRICT ATTORNEY -- Same as PROSECUTOR**

**EVIDENCE** Anything shown in court to support a case. Can include testimony by you or a witness, documents, photographs, items of clothing, weapons, and police or medical records.

**EVIDENTIARY HEARING** A court process to present evidence to prove or disprove a particular charge.

**EXHIBIT** Papers, documents, or other material objects received by the court and offered as evidence during a trial or hearing.

**EX PARTE** In Latin, this means "from one side." A temporary protective order issued by a judge who hears only from the victim is an ex parte order.

**FAILURE TO PROTECT** A failure of a custodian to meet legal obligation to care for a minor in his/her custody. Such a failure can result in loss of custody. This often arises when a victim of domestic violence does not remove a child or children from the home and/or exposure to the abuser's violence.

**FULL FAITH AND CREDIT** The obligation of the court of one state or tribe to enforce the valid order of another state or tribe. In order to deserve such enforcement, the order must have been issued by a court which has both kinds of jurisdiction and after the respondent received notice to the proceeding and had a chance to be present.

**HEARING** A meeting held at the courthouse during which the judge listens to evidence from both sides and makes a legally-binding decision.

**HOME STATE CONVENIENCE** A doctrine whereby cases are heard in the state where the parties were living for at least the six month period before an action is filed, on the theory that most relevant evidence is located there. Although another state may grant emergency temporary relief, the home state court will usually be the one with jurisdiction to make final determinations.

**INDIGENT** Having no money. Someone too poor to afford a lawyer or court fees.

**INJUNCTION** A court order requiring someone not to do something. An injunction can order an abuser to stay away from his victim.

**IN FORMA PAUPERIS** A status where an applicant has court fees waived owing to inability to pay.

**JURISDICTION** The authority of legal power to hear and decide cases; the territorial range of authority. To be in the correct court, a party must bring a case where the court has authority to hear the case, jurisdiction is determined both by geographic location and the subject matter of the case.

**LITIGANT** Any person or group engaged in a lawsuit.

**LITIGATION** A legal contest in court.

**MAGISTRATE** Another word for judge.

**MEDIATION** A process by which the parties instead of litigating in court, work with a neutral third person to work out their differences by agreement. Because of the imbalance of power between victim and abuser, domestic violence cases are not good candidates for mediation.

**NON-CUSTODIAL PARENT** The party to whom the court does not award custody of children and who is usually required to pay support to the custodial parent on behalf of the children.

**NOTARY or NOTARY PUBLIC** Someone who has the authority to show that you signed a statement or document. A notary may be found at the courthouse and many banks.

**ORDER TO SHOW CAUSE** An order from a court to a party charged with failing to obey an earlier order of the court. The show cause order requires the accused party to come to court and explain why he should not be held in contempt for failing to obey the earlier order.

**OVERRULE** to deny a motion or objection raised to the court.

**PARTY or PARTIES** A person or people involved in a legal action.

**PETITION** An application or request to the court. The petition asks the court to issue a protection order.

**PETITIONER** The person who begins the case. Same as applicant, plaintiff or complainant.

**PERJURY** The act of a witness providing false or misleading testimony while under oath in criminal court proceedings.

**PLAINTIFF** The person who begins the case. Same as complainant or petitioner.

**PRESUMPTION** A legal conclusion that a certain outcome is appropriate based on the evidence, unless the opposing party can show reason why such outcome is not appropriate.

**PROBABLE CAUSE** The degree of proof needed to arrest and bring prosecution against a person suspected of committing a crime; the evidence must be such that a reasonable person would believe that this specific crime was committed and that it is probable that the person being accused committed it.

**PRO BONO** Professional services provided without compensation.

**PRO SE** Acting as one's own lawyer. In Latin, this means "for oneself."

**PROCESS SERVER** The person who personally delivers legal documents ordering someone to appear in court.

**PROSECUTOR** A government lawyer who argues on behalf of the government in a criminal case. Same as district attorney.

**REBUTTAL** The introduction of evidence to discredit statements of witnesses.

**RESPONDENT** Same as defendant. The person who must respond to the charges by the complainant or plaintiff.

**RESTRAINING ORDER** Another term for protection order.

**SERVICE** Delivering court documents to one of the parties. The abuser must be "served" with the document telling him why he must come to court and when he must appear.

**SETTLEMENT** An agreement by which parties determine what rights each has and what obligations each owes the other.

**STATUTES** Laws passed or enacted by the state legislature.

**SUBPOENA** A legal document ordering a witness to appear in court.

**SUSTAIN** To accept any motion or objection.

**TESTIMONY** The statement of a witness in court.

**VACATE ORDER** This orders an abuser to leave the home. Can be issued by a judge as part of a protection order.



## APPENDIX B

### STATE BAR ASSOCIATIONS

**For information on pro bono programs in your area that handle domestic violence cases, call your state Bar Association. Or you may call the American Bar Association to order the *1997/1998 Directory of Pro Bono Programs*.**

American Bar Association  
750 N. Lake Shore Drive  
Chicago, IL 60611  
312/988-5130  
312/988-5151

Division for Bar Services Staff  
541 N. Fairbanks Court, 14th Floor  
Chicago, IL 60611-3314  
312/988-5352  
FAX: 312/988-5492

Canadian Bar Association  
902-50 O'Connor Street  
Ottawa, Ontario K1P 6L2  
613/237-2925  
FAX: 613/237-0185

Alabama State Bar  
415 Dexter Avenue (36104)  
P.O. Box 671  
Montgomery, AL 36101  
334/269-1515  
FAX: 334/261-6310

Alaska Bar Association  
510 "L" St. #602 (99501)  
P.O. Box 100279  
Anchorage, AK 99510  
907/272-7469  
FAX: 907/272-2932

State Bar of Arizona  
111 W. Monroe Street  
Phoenix, AZ 85003-1742  
520/252-4804  
FAX: 520/271-4930

Arkansas Bar Association  
400 W. Markham  
Little Rock, AR 72201  
501/375-4606  
FAX: 501/375-4901

State Bar of California  
555 Franklin Street  
San Francisco, CA 94102-4498  
415/561-8332  
FAX: 415/561-8305

The Colorado Bar Association  
1900 Grant St. #950  
Denver, CO 80203  
303/860-1115  
FAX: 303/894-0821

Connecticut Bar Association  
101 Corporate Place  
Rocky Hill, CT 06067  
860/721-0025  
FAX: 860/257-4125

Delaware State Bar Association

1201 Orange Street, Suite 1100  
Wilmington, DE 19801  
302/658-5279  
FAX: 302/658-5212

Bar Association of the District of Columbia  
1819 H Street, NW, 12th Floor  
Washington, DC 20006-3690  
202/223-6600  
FAX: 202/293-3388

The District of Columbia Bar  
1250 H Street, NW, 6th Floor  
Washington, DC 20005-3908  
202/737-4700  
FAX: 202/626-3471

The Florida Bar  
P.O. Box 389  
Tallahassee, FL 32302  
904/561-5600  
FAX: 904/561-5826

State Bar of Georgia  
50 Hurt Plaza, Suite 800  
Atlanta, GA 30303  
800/334-6865  
FAX: 404/527-8717

Guam Bar Association  
259 Martyr Street, Suite 101  
Agana, Guam 96910  
011/671/475-6846  
FAX: 011/671/472-1246

Hawaii State Bar Association  
Penthouse 1  
1136 Union Mall  
Honolulu, HI 96813  
808/537-1868  
FAX: 808/521-7936

Idaho State Bar  
252 W. Jefferson  
P.O. Box 895  
Boise, ID 83701

208/334-4500  
FAX: 208/334-4515  
Illinois State Bar Association  
Illinois Bar Center  
424 S. Second St.  
Springfield, IL 62701  
217/525-1760  
FAX: 217/525-0712

Indiana State Bar Association  
230 E. Ohio, 4th Floor  
Indianapolis, IN 46204  
317/639-5465  
FAX: 317/266-2588

The Iowa State Bar Association  
521 E. Locust  
Des Moines, IA 50309  
515/243-3179  
FAX: 515/243-2511

Kansas Bar Association  
1200 Harrison St. (66612)  
P.O. Box 1037  
Topeka, KS 66601-1037  
913/234-5696  
FAX: 913/234-3813

Kentucky Bar Association  
514 West Main Street  
Frankfort, KY 40601-1883  
502/564-3795  
FAX: 502/564-3225

Louisiana State Bar Association  
601 St. Charles Avenue  
New Orleans, LA 70130  
504/566-1600  
FAX: 504/566-0930

Maine State Bar Association

P.O. Box 788  
Augusta, ME 04332-0788  
207/622-7523  
FAX: 207/623-0083

Maryland State Bar Association, Inc.  
520 W. Fayette Street  
Baltimore, MD 21201  
410/685-7878  
FAX: 410/837-0518

Massachusetts Bar Association  
20 West Street  
Boston, MA 02111-1218  
617/542-3602  
FAX: 617/426-4344

State Bar of Michigan  
306 Townsend Street  
Lansing, MI 48933-2083  
517/372-9033 Ext. 3084  
FAX: 517/372-2410

Minnesota State Bar Association  
514 Nicollet Mall, Suite 300  
Minneapolis, MN 55402  
612/333-1183  
FAX: 612/333-4927

The Mississippi Bar  
643 N. State Street (39202)  
P.O. Box 2168  
Jackson, MS 39225-2168  
601/948-4471  
FAX: 601/355-8635

The Missouri Bar  
326 Monroe (65101)  
Jefferson City, MO 65101  
314/635-4128  
FAX: 314/635-2811

State Bar of Montana  
46 North East Chance Gulch  
Suite 2A (59601)  
P.O. Box 577  
Helena, MT 59624  
406/442-7660 Ext. 12  
FAX: 406/442-7763

Nebraska State Bar Association  
63 S. 14th St., 2nd Floor  
Lincoln, NE 68501-1809  
402/475-7091  
FAX: 402/475-7098

State Bar of Nevada  
201 Las Vegas Boulevard, Suite 200  
Las Vegas, NV 89101  
702/382-2200  
FAX: 702/385-2878

New Hampshire Bar Association  
112 Pleasant Street  
Concord, NH 03301  
603/224-6942  
FAX: 603/224-2910

New Jersey State Bar Association  
New Jersey Law Center  
One Constitution Square  
New Brunswick, NJ 08901-1500  
908/249-5000  
FAX: 908/249-2815

State Bar of New Mexico  
5121 Masthead NE  
Albuquerque, NM 87109  
505/797-6000  
FAX: 505/828-3765

New York State Bar Association  
One Elk Street  
Albany, NY 12207  
518/487-5557  
FAX: 518/487-5564

North Carolina State Bar  
208 Fayetteville St. Mall  
P.O. Box 25908  
Raleigh, NC 27611  
919/828-4620  
FAX: 919/821-9168

North Carolina Bar Association  
P.O. Box 3688  
Cary, NC 27519  
919/677-0561  
FAX: 919/677-0761

State Bar Association of North Dakota  
P.O. Box 2136  
Bismarck, ND 58502-2136  
701/255-1404  
FAX: 701/224-1621

Northern Marianas Islands Bar Association  
P.O. Box 2145  
Saipan, MP 96950  
670/234-7796  
FAX: 670/234-7790

Ohio State Bar Association  
P.O. Box 6562  
Columbus, OH 43216-6562  
614/487-2050  
FAX: 614/487-1008

Oklahoma Bar Association  
1901 N. Lincoln  
P.O. Box 53036  
Oklahoma City, OK 73152-3036

405/524-2365  
FAX: 405/524-1115  
Oregon State Bar  
5200 SW Meadows Road  
P.O. Box 1689  
Lake Oswego, OR 97035-0889  
503/620-0222 Ext. 312  
FAX: 503/684-1366

Pennsylvania Bar Association  
100 South St.  
P.O. Box 186  
Harrisburg, PA 17108-0816  
717/238-6715  
FAX: 717/238-1204

Puerto Rico Bar Association  
Ponce de Leon Ave., 808 Stop II  
P.O. Box 1900  
San Juan, PR 00902  
787/721-3358  
FAX: 787/725-0330

Rhode Island  
Bar Association  
115 Cedar Street  
Providence, RI 02903  
401/421-5740  
FAX: 401/421-2703

South Carolina Bar  
950 Taylor Street  
P.O. Box 608  
Columbia, SC 29202  
803/799-6653  
FAX: 803/799-4118

State Bar of South Dakota  
222 E. Capitol  
Pierre, SD 57501-2596  
605/224-7554

FAX: 605/224-0282

Tennessee Bar Association  
3622 West End Avenue  
Nashville, TN 37205-2403  
615/383-7421  
FAX: 615/297-8058

State Bar of Texas  
P.O. Box 12487  
Austin, TX 78711-2487  
512/463-1463, Ext. 1400  
FAX: 512/473-2295

Utah State Bar  
645 S. 200 East  
Salt Lake City, UT 84111-3834  
801/531-9077  
FAX: 801/531-0660

Vermont Bar Association  
35-37 Court Street  
Montpelier, VT 05601-0100  
802/223-2020  
FAX: 802/223-1573

Virginia State Bar  
707 E. Main Street, Suite 1500  
Richmond, VA 23219-2803  
804/775-0551  
FAX: 804/775-0501

Virginia Bar Association  
701 E. Franklin St., Suite 1120  
Richmond, VA 23219  
804/644-0041  
FAX: 904/644-0052

U.S. Virgin Islands Bar Association  
P.O. Box 4108  
Christiansted, USVI 00822  
809/778-7497  
FAX: 809/773-5060

Washington State Bar Association  
500 Westin Bldg.  
2001 Sixth Street  
Seattle, WA 98121-2599  
206/727-8244  
FAX: 206/727-8320

West Virginia Bar Association  
P.O. Box 3956  
Charleston, WV 25339  
304/895-3663  
FAX: 304/345-7556

West Virginia State Bar  
2006 Kanawha Blvd.  
Charleston, WV 25311  
304/558-7993  
FAX: 304/558-2467

State Bar of Wisconsin  
402 W. Wilson Street  
Madison, WI 53707  
608/257-3838  
FAX: 608/257-5502

Wyoming State Bar  
P.O. Box 109  
Cheyenne, WY 82003-0109  
307/632-9061  
FAX: 307/632-3737



## APPENDIX C

### Child Safety Plan

#### Checklist

- p Ask children to give an example of how they would know if violence were to happen to them or a loved one.
- p If there is a concern that the child may be molested or abused in any way, does the child know it is not his/her fault? Remind the child, that the abuser is the only person responsible for the abuse.
- p Assure the child that it is okay and important to tell you about any abuse that may have occurred.
- p Does the child have a list of safe people with phone numbers and addresses?
- p Have you decided on a code word for “help”?
- p Does the child know how to dial 911 and ask for help?
- p Does the child know how to call collect or use a phone card?
- p Does the child know his/her full name, address and phone number with area code?
- p Does the child know your full name and where you work?
- p If the child has to call for help while on visitation, does the child know the father’s address and phone number?
- p Does the child know where pay phones and fire alarms are located near the father’s home?
- p Has your child created a treasure box? It would include an address book with helpers’ names and phone numbers, a copy of the custody or protection order, cash and change for phone calls and taxi or bus fare, a small note pad and pen, a cell phone and something special to help them feel secure, strong and loved.
- p If there is a concern that the father may kidnap the child, teach him/her how to remember their surroundings. Help him/her to identify restaurants, schools, names of towns and roads. If the child is old enough, teach him/her how to read a map.

- P** If the child has been kidnapped or feels unsafe and is in a public location, he/she can ask for help by writing a note on a napkin or paper towel and leaving it in a restroom.

### ***Exercises***

- O** Draw a map of the father's house with escape routes including doors and windows the child can open. Draw or highlight the telephone location(s).
- O** Draw safe people that we know, i.e., family, friends, therapist, teachers and neighbors.
- O** Draw safe helpers that we don't know, i.e., police officers, firefighters and store clerks.
- O** Draw safe buildings, i.e., schools, neighbors house, police station, fire station and hospitals.
- O** Rehearse the safety plan. To avoid creating anxiety, the rehearsal should be practiced just as any other safety measure, like bike safety or a fire escape plan.

### ***Helpful Reminders***

- O** Keep recent photographs and videos of your children.
- O** Have your children fingerprinted.
- O** Keep in a safe place: photographs, identification(s), social security card(s) immunization record(s) and any medical information. Make copies of everything.
- O** Write a physical description of your children including scars and birthmarks. Update your children's height, weight and clothing sizes frequently.
- O** If your protection order or custody order was modified, make a copy for the child to have with him/her during visitations.
- O** Before each visit write a list of items the child took on the visit.
- O** Document all visitations and interactions.
- O** Update safety plans as necessary.

Portions adapted from: Barbara Hart “*Safety Planning For Children: Strategizing For Unsupervised Visits With Batterers*” and Donna Medley “*Unsupervised Visitation and Safety Planning*”

## **DOMESTIC VIOLENCE PERSONAL SAFETY PLAN**



**DOMESTIC VIOLENCE PERSONAL SAFETY PLAN**  
**(SPANISH VERSION)**



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## ON-LINE RESOURCES ON CHILD WITNESSES OF DOMESTIC VIOLENCE

Bibliography on “Children Who Witness Battering” from the National Women's Resource Center at <http://www.nwrc.org/children.html>

Bibliography on “Children Who Witness Violence: Research & Intervention” by J.L. Edleson at <http://www.umn.edu/mincava/bibs/bibkids.htm>

Bibliography from the Project to Address Violence through Education (PAVE) at the University of Minnesota on “Young children and violence” at <http://www.umn.edu/mincava/pave/preview.htm>

*Mothers & Children: Understanding the Links Between Woman Battering and Child Abuse* is a briefing paper by Jeffrey L. Edleson for a recent strategic planning meeting on the Violence Against Women Act at <http://www.umn.edu/mincava/papers/nij.htm>

*In the Best Interest of Women and Children: A Call for Collaboration Between Child Welfare and Domestic Violence Constituencies* is a briefing paper by Susan Schechter and Jeffrey L. Edleson prepared for a Wingspread Conference of a similar title and can be found at <http://www.umn.edu/mincava/papers/wingsp.htm>

*Child Witness to Domestic Violence* is a brief paper written by Kathryn Conroy, DSW, on the effect on children of witnessing their mothers being battered at <http://www.columbia.edu/~rhm5/CHDWITDV.html>

*Children and Family Violence: The Unnoticed Victims* is a May 1994 report by Gabrielle M. Maxwell of New Zealand's Office of the Commissioner for Children at <http://www.umn.edu/mincava/papers/nzreport.htm>

An art gallery from the Domestic Abuse Project in Minneapolis of 13 images drawn by children who have witnessed violence at <http://www.umn.edu/mincava/kart.htm>

## NOTES:



Few women can walk away from the experience of abortion without some lingering emotional discomfort. Unresolved feelings of guilt, shame, and sadness may not surface until months, often years, after an abortion. We may lead outwardly normal lives, but these emotions can continue to cast a shadow, having a negative impact on personal relationships, coloring our moral or religious beliefs, even causing anxiety when we deal with a planned pregnancy. These feelings, if ignored, can possibly manifest themselves in more troubling ways, resulting in unstable relationships, self-destructive and addict First Printing, 1998. Managing Your Divorce: A Guide for Battered Women [www.ncjfcj.org](http://www.ncjfcj.org). [www.ncjfcj.org/sites/default/files/managing\\_divorce\\_korean.pdf](http://www.ncjfcj.org/sites/default/files/managing_divorce_korean.pdf). clipped from Google - 5/2019. Domestic Violence and Children - Questions and Answers for [www.doj.state.or.us](http://www.doj.state.or.us). [www.doj.state.or.us/wp.../08/domestic\\_violence\\_and\\_children.pdf](http://www.doj.state.or.us/wp.../08/domestic_violence_and_children.pdf). Domestic Violence and Children - Questions and Answers for File Format: PDF/Adobe Acrobat. Our hope is to enhance your understanding of how domestic violence affects children, and guide you in the crucial contributions you make to family recovery. ....Â See generally FUTURE INTERVENTIONS WITH BATTERED WOMEN AND . 81, 83 (2005), citing Janet R. Johnston, High-Conflict Divorce, 4 FUTURE OF CHILD. [www.ncjfcj.org](http://www.ncjfcj.org).