



Custody Evaluators' Beliefs About Domestic Abuse

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Three important new studies explore the relationship between custody evaluators' beliefs about domestic abuse and the parenting recommendations they make to the court.

The first study was conducted by Daniel Saunders and his colleagues at the University of Michigan, based on a national survey of 465 child custody evaluators.¹ Evaluators reported on their past custody recommendations and responded to a vignette involving domestic violence. Recommendations of sole or joint custody for the perpetrator were related to beliefs that survivors alienate children from the other parent, make false allegations of domestic abuse, and should engage in cooperative parenting. Such recommendations were also related to the belief that domestic violence is not important to consider in evaluations. The stronger the evaluators' patriarchal norms, the stronger they held the foregoing beliefs and tended to recommend that perpetrators have custody.

A second study was conducted by Jennifer Hardesty and her colleagues at the University of Illinois at Urbana Champaign,² based on a national survey of 600 respondents from 48 states. The respondents were given a three-part vignette, with randomly varied facts. Among other things, the researchers found that mothers' demeanor was more closely associated with evaluators' recommendations than the severity of the violence (mild v. severe), the context of the violence (conflict v. coercive control), or whether there was documentation of domestic violence (an order of protection) present in the vignette.

A third study was conducted by Michael Davis and his colleagues in New York, based on an examination of approximately 70 actual family law case files.³ In each case, domestic violence was pre-identified; each party was represented by an attorney; and a custody evaluation had been conducted. The researchers looked at all of the documentation of abuse, each of the custody evaluation reports, and the final judgment or settlement agreement in each case. They found that evaluators' knowledge about domestic violence (their awareness of risk factors and application of a power and control model) was more closely associated with safe parenting plans than either the severity of abuse or the thoroughness of their investigations.

¹ Daniel G. Saunders, et al., *Custody Evaluators' Beliefs About Domestic Abuse in Relation to Custody Outcomes*, National Institute of Justice (2011). Available at: <https://www.ncjrs.gov/pdffiles1/nij/grants/238891.pdf>.

² Jennifer Hardesty, et al., *The Effect of Domestic Violence Allegations on Custody Evaluators' Recommendations* (2011).

³ Michael S. Davis, et al., *Custody Evaluations When There are Allegations of Domestic Violence* (2011). Available at: <http://www.ncjrs.gov/pdffiles1/nij/grants/234465.pdf>.

Taken together, these studies suggest that custody evaluators' beliefs are more strongly associated with custody outcomes than what is actually going on in the real life of the family.

Family court practitioners hold a lot of beliefs about domestic violence. Some of the most common beliefs have to do with: (1) false allegations; (2) parental alienation; (3) friendly parenting; and (4) failure to protect. What all of these beliefs have in common is that they are beliefs about the victim-parent. More to the point, they are beliefs about victim-mothers.

For example, we know from our work that when people talk about false allegations, they often refer to mothers who make false allegations of abuse by fathers, ostensibly to "get a leg up" in a custody case. Rarely do we hear people talk about fathers who make false allegations against mothers (that they are "crazy," for instance). In our experience, when a mother says, "he's abusive," family court practitioners almost always try to figure out if she's lying. Yet, when an allegedly abusive father says, "she's crazy," family court practitioners almost always try to figure out if she's crazy. They rarely ask whether fathers raise false allegations of mental illness to "get a leg up" in a custody case.

Similarly, we know from our work that when people talk about alienation, they most commonly refer to mothers' attempts to undermine the children's relationship with fathers. Rarely do we hear people use the term alienation to describe a tactic that abusive fathers use to undermine the children's relationship with mothers. Our experience tells us that alienation is a term most often used to counter allegations of abuse made by mothers – not to describe a tactic of abuse utilized by fathers.

In like manner, the term "friendly parent" customarily refers to the extent to which a parent facilitates close and continuing contact between the child and his or her other parent. We observe that when people talk about "unfriendly" parents, they most commonly mean mothers who stand in the way of fathers' access to children. Rarely do we hear people talk about an abusive father as an "unfriendly parent," even though abuse is not a very friendly thing to do to a child's mother.

The same can be said about "failure to protect." In our experience, that term is most commonly used to describe mothers' responsibility for children's exposure to violence perpetrated by fathers. Rarely do we hear that term used to describe how fathers' violence against mothers directly harms and, therefore, "fails to protect" children.

In these ways, many of the most commonly held beliefs about domestic abuse are actually beliefs about victim-mothers. In fact, it is difficult to identify any beliefs about domestic violence that relate to perpetrators at all. While some people might believe that perpetrators are madmen or sociopaths, or that they cannot control their anger, in our experience, most people do not think much or talk about the person who is actually responsible for abuse at all. Instead, their attention is persistently diverted away from the abuse, even though abuse itself might well be the central issue in the case.

If, as the three recent studies seem to suggest, evaluators' beliefs are associated with outcomes – and if, as we observe, many of the most commonly held beliefs are negative beliefs about battered mothers – then it is no wonder that outcomes are so often disconnected from the real life experiences of battered mothers and their children.

An alternative pathway to safer and more manageable outcomes is for family court professionals to resist the temptation to avert their gaze from the abuse and to look at it head on, instead. That involves a process of systematically identifying abuse, understanding its context and implications, and then accounting for it in parenting recommendations and decisions.