Co-parenting vs. Parallel Parenting

Outcomes in custody cases with a history of domestic violence

By Ashley Milspaw and Hilary Vesell

Public policy in Pennsylvania proposes that the family is the basic unit of society and the protection and preservation of the family are of paramount public concern. *See* 23 Pa.C.S. § 3102(a). Accordingly, it is the policy of the commonwealth to seek causes rather than symptoms of family disintegration and co-operate with and utilize available resources to deal with family problems.

However, in cases of domestic violence, only 2.5 percent to 15 percent of domestic violence victims are believed to report their abuse, even though it is thought to affect about 25 percent of the population. *See* Garcia, E. (2004) "Unreported Cases of Domestic Violence Against Women: Towards an Epidemiology of Social Science, Tolerance, and Inhibition," *Journal of Epidemiology & Community Health*, 58(7), 536-537. Statistics from the National Domestic Violence Hotline also show that although one in four women and one in seven men will be the victims of severe physical violence by an intimate partner in their lifetimes, half of all women and men in the United States will experience psychological aggression by an intimate partner. A large percentage of these populations may come into the court system through custody cases.

In custody cases the majority of parents will probably share physical and legal custody of their children. Physical custody defines custodial time periods that each parent has with the children, while legal custody refers to making major life decisions for the minor children, such as religious, educational and medical decisions. This shared arrangement will probably not change in cases of domestic violence.

Domestic violence situations are generally defined by power and control issues through the use of intimidation and fear tactics. With the threat of violence the victim will probably need to submit for safety reasons, often leading to feelings of shame. Furthermore, the victim may need to be careful what is said to try to avoid further violence. This process can lead to feelings of worthlessness and loss of self-esteem. Stuck in a cycle of violence, victims might experience "learned helplessness" (where options exist but victims believe they are stuck and cannot change the situation). While this scenario could happen to anyone, it may be more likely to occur when an individual has grown up in a household with domestic violence, as the same red flags that would probably cause someone else to leave may not be triggered. This happens due to a desensitization process acquired through previous experiences of childhood violence and abuse and could limit internal warning signals that would tell a person early on to leave the relationship. As a result children who grow up in abusive households may continue the cycle of violence in their own adult lives.

It's not altogether clear how an abuser develops, but the behavior may be modeled (learned), particularly from chaotic, abusive or neglectful early childhoods, cultural factors (born of male privilege and entitlement) and/or genetic reasons, etc. Furthermore, many reasons exist why someone would want to be controlling, including fear of abandonment, especially, perhaps, if he or she was abandoned as a child by a caretaker. The ending of a later relationship

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may trigger feelings of that early abandonment. If the early trauma remains unresolved, any later loss may be so devastating as to be avoided at any cost.

Individuals who are particularly vulnerable may be those who are used to organizing around others, such as those whose needs were generally not met within their own families and children who were never allowed to express or have validated their own feelings, such as cares and concerns. While anyone could fall into the trap of entering into a relationship characterized by domestic violence, those who are young, slightly naïve, as well as willing to project their good intentions onto others, may be especially likely to do so.

It is almost impossible to shield domestic violence from others living in the household. All will probably be aware of any physical and mental abuse between those they reside with, especially when those individuals are their own parents. In domestic violence situations, children's brains are being affected by the trauma they are witnessing, even if they are not being directly abused themselves. While parents are immersed in their problems they may be unable to offer essential emotional support to their children, the same support they as adults are lacking. Furthermore, such an environment is extremely emotionally toxic for children. Adults' arguing in front of a child negatively affects the child's development in numerous ways. Additionally, if there is violence between the parents, it's reasonable to believe that the children may

Dad
Mom

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still be subject to violence, directly or indirectly, after the abused parent leaves the household.

In domestic violence situations, a victim may feel so disempowered that it will probably be difficult for him or her to leave, especially where there has been economic abuse. Additionally, sometimes the longer one stays in such a situation, the harder it will be to get out, generally bringing one down and depleting any resources. Other reasons one may not leave a domestic violence situation include embarrassment, fear of retaliation, victim-blaming attitudes, privacy for the family, economic dependency and gender inequality in our society. *See* Garcia, E. (2004). p. 536. People may become especially vulnerable when their abuser and comforter is the same person.

After the victim leaves, the economic abuse may continue for a parent who has literally given up everything for his or her family, including, possibly, career, life savings, retirement savings and health insurance, only to be told that to find employment is now possible for that parent. However, in reality, exorbitant health care costs may prevent the hiring of older, unskilled individuals other than for part-time, minimum-wage positions without benefits. Furthermore, where credentials once existed, prerequisites for renewing expired licenses or clearances and reacquiring malpractice insurance may be prohibitive, preventing re-entry into a prior field.

In a healthy relationship a couple works toward equality. However, the cycle of violence may actually reinforce itself for the abuser as well, diminishing self-esteem. The cycle of domestic violence will most likely leave the abuser feeling increasingly worthless, vulnerable, stuck and helpless. Furthermore, when the victim does leave, it can be the most dangerous time, as the victim will be at the greatest risk for bodily harm. Most murders and other dangerous behavior may happen at the point of separation. As the abuser loses control, in an attempt to regain power, he or she may also escalate any attempts to maintain control. (It should also be noted that a pregnancy may escalate violence as well as attention shifts from the abuser to the new baby, bringing up loss-of-control issues.) Because the separation period is potentially so dangerous, a victim should have a safety plan in place and leave only when she or he feels the least bodily harm may occur to both the victim and any children, and not necessarily when others pressure her or him to do so. At this point, the couple may end up in court, perhaps in criminal court or for a protection-from-

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abuse order. It will be important for the victim to understand that a protection-from-abuse order doesn't guarantee safety. All and any safety precautions must still be taken.

In court it might be difficult to tell who instigated the violence. Studies show that in the traditional cycle of long-term domestic violence, the victim may unconsciously provoke violence in an effort to have some type of control over this cyclical pattern, even if just the timing of the violent outbursts. This in no way indicates that the victim is responsible for the cycle of violence in which this couple is embedded. The victim is just trying to have some semblance of control in a situation where he or she feels helpless. It is also important to note that the survivors of domestic violence may suffer mental health issues such as post-traumatic stress disorder (PTSD) or depression due to the trauma of their abuse, making them appear deranged or unemotional, perhaps with a flat affect. Therefore, the abuser should easily be able to present as more polished, affable, charming and, accordingly, more likable.

Custodial Arrangements in Cases with a Domestic Violence History

Where domestic violence once existed in a household, alternate arrangements to share legal custody may need to be devised in order to mitigate any lingering power and control issues. Co-parenting is probably counter-indicated where verbal or physical abuse was once present and fear still exists due to ongoing power struggles and control issues. An abuse history may also be indicated where a history of police calls or protection-from-abuse proceedings exists, even in cases where all criminal or court proceedings were subsequently dropped. Furthermore, an absence of prior police reports doesn't necessarily translate into no

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prior abuse history. It might just mean that one party put up with the abuse, possibly trying to keep the family together, hoping that one day the abuse would stop. The victim may also have stayed as long as she or he did trying to shield the kids from any abuse, realizing that if he or she left, the abuser could either get majority custody or, at the very least, periods of unsupervised custody of the children. Additionally, the abuse may have become normalized for the children, who don't want to be involved in it, but will probably testify for the abuser who will be scarier to them than the victim, especially if there is a chance that they may have to go home with the abuser after their testimony in a court proceeding.

Co-Parenting v. Parallel Parenting

Some ideas to protect victims of domestic violence from ongoing dealings with their abusers in legal custody decisions include awarding all of the legal custody decisions to the non-abusive parent. Furthermore, instead of court-ordered co-parenting counseling, parallel parenting may be more appropriate for making shared legal custody decisions, using a trained third party such as a psychologist or therapist. Co-parenting is utilized in cases where the parents need direct guidance and coaching on how to resolve issues related to their children. It is also to teach and establish the skills needed for the parties eventually to accomplish this goal independently. The process facilitates parenting in a manner that resolves disputes, decreases stress and increases the focus on the best interests of the children. The only difference between co-parenting and parallel parenting is that in the latter the parties have no direct (or very limited) contact with each other, in the therapist's office or otherwise. Parallel parenting may be more appropriate for cases involving domestic violence or any other situations where the parents are embroiled in so much conflict that disengagement between the parties will be beneficial for the children. The parallel parenting coordinator should also be able to mitigate any power and control issues and monitor the volatility of the situation, including the safety of the children.

The parallel parenting coordinator must be someone familiar with the cycle of domestic violence and its effects. This person should probably be a mental health professional who understands the cycle of domestic violence and the unresolved trauma it creates and can educate the parties on setting appropriate boundaries. If the abuser refuses to participate in the parallel parenting process (or any therapy at all), that person's physical custody periods could be suspended. Furthermore, all unsupervised custody exchanges should be made in a safe, public, lighted location with surveil-

lance for the protection the parties and the children. Any other direct contact between the parties should be limited to writing, such as through texts or emails. It goes without saying that the victim will need a strong advocate in court where she or he will be forced to come face to face with their former abuser as the victim will probably be used to submitting to the wishes of the abuser. Furthermore, any custody order should prevent the abuser from continuing to obtain personal information about the victim.

If and when the power and control issues have ended, possibly through effective treatment of the abuser (such as in a group therapy setting, perhaps through the YWCA or other local agencies), the parties may be able to make joint decisions, putting the needs of their children first. However, if treatment is unwanted by the abuser and not therapeutically effective, there will probably be little to no change if the victim chooses to return to the home.

There may be red flags and warning signs, however subtle, that can be picked up predicting future domestic violence. Regardless, no one should have to live in fear of being attacked by someone in his or her own home and certainly no one deserves to be physically abused. In reality, subtle quips may be just as hurtful as outright insults or being physically assaulted, but neither should be tolerated. Furthermore, domestic violence isn't a private issue; it's a public problem with a very real cost to the community as a public health epidemic, born of a culture that has historically tolerated it. ⚖

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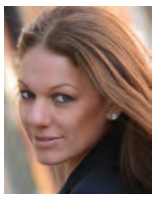

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