

## DOMESTIC ABUSE

**Connie R. Thacker** - Domestic violence/abuse comes in many shapes and sizes. The most obvious is the physical assault with resulting injuries. Such assaults have a lasting and profound effect on the victim and children. Domestic abuse not only includes physical abuse but also includes psychological/emotional abuse. Research indicates that psychological abuse is far more damaging than physical abuse. According to the Institute for Public Health, the number one public health problem in the United States is domestic abuse.<sup>1</sup> The United States Department of Justice estimates that three out of four women will be victims of a violent crime at some point in their lives.<sup>2</sup> At least two million women living in the United States are assaulted by their partners every year; some experts estimate the number to be closer to four million.<sup>3</sup> The 1997 Bureau of Justice Statistics Special Report found that 31% of homicides in which the women and the assailant knew each other, involved women killed by spouses or partners.<sup>4</sup> Statistics indicate that domestic abuse accounts for 22% to 35% of emergency room visits by women in the United States<sup>5</sup>; and in the United States, we spend \$5 to \$10 billion a year on health care, criminal justice and other costs associated with domestic violence.<sup>6</sup>

Given the amount of domestic violence/abuse that occurs in our country, it is imperative that GAL/LGALs have an understanding of the relevant statutes, warning signs, the effects on the children and custody/parenting time plans when domestic abuse is involved and treatment/monitoring programs. Without a clear understanding of domestic violence, the GAL/LGAL may miss and/or dismiss the warning signs because often batterers (individuals with a pattern of psychological abuse and/or physical violence) appear calm, friendly, reasonable, and able to sell you almost anything. Individuals that do not understand domestic violence/abuse might make the following statements:

---

<sup>1</sup> Family Law Quarterly Review, Volume 39, Number 1, Spring 2005.

<sup>2</sup> Id.

<sup>3</sup> Id.

<sup>4</sup> Id.

<sup>5</sup> Id.

<sup>6</sup> Id.

“Well, maybe he abused you but that’s no reason to keep the children away from him. He is their father after all.”

“Don’t you think that your own resentments are clouding your judgment about your children?”

“Don’t you believe that people ever change? Why don’t you give him the benefit of the doubt.”<sup>7</sup>

### **MICHIGAN STATUTES:**

In Michigan, the domestic violence/abuse statutes which every GAL/LGAL should be closely familiar with include: 1) MCL 750.81; 2) MCL 400.1501; and 3) MCL 600.2950.

Abuse is defined in the Michigan Domestic Violence Bench Book as follows:

“Domestic violence is a pattern of controlling behaviors, some of which are criminal, that includes but is not limited to physical assaults, sexual assaults, emotional abuse, isolation, economic coercion, threats, stalking and intimidation. These behaviors are used by the batterer in an effort to control the intimate partner. The behavior may be directed at others with the effect of controlling the intimate partner.”<sup>8</sup>

### **WARNING SIGNS OF ABUSE:**

Some of the warning signs of abuse may include the following:

1. Controlling the finances;
2. Not allowing family contact for the victim, creating isolation;
3. Violence toward the family pet;
4. Superior attitude;
5. Strong sense of entitlement;
6. Name calling – such as stupid, braindead and/or idiot;

---

<sup>7</sup> Lundy Bancroft, *Why Does He Do That?*, 2002, page 267.

<sup>8</sup> Michigan Domestic Violence Bench Book, Michigan Judicial Institute, 2004, p. 2.

7. Demanding that the victim perform certain household functions in a very particular manner;
8. Using criticism to describe the victim's parenting skills;
9. Concerns about how the batterer looks to the public;
10. Behaving as a single person not in a marital unit;
11. The batterer does not believe the victim is an equal;
12. The batterer thinks that he is much smarter and a better parent;
13. The batterer thinks that women are inferior and that the concept of male privilege is alive and well;
14. The batterer criticizes the children;
15. The batterer treats one child differently than the other children; and/or
16. The batterer engages in manipulation in various situations.<sup>9</sup>

#### **EFFECTS AND NEEDS OF CHILDREN:**

There is a wide consensus that children's recovery from exposure to domestic abuse and from divorce in general depends largely on the quality of their relationship with the non-battering parent and with their siblings. (Graham-Bermann, 1988). Therefore, parenting time plans should take into account whether the batterer is likely, based upon his past or current behavior, to continue or to begin to undermine the non-battering parent's authority, interfere with that relationship or cause tension between siblings, all of which can interfere significantly with a child's healing. Children need structure, limits and predictability. Research has indicated that the key elements of children's healing are as follows:

- **a close relationship with the non-battering parent;**
- **safety;**
- **good sibling relationships;**
- **connections to other loved ones;**
- **opportunities to talk about events and express feelings; and**
- **opportunities to release destructive feelings.<sup>10</sup>**

---

<sup>9</sup> Concepts taken from Lundy Bancroft, When Dad Hurts Mom, 2004.

<sup>10</sup> Concepts taken from Lundy Bancroft, When Dad Hurts Mom, 2004.

## **CHILDREN AND THE BATTERER:**

Children develop their emotional experiences, their perceptions of their parents, and their views of the world by the messages they receive and the behavior they observe.<sup>11</sup> If children are exposed to an abuser, they exhibit their exposure through behavioral problems. Some of the signs may include the following:

- “Bullying, insulting, and physical aggressiveness toward peers;
- Withdrawal from social contact, poor peer relationships;
- Fear or upset about separation, especially from Mom;
- Oppositional and defiant behaviors;
- Developmental regression (e.g., bed-wetting or daytime “accidents”);
- Hyperactivity, anxiety, obsessiveness, or compulsiveness;
- Learning and attentional problems at school;
- Eating problems (e.g., overeating or refusing to eat);
- Failure to thrive in infants;
- Sleeping problems (nightmares, awakening easily, trouble falling asleep);
- Violence toward siblings, especially male to female and older child toward younger child; and/or
- Running away from home.”<sup>12</sup>

Emotional symptoms of exposure to an abused parent may include the following:

- “Fear, anxiety, nervousness;
- Depression, sadness, suicidal desires;
- Insecurity;
- Guilt, self-blame, shame;
- Anger, resentment, bitterness;
- Embarrassment or shame toward peers (e.g., reluctance to have friends over to the house);
- Feeling responsible to protect Mom;
- Feeling responsible to protect siblings, especially younger ones;

---

<sup>11</sup> Lundy Bancroft, *When Dad Hurts Mom*, 2004, p. 23.

<sup>12</sup> *Id.* at p. 72.

- Worrying about the safety of relatives and friends (generalized anxiety);
- Blame and resentment toward siblings;
- Blame and resentment toward Mom;
- Fantasies of standing up to, assaulting or killing the abuser;
- Desire to have the kind of power the abuser has (“identifying with the aggressor”);
- Fear of ordinary arguments because of feeling that they may turn frightening; and/or
- Uncertainty about what is real.”<sup>13</sup>

Given the significant impact that an abuser may have on children, the most obvious question becomes how you, as the GAL/LGAL, will help them. Without question, the more contact that the children have with an abuser, the more that they will be affected by the contact. Some precautions for the children may include the following: 1) children need to feel that they will be protected and that they are provided with predictability, rules and boundaries; 2) children need to be close to, and have unlimited access to, the non-abuser parent and the other siblings of the child; 3) children need an avenue to express their feelings in a confidential setting so that what they say is not reported to the abuser. They need to feel safe and comfortable in talking about their concerns and feelings; 4) children need to be allowed to participate in group therapy with other children that have been exposed to a battering parent.<sup>14</sup> “There is a tendency of many abusive men to sabotage children’s recovery, such as by ruining their relationships with therapists.”<sup>15</sup>

### **PARENTING STYLE:**

The batterer's parenting time style also has a profound effect upon the children. Batterers’ parenting styles may include the following:

- **authoritarian;**
- **underinvolved;**
- **undermining of the non-battering parent’s authority;**

---

<sup>13</sup> Id. at pp. 73-74.

<sup>14</sup> Id. at pp. 85-86.

<sup>15</sup> Id. at p. 243.

- **limited sense of age appropriateness;**
- **use of the children as weapon;**
- **good under observation; and/or**
- **tends to see the children as personal possessions.**

The lack of structure and supervision are common in parenting time situations with batterers. Batterers can therefore be viewed by the children as exciting. The authoritative parent tends to be rigid and more often expects to be obeyed unquestionably, taking an intolerable view of any resistance or arguing from their children. Batterers demonstrate limited ability to accept feedback or criticism from family members or to make the kinds of adjustments in parenting decisions that responsible parents are frequently called upon to make in order to effectively meet the needs of their children. (Bancroft, 2002). Because of entitlement and self-centeredness, the batterer may expect the rewards and public status of being a parent without the difficulties and sacrifices that are involved. (Bancroft, 2002). In addition to being harmful in and of itself, this type of parenting style creates a lack of empathy for children. (Dundee, 31). Batterers tend to take an interest in children when it is convenient for them or when an opportunity arises for public recognition for their parenting. The batterer's level of commitment to the children cannot be assessed on the basis of statements or expression of emotion such as the shedding of tears while talking about them or the pride of showing of photographs. Such displays can be products of manipulation or self-centeredness rather than of genuine connection to the children. (Bancroft, 2002). An assessment of a batterer's potential as a parent therefore, needs to rely largely on what the actual past performance has been. (Bancroft, 2002).<sup>16</sup>

### **POST-SEPARATION:**

Post-separation, batterers often increase their use of the children as weapons as other avenues of control or intimidation become less available. "A batterer's first goal can be to pressure the former partner into a reunification or to retaliate against the victim, and the children can be used as an effective vehicle toward either goal."<sup>17</sup> "Through distorting events, some batterers can lead children to blame the victim for the separation and pressure the victim to allow the batterer to return to the home (Heart, 1990a). Children typically miss the abusive parent

---

<sup>16</sup> Concepts for the parenting style taken from the Bancroft sources listed herein.

<sup>17</sup> Lundy Bancroft & Jay G. Silverman, *Batterer as Parent*, 2002, p. 75.

during post-separation and wish for their return to the home (Peled, 1998), except in the case of the most terrorizing batterers. This disruptive intention in a victim's relationship with her children can exacerbate the fear and ambivalence that most battered victims feel when attempting to leave a batterer."<sup>18</sup> Victims have reported the return to the batterer after a period of separation because of pressure from the children."<sup>19</sup>

“Additional post-separation use of the children as weapons may include the following:

- Having the children transmit messages to the victim;
- Frequently buying the children presents or taking them on expensive outings to buy their affection and loyalty;
- Turning the children against the victim through verbal conditioning and manipulation;
- Having special toys or pets at the batterer's house that the children cannot take home, so they have to go to the batterer's home to enjoy them;
- Making the children feel sorry for the batterer about the separation, such as telling the children that he cries when they are not there, so that they will feel obligated to spend more time with the batterer;
- Destroying the children's relationship with their therapist by scaring them out of talking to the therapist, by threatening the therapist or through manipulation; and/or
- Promising to see the children and then canceling at the last minute, in an effort to control their schedule and free time."<sup>20</sup>

“Abused women have reported ways in which their abusive ex-partners try to hurt or control them through the children including the following:

- Pumping them for information about the victim's life;
- Returning the children from visits dirty, unfed, or sleep-deprived;
- Discussing with them the possibility of coming to live with the batterer;
- Continuing to drive wedges between the children and the victim;

---

<sup>18</sup> Id.

<sup>19</sup> Id. at p. 76.

<sup>20</sup> Lundy Bancroft, *When Dad Hurts Mom*, pp. 213-214.

- Undermining the victim’s authority by making the batterer’s house a place where there are no rules or limits, permitting the children to eat whatever food they want, watch movies that are inappropriate for their age, and ignore their homework, so that they avoid normal discipline when they return to the victim’s home;
- Threatening to take the children away from the victim through a custody battle;
- Seeking custody or increased parenting time through the courts; and
- Insisting on taking the children for parenting time only to leave them most of the time in someone else’s care, usually with the batterer’s mother or new partner.”<sup>21</sup>

### **CUSTODY:**

Abusive men are often at an advantage in the legal system because of their charismatic behavior, economic advantage, and their ability to manipulate. Often the legal system is unaware of the signs of domestic abuse and send the children for parenting time with the abusive parent. “Many abusers see the legal system as another opportunity for manipulation.”<sup>22</sup>

“Batterers win custody of their children with greater frequency than is generally realized.”<sup>23</sup> “Custody studies have demonstrated that since the 1970s, fathers have been at a market advantage in custody disputes (Gender Bias Study Committee, 1990; Weitzman, 1985).”<sup>24</sup> Unfortunately, although domestic violence is often a part of the best interest factors, there is a general reluctance among family courts, arguably because they do not fully understand domestic abuse, to consider battering as a reflection on parenting skills or a factor in determining custody (Walker, 1989) (Eriksson & Hester, 2001).<sup>25</sup>

“It is common for battered women to suffer from depression, substance abuse, hypervigilance, emotional instability, sleep disturbances and other psychological problems (Dutton, 1992; Douglas, 1987).”<sup>26</sup> The victims of domestic abuse often have difficulty

---

<sup>21</sup> Lundy Bancroft, *Why Does He Do That?*, p. 258-259.

<sup>22</sup> *Id.* at p.313.

<sup>23</sup> Lundy Bancroft & Jay G. Silverman, *Batterer as Parent*, p. 115.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

controlling their children's behavior subsequent to the separation.<sup>27</sup> "Custody evaluators in the litigation process may observe that the victim has trouble controlling the children and may conclude that the victim lacks parenting skills. At the same time, batterers often can perform well under observation, and children may appear relaxed and comfortable with the batterer in the presence of the evaluator. Children often behave better while in the batterer's care, partly because of conscious or subconscious fear (Pickering, et al, 1993; Johnson & Campbell, 1993b)."<sup>28</sup> "Children may also side with the batterer because they perceive the batterer as the powerful parent (Jaffey & Geffner, 1998; Liss & Stahly, 1993; Walker & Edwall, 1987) or may request to live with the batterer as the result of traumatic bonding (Doyne, et al., 1999)."<sup>29</sup>

"Victims of domestic abuse often state that the fear of losing custody of their children is the major factor in their decision to postpone leaving the batterer; this is particularly true for those women who do not have any proof of the history of violence (such as arrest records) or whose batterers have the economic resources to pursue litigation."<sup>30</sup> A battered parent faces multiple disadvantages in custody litigation.<sup>31</sup> One of the disadvantages is the poor quality of custody evaluators. "It has been determined that custody evaluators often do not grasp the basic dynamics of domestic violence (Lawton & McAlister Groves, 2000; Dalton, 1999), fail to ask about domestic violence or its affects on the children (McMahon & Pence, 1995), do not keep abreast of professional literature regarding abuse (Caplan & Wilson, 1990), or do not consider domestic violence a major factor in custody determinations (Ackerman & Ackerman, citing in Doyne, et al., 1990)."<sup>32</sup> "Many professionals continue to believe that battering behavior is produced by phases of elevated conflict in relationships and that the problem will be resolved as situational stresses dissipate (Jaffey & Geffner, 1998)."<sup>33</sup> "Given that custody evaluators are more often mental health providers by profession, research has indicated that a high rate (91%) of therapists fail to identify the seriousness of domestic violence when it is presented to them in a scenario, that 48% do not consider it important to address the violence of which they are aware (Harway & Hansen, 1993) and that therapists frequently fail to recognize domestic violence in

---

<sup>27</sup> Id. at p. 116.

<sup>28</sup> Id. at p. 116.

<sup>29</sup> Id.

<sup>30</sup> Id.

<sup>31</sup> Id.

<sup>32</sup> Id. at p. 119.

<sup>33</sup> Id.

evaluating and diagnosing battered victims (Gondolf, 1998b).”<sup>34</sup> “Evaluators can be heavily influence by their personal experiences of the alleged batterer and can allow themselves to be manipulated by the batterer (Dalton, 1990; Walker & Edwall, 1987), and can allow their concern for the hurt feelings that the batterer expresses to override concern regarding the available evidence of his abusiveness.”<sup>35</sup> “Evaluators regularly fail to investigate allegations of abuse, dismissing them on the basis of their impressions of the parties or of psychological test results. A large percentage of custody evaluators fail to seek third party sources of information or even to review the relevant court records (Kaplan & Wilson, 1990).”<sup>36</sup> “Evaluators sometime assume that most abuse allegations are exaggerated or fabricated, despite the lack of evidence to support the allegations (Jaffe & Geffner, 1998).”<sup>37</sup>

“Batterers can use calm speaking style, sensitive language and dramatic expression of love for their children to persuade custody evaluators and court personnel that they are unlikely to cause physical or psychological damage. They may persuasively characterize the adult relationship as having been mutually destructive and may account for the victim’s allegations of abuse through such tactics as claiming that the victim was upset because the abuser had an affair or because the victim was abused as a child. The batterer sometimes will admit to less serious acts of violence such as shoving the victim or throwing objects, thereby increasing credibility and creating the impression that the victim is vindictive. Batterers will often claim “I want to put our relationship behind us and just cooperate as well as we can to raise these children, but she still isn’t willing to let go of the past.”<sup>38</sup> “Batterers further tend to be skilled at characterizing their former partners as dishonest, cruel, substance abusing, immature, or mentally ill (See also Ayoub, et al., 1991) or as having problems with the opposite gender in general (Walker & Edwall, 1997).”<sup>39</sup>

“Many batterers often become quickly involved in new relationships after the relationship with the victim ends, and initially, they often treat the new partner relatively well (See also Pence & Paymar, 1993). Often times, the new partner becomes an ally to the batterer in conflicts with the former victim. In custody evaluations, the batterer’s new partner may state adamantly that

---

<sup>34</sup> Id.

<sup>35</sup> Id.

<sup>36</sup> Id.

<sup>37</sup> Id. at p. 120.

<sup>38</sup> Id. at p. 123.

<sup>39</sup> Id. at p. 123.

her partner cannot possibly be abusive and that the former partner is fabricating the allegations.”<sup>40</sup> In a custody situation, the batterer may be able to influence court personnel and custody evaluators by drawing attention to the victim’s anger or mistrust (Walker & Edwall, 1987), which is common in women who have suffered abuse (Dutton, 1992; Rosewater, 1987), but which may not fit with the expectation among some professionals that a battered woman would present only as victimized or helpless.”<sup>41</sup> “A batterer is sometimes able to create confusion or uncertainty by accusing the victim of the same violent or verbally abusive behaviors of which the batterer expects to be accused. The batterer may state that his former partner was violent toward the batterer and the children, including allegations of controlling, unfaithful or unwilling behavior to accept the end of their relationship.”<sup>42</sup> “Batterers are sometimes able to take advantage of the belief among professionals and the court system that parents should communicate with each other despite any history of abuse (E.G., Johnston & Roseby, 1997). The operating assumption is that the more two parents speak to each other, the better things will be for the children. However, research has found that the reality in domestic violence cases can be the opposite, as the batterer may use communication to intimidate or verbally abuse the batterer’s former partner or in some cases, to pressure the former partner for a reunion. In many cases, a battered woman who declines all contact with the abuser may be doing what is best for the victim’s own recovery and for the recovery of the children.”<sup>43</sup>

“Batterers often cause stress for their former partners through the use of court actions. Repeated motions for increased parenting time, decreased child support, or other demands can cause emotional distress and financial hardships to the victim including the potential for the victim to have a loss of job because of repeated absences from work for court dates. Batterers who have very little parenting time with the children or who are inconsistent about paying child support may nonetheless file motions to have the children with them on key holidays or on the children’s birthdays, which the threat of being apart from the children, these important life events can cause emotional distress to the victim.”<sup>44</sup> “Another tactic for discrediting the victim’s concerns in custody evaluations, batterers can create skepticism by stating that the victim’s allegations of domestic abuse or child abuse did not arise until the couple separated. However, it

---

<sup>40</sup> Id.

<sup>41</sup> Id.

<sup>42</sup> Id. at p. 124.

<sup>43</sup> Id.

<sup>44</sup> Id. at p. 125.

is widely recognized that battered victims sometime tell no one about the abuse prior to separation because of shame, fear and many other factors (Dalton, 1990).”<sup>45</sup>

#### **PARENTING TIME:**

“It is not uncommon for a batterer to succeed in persuading the children that the batterer is the victim in the adult relationship or that the abused parent’s behavior caused the abusive incidents (see also Roy, 1988).”<sup>46</sup> “A batterer who was previously neglectful and/or not interested in the children may abruptly make the children a high priority as a result of the batterer’s desire for custody. Such a change in behavior of attention toward the children, can cause substantial emotional effect on the children. As a result, children may often request to be in the batterer’s custody or to be with the batterer for parenting time.”<sup>47</sup> “For these reasons, children’s statements to professionals sometimes may obscure the family history or their own present feelings and wishes.”

#### **PSYCHOLOGICAL TESTING:**

“Because of the absence of serious psychopathology in most batterers and because of the potent traumatic effects of domestic violence on victims, batterers often outperform their victims in psychological testing. Battered women have higher rates than do non-battered women of symptoms associated with a large range of personality disorders and mental illnesses (review in Stark & Flitcraft, 1988), which can lead to incorrect diagnoses by evaluators not familiar with domestic violence trauma (Herman, 1992; Rosewater, 1987). The MMPI-2, for example, includes many questions that, if answered accurately by a battered parent, will contribute to elevated scale scores, such as whether the parent believes that someone is following the victim, whether the victim has trouble sleeping at night, whether the victim worries frequently, or whether the victim believes another individual is responsible for most of the troubles (Pope, Butcher, & Seelen, 2000). In an earlier study of the MMPI, battered victims tended to have quite elevated scores for anger, alienation, and confusion, somewhat elevated scores for paranoia and fearfulness, and low scores for intactness and ego strength, regardless of race (Rosewater, 1987). Such test results are sometimes used successfully by a batterer to discredit the victim’s reports of abuse, even when independent evidence of the behavior exists.”<sup>48</sup>

---

<sup>45</sup> Id. at p. 127.

<sup>46</sup> Id. at p. 116.

<sup>47</sup> Id. at p. 117.

<sup>48</sup> Id. at p. 118.

### **CHILD SUPPORT:**

“Batterers are less likely than non-batterers to pay child support fully and consistently (Liss & Stahly, 1993). They often stop paying altogether, especially if they do not intend to seek custody (Jacobson & Gottman, 1998). The victim may be afraid to press for child support out of fear that the batterer will retaliate with actions for custody or increased parenting time if the victim seeks child support.”<sup>49</sup> “The setting of child support levels needs to include more gathering of evidence by court personnel regarding the parents’ income and other resources, because of the high level of dishonesty shown by some batterers during child support hearings and on related documents.”<sup>50</sup> “Financial issues can be critical to the battered victim’s safety and ability to avoid reinvolvement with the batterer.”<sup>51</sup>

### **PARENTAL ALIENATION:**

Victims of abuse often have difficulty with the court system understanding the abuse. One of the main reasons is because batterers can often succeed in persuading courts that the children’s battered parent is responsible for parental alienation. Courts and custody evaluators sometimes appear to apply different standards of proof for allegations regarding inappropriate parenting by fathers and those regarding mothers. Research has documented, for example, that allegations of domestic abuse tend to require a high measure of supporting evidence, whereas allegations that a parent is attempting to alienate the children from their father are sometimes accepted with little or no factual basis. “The concept of parental alienation as is currently used was first proposed by psychiatrist Richard Gardner (1987).”<sup>52</sup> “Some batterers claim that children’s resistance to visitation is the product of the victim’s anxiety, which may reverse cause and effect. Victims often do have appropriate anxieties about sending their children on visits with the batterer, especially in cases in which the children have made worrisome reports to the victim about past visits or exhibiting signs of distress.”<sup>53</sup> “Victims are sometimes accused of parental alienation for reporting domestic violence, physical abuse, or sexual abuse of their children to the court, and they may lose custody in these cases (Jaffe & Geffner, 1998). No scientific basis exists for the application of parental alienation theories to such cases (APA Presidential Task Force, 1996). In criticism of the inappropriate use of the parental alienation

---

<sup>49</sup> Id. at p. 113.

<sup>50</sup> Id. at p. 203.

<sup>51</sup> Id.

<sup>52</sup> Id. at p. 135.

<sup>53</sup> Id. at p. 127.

concept, Jaffe & Geffner (1998) wrote, “[i]n our professional experience in over 20 years of completing custody and visitation assessments, the non-identification of domestic violence in divorce cases is the source of the real problem that occurs.” (p. 381).”<sup>54</sup>

### **PARENTING COORDINATION/MEDIATION:**

“Mediation in domestic violence cases generally does not serve the interests of battered victims and their children (ABA Center on Children, 1994; Hart, 1990b). Although there are some indications that mediation can be used productively if the battered parent is participating voluntarily and if strict guidelines are followed (Maxwell, 1999; Magana & Taylor, 1993). Mediators may have little training in domestic violence and may make serious errors as a result (Maxwell, 1999). Batterers can manipulate the mediation process by beginning with an extreme set of demands and then offering compromises from those positions; this strategy can have the effect of causing the victim to appear inflexible, as she expresses reluctance to “meet him in the middle.” Battered mothers report that they sometimes make agreements in such circumstances that they believe are unfair or potentially harmful to their children, out of fear of the batterer or out of concern that the mediator will report to the judge that the batterer is being more willing to negotiate than the victim (see also Liss & Stahly, 1993). Compromises that a battered victim makes in such circumstances may be used against the victim later, as in one reported case in which the custody evaluator reportedly said to the victim, “If he’s so dangerous, why did you give him unsupervised visitation before?” At the same time, a battered victim who does insist early in the legal process on supervised or restricted visitation may be accused of having been invested from the start in cutting the batterer off from the children.”<sup>55</sup>

“Mediation sessions can be opportunities for a batterer to intimidate the victim with hostile facial expressions, muttered threats, and degrading accusations. Lawyers representing batterers sometimes act as arms of this intimidation, laughing derisively at statements made by the battered victim, ridiculing the victim, or threatening with future legal actions. Batterers may re-create prior power dynamics by dominating the discussion in the sessions.”<sup>56</sup>

### **ASSESSMENT & TREATMENT:**

---

<sup>54</sup> Id.

<sup>55</sup> Id. at p. 125.

<sup>56</sup> Id. at pp. 124-125.

“A domestic abuse assessment is a behavioral assessment requiring collateral information rather than a psychological evaluation relying on psychological test.”<sup>57</sup> Once the assessment has been conducted and a positive finding of abusive behaviors is determined, best practices indicate that the batterer undergo group session therapy dedicated exclusively to batterers’ behavior. A 26-week program is an acceptable minimum, for best practices. “Subsequent to treatment plans, batterers often state the following: “this program has opened my eyes and I would never do what I did again.” “Claims of change made by batterers often have little underlying substance and professionals need to assess whether or not a batterer has made meaningful progress.”<sup>58</sup> “Change can not be correctly judged to have taken place just because of a recent period without incident.”<sup>59</sup> “Assessment of change may be complicated by the awareness among many batterers of the type of language most likely to impress mental health professionals.”<sup>60</sup> Mental health professionals and the courts should not require batterers to attend anger management programs, as these programs are not appropriate for individuals who batter.<sup>61</sup> “The preponderance of batterers who claimed to have changed return, and those who have involved their children in the abuse tend to do so again, so evaluators need to exercise caution in concluding that a batterer has overcome abusiveness and is ready to parent responsibly.”<sup>62</sup> “The assessment of a batterer’s progress needs to start with an examination of the batterer’s current behavior toward his partner or former partner and toward the children. Has the batterer in fact given up the use of insults and name calling, stop becoming irate when he is inconvenienced or is asked to meet the batterer’s responsibilities, and begun to show empathy for the victim’s needs and feelings? Is the batterer developing the ability to focus on the children, to put their needs ahead of the batterer’s own and to show understanding for their feelings? Most important, is the batterer consistent in showing respectful and responsible behavior? (Brief, erratic areas of improvement are common in batterers and do not reflect change.)”<sup>63</sup>

“It is suggested that to create a context for change, the following must occur:

---

<sup>57</sup> Randy Flood, 2005 ICLE Family Law Institute.

<sup>58</sup> Lundy Bancroft & Jay G. Silverman, *The Batterer as Parent*, p. 178.

<sup>59</sup> *Id.*

<sup>60</sup> *Id.* at p. 179.

<sup>61</sup> *Id.* at p. 183.

<sup>62</sup> *Id.* at p. 184.

<sup>63</sup> *Id.*

- Express in the clearest terms possible, the behaviors that are expected of the batterer, the behaviors that are not acceptable, and the consequences in behaving in unacceptable ways (See also Jacobson & Gottman, 1998);
- Impose consequences each time the inappropriate behavior takes place;
- Monitor the batterer's behavior as closely as possible, so that the batterer understands that the batterer will be held accountable for the batterer's actions (Jacobson & Gottman, 1998);
- Avoid relying on the batterer's own reporting of the batterer's conduct regardless of how earnest the batterer may sound; and
- Offer a mixture of education and confrontation."<sup>64</sup>

Connie R. Thacker [vCard](#)  
[crthacker@rhoadesmckee.com](mailto:crthacker@rhoadesmckee.com)

**Rhoades McKee** PC

*attorneys & counselors*

161 Ottawa NW, Suite 600, Grand Rapids, MI 49503

p (616) 233-5168 f (616) 459-5102



Please consider the environment before printing this email!

---

<sup>64</sup> Id. at p. 186.