

Advisory Council on Domestic Violence

Report *Children and Domestic Violence*

February 1998



Advisory Council on Domestic Violence

c/o The Division on Women
101 South Broad Street, PO Box 801
Trenton, New Jersey 08625

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Dear Reader:

The Advisory Council on Domestic Violence is charged with reviewing the broad issues of domestic violence. These include the justice system response to victims of domestic violence, financial and economic dependence and its interconnectedness with domestic violence, resources available to victims, domestic violence in lesbian and gay relationships, elder abuse, care for victims from the medical community, and multicultural considerations of battered women, as well as other issues that impact women trying to live violence free lives.

The Advisory Council has chosen to release this first report on Children and Domestic Violence to support women who face a difficult and dangerous time. Very often women leave violent homes because they are afraid for their children. They understand, in a visceral way, the effect that violence has on children. Concern for the safety of their children is always first in the minds of women victims of domestic violence. We should keep the safety of both, women and children, first in our minds too.

The attached report is of vital importance to New Jersey in its efforts to protect victims of domestic violence. Probably for the first time, you will read about victims who are rarely seen and whose voices are never heard. I refer to children who witness violence in their homes and may travel along with their mothers to the domestic violence and homeless shelters in this state. You will read about the tragic effects of violence in the home, and you will understand how these effects may have lifelong consequences for our children and our community. Children grow up to become tomorrow's adults and without our increased efforts and attention, they may grow up to live in that vast pool of people that survive violence only to become the next group of statistics under the categories of victim and perpetrator.

It is my hope that this report will serve to encourage us all to rededicate ourselves to ending domestic violence. I ask you to make a new commitment to work in partnership for positive change.

Jacquelyn E. Marich
Chairperson

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Joanne DiNapoli

New Jersey Crime Prevention Officers Association

Ted Kammer

Survivor

Courtney Esposito

The Advisory Council on Domestic Violence wishes to thank the following people who contributed to the writing of this document:

**Karen Beckmeyer
Diana Bodeen
Chrys Hartrraft
Donna Hildreth
Nancy Kessler
Marcia Seal**

Copies of this document can be obtained by contacting:

**Department of Community Affairs
Division on Women
PO Box 801
101 South Broad Street
Trenton, New Jersey 08625-0801**

**Phone: 609-292-8840
Fax: 609-633-6821**

**a copy of the report is located on the internet world wide web at
<http://www.state.nj.us/dca/womlinks.htm>**



This report
Children and Domestic Violence
is dedicated to the memory and work of

Beverly Crawford
Program Development Specialist

at the
New Jersey Division on Women

Children and Domestic Violence

Problem Statement

Exposure to domestic violence has a profound effect on children. For the purpose of this document, the Advisory Council on Domestic Violence has chosen to focus on three particular areas of concern: witnessing domestic violence; the inadvertent injury to children during a domestic violence incident, and direct physical and/or sexual abuse of children that occurs within the context of domestic violence.

Recent estimates indicate that up to 10 million children in the United States¹ are at risk of being exposed to domestic violence each year. These children are also at increased risk of suffering direct physical abuse themselves²:

- Over half of all men who beat their female intimate partners deliberately beat their children;
- ...many abusers inadvertently hurt their children as a result of their reckless violence directed at their partners, without regard for the children's safety. The youngest children sustain the most serious injuries, such as concussions and broken bones. But adolescent and teen sons, who almost always intervene to try to protect their mothers, are also frequently hurt³; and
- In a study of 1,200 White, Latina and African American pregnant women, one in six reported physical abuse during pregnancy⁴.

There is also a high correlation between domestic violence and the physical and sexual abuse of children by the batterer:

- ...thirteen out of twenty incestuous fathers were also physically violent to their wives and to other family members⁵;
- Daughters of abused women are six times more likely to be sexually abused as girls from non-abusive families⁶.

Finally, children who witness domestic violence can be deeply wounded emotionally, and often exhibit symptoms of post traumatic stress. They are thought to suffer from an array of behavioral, emotional, and cognitive problems, including greater anxiety, aggression, depression, lack of empathy, and lower verbal, cognitive and motor abilities⁷:

- The distinction between being a witness and being directly involved in the assault is often not a psychologically salient one. To be a witness

seen as equally or more culpable than the perpetrator if she did not prevent the abuse:

- Statistics show that male battering is the typical context for child abuse, and that men are primarily responsible for child abuse, not women¹⁷. In a nationally representative survey, 50 percent of the men who battered their wives also abused a child more than twice a year, a rate about seven times that for nonviolent husbands¹⁸. Nevertheless, relevant information concerning male battering is often absent from health and child protective agency files and reports, which focus instead on a mother's inability to prevent injuries that her child[ren] "present[s]"¹⁹;
- As violence against women becomes more severe and more frequent in the home, children experience a 300 percent increase in physical violence by the male batterer²⁰.

The social construction of child maltreatment, especially regarding the designation of a perpetrator in official reports, leaves mothers and other female care givers vulnerable to being identified as abusers even if they are not directly responsible²¹:

- Mothers are nearly always cited as offenders in cases of child neglect, not because they directly caused the harm, but because cultural and societal views hold mothers responsible for the welfare of their children²²

This societal expectation is further embodied in the "failure to protect" doctrine. Pursuant to this doctrine, legal responsibility to protect or prevent harm to a child may be assigned to the non-abusive parent. This parent may then suffer significant negative legal consequences, including the loss of custody and criminal prosecution²³:

- Failure to protect assumes that a non-abusive parent has a realistic capacity to offer such protection;
- When a non-abusive parent is also a victim of domestic violence, she often does not have (nor can she take advantage of) the resources or the full support of the system to move forward safely.

The second issue, inadvertent injury, is related to witnessing domestic violence, and further demonstrates how difficult it can be to successfully protect children from an abuser. A number of theories or doctrines (such as the "parental alienation" syndrome and the "uncooperative parent" doctrine) have been used to cast suspicion on, or even invalidate the claims of, a mother who does report suspected child abuse. As a result, in a custody or visitation situation, a

The existing tension between the protective focus of the Prevention of Domestic Violence Act [PDVA]²⁸ and the absence of a similar focus in dissolution [divorce] and non-dissolution laws concerning custody, visitation and support provides the batterer with the opportunity for this manipulation:

- Batterers who do not pay child support may still insist on visitation rights with their children as a dual means of maintaining control over their former partners: the lack of support continues the economic control which many batterers have over their partners, and the visitation can create the means of control over the partner through the children as described above. Because of the tension between the children's perceived interest in having a relationship with both parents and the children's need for support, courts are faced with a dilemma. The interest in maintaining the children's relationship with the non-custodial parent often wins out, and courts rarely restrict visitation because of nonpayment of support²⁹;
- Victims are often brought to court for not complying with visitation orders. If inadequate protections are ordered for visitation, the victim is often put in the untenable position of either violating a court order by not allowing visitation, or complying with the order and putting the children and herself in danger³⁰.

Finally, the impact of domestic violence upon children goes well beyond the immediate incidences of violence, economic coercion, and the custody and visitation issues already discussed. In order to seek safety and protection for herself and her children, the battered woman may need to move or relocate frequently. The victim and children make these moves in an endless quest to escape the violence³¹, and often find themselves homeless because of a lack of available, affordable housing. In fact, half of all homeless women and children in America are fleeing domestic violence³².

Courts and child protective service agencies may interpret multiple moves as a sign of instability and/or deficiencies in parenting. Moves may also result in educational delays for the children. Moves necessitated by safety concerns can also undermine the victim's ability to develop support networks in the community, build social relationships and access needed services.

Status in New Jersey

Children were involved or present during 43 percent of all domestic violence offenses reported in 1996. Specifically, 7 percent (5,545) were involved and 36 percent (31,003) were present, according to the New Jersey Division of State Police Uniform Crime Reporting Unit. This represents a total of 36,548 situations in which children were known to have been exposed to domestic violence.

New Jersey gets underway, however, it will be important to monitor the initial implementation of the program to ensure consistency and measure the effectiveness of the new provisions and impact statewide.

- include validated tools and methodologies that focus on the threat or occurrence of domestic violence, and the ongoing coercion and manipulation that occurs even after the issuance of a restraining order. To this end, the efforts of the State Domestic Violence Working Group's Evaluation Subcommittee should be supported;
- b. law enforcement and child protection workers investigating child abuse cases where domestic violence is a factor. This protocol and investigative procedure will help professionals to identify domestic violence as well as child abuse, and the presence of multiple victims, so that the investigation, prosecution and subsequent remediations can be focused accordingly; and
 - c. **a formal coordination of community resources** in order to provide those domestic violence victims who are protective parents with resources to properly protect their children from harm.

3. Legislative, Administrative and Rule Revisions Should be Considered that would:

- a. clarify the newly-adopted New Jersey Child Support Guidelines so that domestic violence victims and their families are exempt from shared parenting/visitation adjustment provisions that could reduce their support and might place them at greater risk of harm;
- b. clarify statutes concerning custody, visitation, and wrongful interference therewith to include domestic violence as an aggravating factor that would receive presumptive weight by the courts and other individuals and agencies involved in the decision making process; and
- c. clarify the implementation of *Work First New Jersey* so that domestic violence victims and their families receive all necessary exemptions, as well as the maximum relief and benefits that their individual safety and other needs require.

Training

4. Expanded Training Must be Provided for:

- a. law enforcement [police and prosecutors] and the Judiciary [Judges and court staff] that is mandatory and emphasizes not only the dynamics of abuse and other elements already specified in the PDVA, but also the critical importance of batterer accountability. Such training must also address appropriate sanctions for the immediate and longer-term consequences of their actions on their adult victims, and on their children and other family members;
- b. all Division of Youth and Family Services workers on domestic violence and its interface with child abuse;

²⁴ Saunders, *supra*. @ p. 55.

²⁵ 7 U.S. Code Congressional & Administrative News 1801, 1853 (1944); Legislative History of Violence Crime Control Act, House Conf. Rep. No. 103-322, p. 1843.

²⁶ Zorza, *supra*.

²⁷ *Id.*

²⁸ The Prevention of Domestic Violence Act, originally enacted as N.J.S.A. 2C:25-17 *et seq.*, repealed and re-enacted in 1991 as N.J.S.A. 2C:25-17 *et seq.*, revised 1994.

²⁹ Florida Bar Journal, *supra*.

³⁰ Zorza, *supra*.

³¹ Wolfe, David A., Jaffe, Peter, Wilson, Susan Kaye, Zak, Lydia. (1988). *A Multivariate Investigation of Children's Adjustment to Family Violence*, p. 229; *Family Abuse and Its Consequences, New Directions in Research*. Gerald T. Hotaling, David Finkehor, John T. Kirpatrick, Murray A. Straus (Eds.).

³² Schneider, E. (June, 1990). *Legal Reform Efforts For Battered Women: Past, Present and Future*, 7 (prepared by the Ford Foundation).

³³ It should be noted that while these women and children were not admitted to the local domestic violence core services shelter at the time of their initial request, every attempt was made to secure emergency safe refuge in other emergency shelter settings such as hotels, motels, safe houses and domestic violence shelters in other counties.

³⁴ New Jersey Department of Human Services, Division of Youth and Family Services; *Domestic Violence: Protection, Support, Prevention a Plan for Policy and Program Development* (1985).

³⁵ The Board, which is multi-disciplinary in nature, reviews all deaths involving children presently or formerly (within the last 12 months) under Division of Youth and Family Services (DYFS) supervision that were alleged to have been caused by child abuse or neglect. The primary purpose of the Board is to provide an objective review of individual case circumstances and to develop recommendations for broad based system, policy and legislative revisions. The Board examines ways to achieve better coordination of effort on child welfare and child protective services cases to promote prevention and improved case response to serious incidents of deaths of vulnerable children.

³⁶ Holder v. Polanski, 111 N.J. 344 (1988).

³⁷ Wellstone/Murray amendments to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [PRWORA]; N.J.S.A. 4410-59 *et seq.*