

Safety First: A Model for Understanding Domestic Violence in Child Custody and Access Disputes

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ABSTRACT. A substantial percentage of contested child custody cases involve allegations of domestic violence. The impact on the psychological health and physical safety of the child exposed to domestic violence

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has only recently become a focus of the courts' and child custody evaluators' attention. Currently, the majority of state statutes include consideration of domestic violence in "best interests" child custody criteria. However, many of the statutes do not provide the child custody evaluator the specific criteria to consider, especially if the domestic violence allegations have not been previously reported to authorities prior to the commencement of separation and divorce proceedings. This article presents the first three steps of the six-step Safety First Model, designed to assist the legal and psychological professions to focus on the priorities on the safety of children exposed to domestic violence. *[Article copies available for a fee from The Haworth Document Delivery Service: 1-800-HAWORTH. E-mail address: <docdelivery@haworthpress.com> Website: <http://www.HaworthPress.com> © 2004 by The Haworth Press, Inc. All rights reserved.]*

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In the largest study to date, the National Institute of Justice and Centers for Disease Control and Prevention surveyed 16,000 adults and found that 22% of women and 7% of men experienced physical assault by a current or former intimate partner (Tjaden & Thoennes, 2000). These national data are thought to be an underestimate of the actual prevalence of domestic violence. Other survey studies in the United States (Straus & Gelles, 1986), Canada (Kwong, Bartholomew, & Dutton, 1999), and New Zealand (Magdol, Moffitt, Caspi, Newman, Fagan, & Silva, 1997) show a similarity in frequency of violence initiated by males and females. As noted by Jaffe, Lemon, and Poisson (2003), prevalence statistics showing similarities in quantity may mislead professionals to interpret male and female violence as also equivalent in quality. Conversely, male compared to female initiated violence is significantly more severe (e.g., threats with a gun or a knife, choking, sexual assault) and potentially lethal; females are more likely to need medical attention (Morse, 1995) and to be seriously injured or killed by their batterer (Rennison & Welchans, 2000; Stets & Straus, 1990).

A number of researchers have proposed typologies for batterers in order to provide different levels of treatment interventions and/or to predict dangerousness (e.g., Holtzworth-Munroe, Meehan, Herron, Rehman, & Stuart, 2000; Holtzworth-Munroe & Stuart, 1994; Johnson, 1995; Johnston & Campbell, 1993).¹ None of these typologies have been empirically validated and cannot be used by custody evaluators to predict risk to a child's safety. Furthermore, the typologies for batterers have only addressed males, and, currently, it is unknown whether the typologies are generalizable to female batterers. Lenore Walker (personal communication, August 16, 2003) argues, "These typolo-

gies and categories are flawed and bear no resemblance to the real world of what happens to children exposed to domestic violence.” She emphasizes that reports of violence in the family may only be the “tip of the iceberg,” and the use of non-validated typologies or categories by custody evaluators may misidentify many batterers and minimize their danger to intimate partners or children. As noted by Jaffe, Lemon, and Poisson (2003), there is further concern that the categorization scheme will be misused by male batterers of domestic violence to minimize their abusive behavior and to proclaim that the alleged abuse was uncharacteristic.

According to Robert Geffner (personal communication, December 15, 2003), the use of labels dichotomizes batterers and gives the impression that batterers fit into neat subgroups and categories, which is too simplistic and not supported by empirical findings. He further observes that when describing the relevant issues, levels of severity, risk of violence, and level of dangerousness, it is safer and more accurate to use risk factors that have been empirically established to exist for batterers.

In support of Geffner’s observations, over the past two decades there has been a movement away from a violence prediction model which dichotomizes the future chance for violence as something that is or is not within the individual (i.e., yes, no), and toward a more clinically relevant risk assessment model. In the current predominant view, dangerousness or “risk” as a construct is conceptualized as contextual (highly dependent on situations or circumstances), dynamic (subject to change), and continuous (varying along a continuum of probability) (Borum, Bartel, & Forth, 2002). The authors of the Structured Assessment of Violence Risk in Youth (SAVRY) note, “. . . the task of the evaluator used to be to determine whether or not an individual was or was not a ‘dangerous person,’ whereas now the task is to determine the nature and degree of risk a given individual may pose for certain kinds of behaviors, in light of anticipated conditions and contexts” (p. 2).

As the goal of risk assessment changed, so did the assessment approach, which moved to the use of structured professional judgment or guided clinical assessment. In this approach, the evaluator conducts a systematic risk assessment by referring to a checklist of factors, each of which may have some form of coding system (Borum, 2003). Currently, there does not exist a validated risk assessment instrument for assessing domestic violence batterers. Austin (2001),² however, has proposed a multidimensional risk categorization system for custody evaluators conducting child custody evaluations with allegations of domestic violence. While Austin’s risk factors are based on a review of the empirical literature, his conceptualized risk system is not a risk assessment instrument and should only be used by the custody evaluator to structure questions and direct data collection from primary and collateral sources. Austin’s categories address the recommendations by domestic violence experts (Saunders, 1995) who emphasize the need to assess the potential lethality of a relationship when domestic violence occurs, including factors such as the pres-

ence of a weapon, fantasies of homicide and suicide, stalking behaviors, and prior police involvement. Austin's conceptualized risk system is not a validated risk assessment instrument. Evaluators may best use it to structure questions and to direct data collection from primary and collateral sources. However, the custody evaluator must also be familiar with other ways to assess the potential lethality of a relationship when domestic violence occurs as recommended by domestic violence experts such as Jaffe and Geffner (1998), Jacobson and Gottman (1998), Sonkin and Dutton (2003), O'Leary and Maiuro (2002), and Saunders (1995).

In addition to the problem of accurately identifying risk to an intimate partner and children when allegations of domestic violence are present in litigated child custody cases, some cases may also present with allegations of Parental Alienation Syndrome (PAS), Psychological Munchausen By Proxy (PMBP), or false claims of domestic violence in order to manipulate the system to a desired outcome. In such cases, it can be difficult to distinguish true from false accusations when historical documentation is absent and/or the evaluator is untrained in conducting complex custody evaluations. Although sound research has not confirmed empirically based criteria for the identification of PAS or PMBP (Wood, 1994; Ziogiannis, 2001), some courts accept testimony on this pseudo-syndrome and pseudo-disorder and treat such testimony as scientifically based (Pagelow, 1993; Walker, Brantley, & Rigsbee, 2004). Further, the American Psychological Association (APA) Presidential Task Force on Violence and the Family recommends that psychologists should not use the terms PAS or PMBP as diagnostic categories because of the lack of empirical support (APA, 1996).

It is unknown what percentage of mental health professionals (MHP) who serve as child custody evaluators³ have sufficient knowledge of: (a) the literature on domestic violence; (b) deliberations and criticisms regarding various risk assessment procedures; or (c) appropriate procedures and instruments to assess psychological functions in children exposed to domestic violence. Although several empirical studies have investigated the structure and quality of child custody evaluations conducted by psychologists (Ackerman & Ackerman, 1996, 1997; Bow & Quinnell, 2001, 2002; LaFortune & Carpenter, 1998), researchers have not examined if the quality and structure of child custody evaluations differ when allegations of domestic violence are present. In a 2001 study of child custody evaluators, Bow and Quinnell found that custody evaluators considered domestic violence as the third most important custody-criteria to consider in making recommendations. Inasmuch as many of the families in custody cases are high conflict families and inasmuch as physical violence is common in marital disputes (Johnston & Roseby, 1997), it is quite surprising that few of the respondents (11%) in this study recommended domestic violence programs to the parents in their custody evaluations. Certainly more needs to be known about the gap between the apparent number of disputed

custody cases with domestic violence allegations and the small number of times that programs specific to domestic violence concerns are recommended.

Furthermore, the Bow and Quinell (2002) research shows that 50% of the custody evaluators studied did not provide a history on the child or address legal best interest criteria, and approximately 20% did not interview the child. Also, the authors in their review of cases with allegations of domestic violence found that many custody evaluators are not addressing the safety risks to children who are co-parented by an untreated batterer. It also appears that many evaluators who have taken the required continuing education courses in domestic violence do not know how to apply their knowledge to an evaluation that includes these issues.

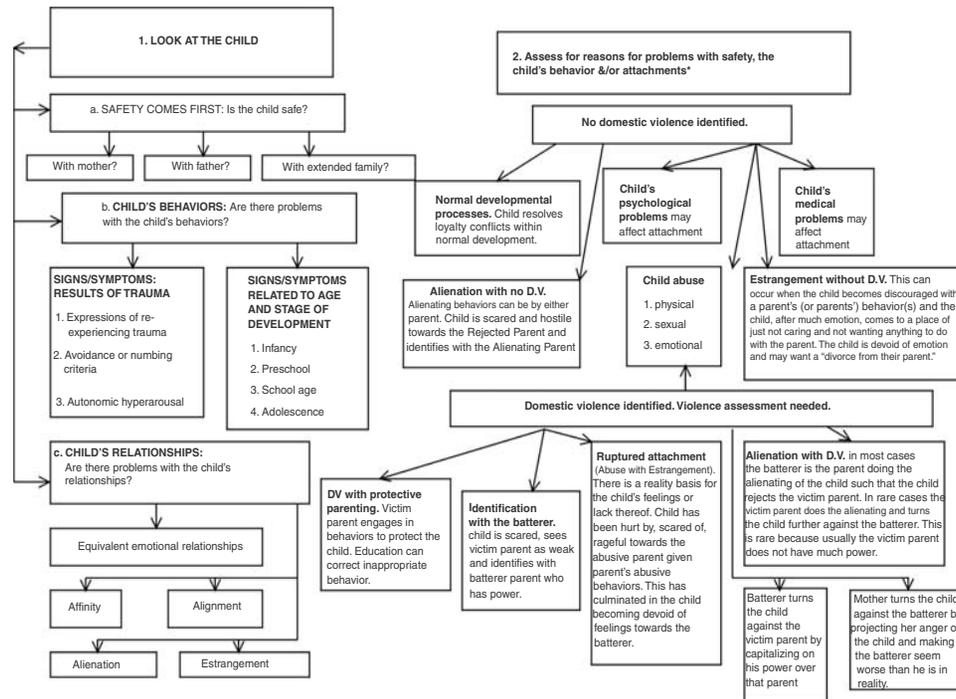
Clearly, research is needed to explore the quality and structure of child custody evaluations with allegations of domestic violence as well as to explore the criteria evaluators utilize when drawing conclusions in these complex cases.

In this article, in order to focus on the physical and psychological safety of the child, the authors present a theoretical model—(The Safety First Model—(see Figure 1) that brings together the literature from several areas including child development, children exposed to domestic violence, and guidelines for conducting forensic custody evaluations. When an evaluator who is without expertise in the assessment of domestic violence allegations is asked to do such in a child custody evaluation, it is imperative that the evaluator refer that portion of the case to a colleague who has expertise in conducting such an assessment.

Safety is the first priority in meeting the “best interests” of the child. In order for children to have an optimally stable environment in which to grow, they require time with fathers and mothers who are free from abuse of power, overcontrolling or fear-inducing behavior, substance abuse, and serious mental illness that compromise parenting ability. Children further need parents who can put their child’s developmental needs ahead of their own without neglecting either the child or themselves. Equal access to children by parents when documented domestic violence is present is inappropriate in many situations. Designing a parenting plan that permits a meaningful relationship with the batterer yet creates safety for the child is the challenge that custody evaluators must address.

The Safety First Model is structured to prioritize the physical and psychological safety of the child once allegations of domestic violence are made in child custody or access disputes. The concepts of attachment and alienation that originated from the developmental psychology literature and which were reformulated by Kelly and Johnston (2001) into a family systems model and further reformulated by Drozd and Olesen (2000) will be discussed.

FIGURE 1. Safety First Model



DEFINITIONS OF DOMESTIC VIOLENCE

One of the difficulties for custody evaluators who attempt to assess the impact of domestic violence on children is the variance in definitions of what constitutes domestic violence. Mental health clinicians, researchers, attorneys, judges, and advocates all utilize different definitions (Kuehne & Walker, 2003). While judges and attorneys use legal definitions of domestic violence which emphasize physical control or harm, mental health professionals use definitions that are more inclusive and address physically and psychologically abusive behaviors. For example, Florida Statute 741.28 defines 'domestic violence' as "any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another who is or was residing in the same single dwelling unit" (cited in Florida Bar, 2002). In contrast, the APA (1996) defines domestic violence as "acts of physical and sexual abuse, and psychological maltreatment; chronic situations in which one person controls or intends to control another person's behavior; and/or misuse of power that may result in injury or harm to the psychological well-being of family members" (p. 3). The politics of domestic violence may determine the particular terms used. For example, domestic discord, high conflict, abuse of power and control, family violence, child abuse, maltreatment, neglect, sexual battery, rape, and sexual abuse all are terms used to describe physically, sexually, and psychologically abusive behaviors that can compromise the safety of the child, whether or not the child is the intended victim (Walker, 1994). In this article, domestic violence will refer to any physical, sexual, and/or psychological abuse that occurs between intimate partners; usually in a coercive pattern designed to get one partner to do what the other partner demands, without regard for the partner's rights or needs. Family violence will refer to all forms of abuse in the family including child abuse, intimate partner abuse, battered women, elder abuse, etc. Regardless of the label used, the impact of exposure to domestic and other forms of family violence can and often do have major consequences on a child's ability to develop and thrive both physically and psychologically.

DOMESTIC VIOLENCE AND THE FAMILY COURTS' GUIDELINES ON ACCESS TO CHILDREN

When resolving parental access disputes, family courts across the country seek to design parents' access to children based upon the "child's best interest" (see Gould, 1998). Similar to the majority of states in the U.S., California includes, among other factors in addressing the child's "best interests," consideration of allegations of domestic violence and any history of abuse by a parent or any other person seeking custody. In fact, 48 states have some lan-

guage that mandates the court to consider domestic violence in child custody disputes (Elrod & Spector, 2003). In many states, domestic violence is considered 'detrimental to the child's best interests' and may influence the award of sole custody or primary residential status.

Rebuttable Presumptions

In some states, such as Florida, evidence that a parent has been convicted of a felony of the third degree or higher for domestic violence creates a rebuttable presumption of detriment to the child.⁴ This means the abuser has the right to prove to the court by a preponderance of evidence that he or she is no longer at risk to commit domestic violence, which is a very difficult burden of proof. If the presumption is not successfully rebutted, shared parental responsibility, including visitation, residence of the child, and decisions made regarding the child, may not be granted to the convicted parent (Florida Bar, 2002).

California has the following rebuttable presumption: "Upon a finding by the court that a party seeking custody of a child has perpetrated domestic violence against the other party seeking custody of the child or against the child or the child's siblings within the previous five years, there is a rebuttable presumption that an award of sole or joint physical or legal custody of a child to a person who has perpetrated domestic violence is detrimental to the best interest of the child, pursuant to Section 3011. This presumption may only be rebutted by a preponderance of the evidence."⁵ California courts may consider the following criteria in determining if awarding sole or joint physical or legal custody of a child to the batterer is in the best interest of the child: Has the batterer (1) successfully completed a batterer's treatment program; (2) successfully completed a program of alcohol or drug abuse counseling, if the court determined that counseling was appropriate; (3) successfully completed a parenting class, if the court determined a parenting class was appropriate; (4) complied with terms and conditions of probation, parole, or a protective order, if the batterer is on probation, parole, or restrained by a protective order; (5) committed any further acts of domestic violence?

Friendly Parent Presumption

Some states have eliminated what is often called the 'friendly parent' presumption, which was based on an erroneous assumption that in all child custody cases the parent who was the most generous in sharing the child with the other parent would have a greater ability to understand and provide for the child's needs. The friendly parent presumption has been particularly problematic in domestic violence cases because a battered spouse might not be generous in sharing custody with an intimidating batterer. Further, many batterers can be adept at manipulation and may appear to be the more supportive and

generous parent (see Bancroft & Silverman, 2002; Jaffe & Geffner, 1998; Jaffe et al., 2003).

Joint Custody/Access

Despite the presence of new laws addressing domestic violence, some family court judges prefer to follow the presumption of joint child custody or access and evenly split the child's time with each parent. Although there are no empirical data to determine whether the popular 'one week with the mother and one week with the father' custody arrangement has positive or negative results for children from nonviolent homes, clinical observations and reports from battered women suggest that it is a poor arrangement for children who have been exposed to repeated domestic violence (L. E. A. Walker, personal communication, August 16, 2003). This equal access arrangement has been noted to provide an opportunity for the batterer to continue to have frequent access to the other parent, which may negatively impact the victim's parenting and expose the children to further violence (Bancroft & Silverman, 2002; Garbarino, Kostelny, & Dubrow, 1991; Holden & Ritchie, 1991; Jaffe et al., 2003). There also are anecdotal data to suggest that in some cases it is beneficial to children from domestic violent families for the victimized parent to create safety by moving to a different geographic area from the batterer (L. E. A. Walker, personal communication, August 16, 2003).

DOMESTIC VIOLENCE: EFFECTS ON CHILDREN

Children exposed to domestic violence have historically received little attention by researchers, resulting in labels for these children such as the "hidden" or "silent" victims. Holden (1998), in an exhaustive review of the literature on children exposed to intimate partner abuse, found that only 56 articles had been published in peer-reviewed journals from 1975 to 1995. Although research on this subject is increasing, Holden cites the methodological limitations for this body of research, which include inconsistent definitions of intimate partner abuse, inadequate assessments of the nature of the violence and family context, too many retrospective studies and correlational research designs in the absence of longitudinal studies, lack of comparison groups, small sample sizes, subjects selected from battered women's shelters who may not be representative of the general population of battered women, and use of instruments and surveys that are not standardized.

Furthermore, when research subjects are drawn from shelter populations, the empirical data on the event of children's exposure to domestic violence is confounded by situational factors, such as poverty, parent unemployment and disability, violence in the community, and other disorganizing conditions. Children exposed to domestic violence who reside in middle to upper socio-

economic class families are primarily invisible to researchers and law enforcement (Gold, 2000; Rossman, Hughes, & Rosenberg, 2000; Walker, 2000). In some upper socioeconomic families, the first disclosure of domestic violence to a professional may be precipitated by custody litigation.

How Children Experience Intimate Partner Violence

Because many children do not see a physical assault perpetrated on a parent but are exposed to the domestic violence in other ways, the phrase “child exposure” rather than “child witness” is a more accurate term to describe children’s experience with domestic violence. Children living in violent families may not only see the violent acts, but they may also experience domestic violence through listening to the physical and psychological assaults against the victimized parent or view the aftermath of violence reflected in their parent’s injuries or damaged home. Children may be forced to watch or taught to participate in the assaults against their victimized parent or used by the batterer as a spy to keep track of the victim’s activities. Furthermore, children may be put in physical jeopardy when the batterer hits or threatens the victimized parent while holding the child or takes the child hostage to force the victim’s return to the home (Edleson, 1999; Straus, 1990, 1992).

Although many parents insist that their children are not exposed to the domestic violence, in fact, the data suggest that most children are aware of the violence in their homes (Jaffe, Wolfe, & Wilson, 1990; Walker, 2000). During a domestic violence incident, children may call 911 more frequently than their mothers call authorities for protection. In cities where data about callers has been gathered, children make over 10% of domestic violence emergency calls to police (Fantuzzo, Boruch, Beriama, & Atkins, 1997).

Exposed Children’s Understanding of Intimate Relationships

Research is fairly robust in showing that exposure to interparental aggression and violence has profound negative psychological consequences for children (Fantuzzo & Mohr, 1999; Hughes & Graham-Bermann, 1998; Kashani & Allan, 1998; Kolbo, Blakely, & Engelman, 1996; Margolin, 1998; Rossman et al., 2000; Schlessinger, Anzalone, Rigsbee, More, & Walker, in press). Many experts consider exposure to domestic violence a form of child maltreatment (Bancroft & Silverman, 2002; Garbarino et al., 1991; Geffner & Jaffe, 1998; Hughes & Marshall, 1995; Levendosky & Graham-Bermann, 2000; Liss & Stahly, 1993; Pagelow, 1993; Somer & Braunstein, 1999; Tomkins, Mohamed, Steinman, & Macolini, 1994; Walker, 2000; Walker & Shapiro, 2003). Whereas the trauma of exposure to domestic violence makes the child in greater need of emotional support, the child’s parents may be less available to give the needed support. The child’s dependency needs may not be met because neither

batterer nor victim can adequately attend to the child's biological and psychological needs (Finkelhor & Dzuiba-Leatherman, 1994).

Children living with domestic violence may learn information about intimate relationships that interfere with their development into pro-social adults. They may experience the following: (a) Home environments are unpredictable and unstable (violence, substance abuse, and separations); (b) Tension is common between children and their parents; (c) Batterers demonstrate the use of power to forcefully get their needs met at the expense of others; (d) Control is typically obtained through physically and/or mentally abusive methods within parent-parent and parent-child relationships; (e) Neither batterers nor victims model productive skills for conflict resolution; (f) Children do not observe a logical link between cause and effect when a parent is battered; (g) Children (particularly boys) may not develop empathy skills; (h) Batterers model a lack of respect for the victim, which may teach negative beliefs about females; and/or (i) Victims may overprotect and not set limits on their children as a way to make up for the batterer's impulsive or controlling behaviors (modified from Bancroft & Silverman, 2002).

Research indicates that behavioral and emotional problems are significantly higher in children of battered mothers in shelter populations (Graham-Berman, Levendosky, Porterfield, & Okun, in press; Hughes, 1997; Rossman, Hughes, & Hanson, 1998) and non-shelter populations (Fantuzzo, DePaola, Lambert, Martino, Anderson, & Sutton, 1991; Graham-Berman & Levendosky, 1998a, 1998b). In one preliminary investigation, the responses of victimized mothers and their children indicated that a high percentage of young children living in violent families used psychologically and physically assaultive behaviors with their mothers (Coulter, Kuehnlé, Morissette-Joly, & Menezes, 2001).

Domestic Violence and Developmental Problems

Growing up in a violent family is associated with increased risk for cognitive, social, and emotional problems, including learning problems and school failure (Davies & Cummings, 1994; Dyson, 1990; Kendall-Tackett, Kitzmann, Gaylord, Holt, & Kenny, 2003), early pregnancy (Children's Defense Fund, 1998), and substance abuse (Henning, Leitenberg, Coffey, Turner, & Bennett, 1996), as well as the development of children's behavior problems, aggression, violence, and delinquency (Graham-Berman, 1998; Herrenkohl, Egolf, & Herrenkohl, 1997; Horn & Trickett, 1998; Jouriles, Norwood, McDonald, Vincent, & Mahoney, 1996; Kolbo et al., 1996; McCloskey, Figueiredo, & Koss, 1995; O'Keefe, 1994).

New research into the development of biochemical responses to constant or intermittent exposure to perceived fear and trauma indicates that both the structure and the functioning of the child's nervous system may be substantially altered. A prolonged stress response or chronic posttraumatic stress re-

action has been linked to changes in the functioning of the hypothalamic-pituitary-adrenal axis and to levels of certain neurotransmitters. These biological changes are thought to negatively impact development, including the integration of the child's biological, cognitive, and emotional domains. Among other problems, these altered brain structures affect a child's ability to regulate emotional arousal, deploy attention, and accurately interpret experiences (Cicchetti & Cohen, 1995; Kendall-Tackett, 1999; Putnam, 1997; Rossman, 1998; Teicher, 2002; van der Kolk, 1996). Children exposed to ongoing family violence may develop posttraumatic stress disorder (PTSD), or some characteristics of the disorder.

Effects of Age, Gender, and Domestic Violence Characteristics

The use of trauma theory in understanding the clinical impact of exposure to domestic violence on children has resulted in a better understanding of how individuals respond to violence. Secondary victimization theories extend the trauma response beyond the direct victims of the violence to those who are solely exposed to the violence (Figley, 1995). Posttraumatic stress response (PTSR) and acute stress disorder (ASD) are terms used to define reactions and symptoms that are a normal response to an abnormal situation. However, if the symptoms endure for too long or interfere with other aspects of the person's life, these symptoms may meet the full criteria for posttraumatic stress disorder (PTSD), the diagnostic category that is most often used to classify patterns of signs and symptoms⁶ associated with exposure to trauma. It is important to note that not all children who experience or are exposed to family violence will develop any or all of the signs and symptoms listed in the DSM-IV criteria (American Psychiatric Association, 2000) to meet the PTSD diagnosis (University of Hawaii, 2000). Some children may have symptoms of depression, anxiety, adjustment disorders, or other mental health problems that may or may not also accompany PTSD or ASD diagnoses.

Research suggests that it may be more common to see certain symptoms of PTSD during particular developmental stages for children (e.g., Holden, Stein, Ritchie, Harris, & Jouriles, 1998; Rossman, 1998; Rossman et al., 2000). Table 1 gives the breakdown of these PTSD signs and symptoms by developmental age. This list of symptoms should never be used to "diagnose" the occurrence of an event (e.g., exposure to domestic violence, child abuse).

The duration of exposure to domestic violence and the age of the exposed child have been found to play an important role in long-term adjustment (Rossman, Mallah, Dominguez, Kimura, & Boyer-Sneed, 1994). When the effects of a large number of variables (e.g., mother-child violence, father-child violence, socioeconomic status, stressful life events, and formal and informal support systems) were controlled, children's adjustment was related to the amount of domestic violence they experienced (O'Keefe, 1994). The longer the exposure, the greater were the children's negative long-term psychological

TABLE 1. Symptoms of Trauma Per Age, Stage of Development

INFANT TO PRESCHOOL (0-3 years old)

- Hypervigilance to cues of danger or upset
- Exaggerated startle response
- Developmental regressions
- Physical dysregulation
- Emotional dysregulation
- Clinging behavior
- Attachment problems
- Nightmares
- Delayed speech
- Excessive impulsivity
- Excessive difficulty in self-soothing

SCHOOL-AGE CHILDREN (5-12 years old)

- Hyperalertness
- Fears
- Obsessional retelling of details
- Depression
- Attentional disorders
- Poor language skills
- Ostracism by peers
- Regression in toilet habits
- Belief in a foreshortened future
- Exhibits dissociation and 'spacey' behavior
- School failures
- Excessive emotional arousal
- Difficulties with self-soothing
- Less consolidation of memory
- Dangerous behavior
- Suicidal ideation and gestures

ADOLESCENTS (12-18 years old)

- Similar to adult PTSD symptoms
 - Dangerous reenactments of trauma
 - Delinquent behavior (truancy, running away)
 - Sexual acting out
 - Alcohol and other drug use
 - Poor peer relationships
 - School failures
 - Dissociation from self and community
 - Attention problems
 - Rage when limits or boundaries are set by authority figures
-

effects. Furthermore, younger children, compared to older children, appeared to be more vulnerable to the negative impact of interparental violence. The impact may be greater because preschool and early elementary school-age children have fewer developmental skills to understand their experiences or to control their emotions and behavior (see Emery & Laumann-Billings, 1998; Margolin, 1998).

Research findings are inconsistent regarding whether boys or girls are at higher risk for poor adjustment outcomes when exposed to interparental violence (see Rossman et al., 2000). Both boys and girls exposed to domestic violence are more reactive to adult anger and more likely to misinterpret ambiguous interpersonal situations as threatening, compared to their nonexposed peers (Crick & Dodge, 1994; Cummings, Pellegrini, Notarius, & Cummings, 1989). Both sexes also are at increased risk for delinquency, alcohol and substance abuse, involvement in abusive dating relationships, running away from home, and suicide (see Osofsky, 1998). One finding that differentiates boys from girls is that males exposed to domestic violence are ten times more likely to develop into an adult batterer, compared to nonexposed boys (Rossman et al., 2000). One study found that the potential for intergenerational transmission of spouse abuse increased when children who were victims of violence were also exposed to domestic violence, compared to children who were not exposed (Shakoor & Chalmers, 1991).

Another study found that the potential for intergenerational transmission of spouse abuse increased even further when male children had a dual experience of exposure to domestic violence and their own physical victimization perpetrated by their fathers (Kalmus, 1984). Although this same risk for future perpetration of spouse abuse has not been found for females, one study on girls who were arrested for delinquency found that over 95% of the girls were exposed to domestic violence in their homes (see Margolin, 1998, for review).

Children who witness intimate partner abuse show significantly poorer outcomes than those who witness other forms of parental conflict (see Margolin, 1998). Exposed children show a level of adjustment that is worse than that of non-abused and nonexposed comparison group children. However, exposure to domestic violence does not appear as damaging to development as child abuse or the combination of exposure to domestic violence and child abuse (Hughes, Parkinson, & Vargo, 1989; Jaffe, Wolf, Wilson, & Zak, 1986).

THE 'STEPS' IN PUTTING CHILDREN FIRST

When parents are fighting over the custody of their children and allegations of domestic violence arise, what set of clinically and empirically based procedures does the evaluator use in addressing the "best interests" standard? The Safety First Model has been developed by the authors as one type of structure to assist custody evaluators with the primary goal of addressing children's

safety; safety encompasses the “best interest” standard. This model uses a six-step process (see Table 2). The first three steps of the Safety First Model will be presented here. The final steps in this model include the development of multiple hypotheses, specialized assessments of the child and parents, and the crafting of recommendations for the court that are specific and unique to the case at hand; these will be discussed in a future article by the authors.

Step 1. Safety: Assess If the Child Is Safe in a Variety of Situations

The first step in the Safety First Model involves the collection of information about the physical and psychological safety of the child when allegations of domestic violence precede the commencement of the child custody evaluation. While it is understood that in some cases domestic violence injunctions may be inappropriately issued without sufficient evidence that such abuse has occurred, it is not the role of the mental health professional or child custody evaluator to draw legal conclusions (Committee on Ethical Guidelines for Forensic Psychologists, 1991). Rather, the court must make a decision of whether or not domestic violence has or has not occurred. Similar to allegations of child abuse made during child custody litigation, mental health professionals do not confirm or refute allegations at the commencement of an evaluation, but begin the evaluation process by evaluating the child’s physical and psychological safety.

At the beginning of the evaluation, a number of questions are explored focusing on how the family violence, or if the allegations of undocumented violence, may be affecting the physical and psychological safety of the child. If the evaluator finds that there are no immediate safety concerns, the evaluation

TABLE 2. Six Steps of the Safety First Model

Step 1.	Address the immediate safety of the child within his or her different family environments and relationships (e.g., are there allegations of family violence and is the child currently protected from physical and psychological harm in one or both parents’ homes or in extended family homes?)
Step 2.	Assess the child for internalized or externalized behavior problems
Step 3.	Assess parent-child relationships and determine whether the child exhibits relationship problems with either parent
Step 4.	If behavior or relationship problems exist, continue the evaluation of the child and the family by identifying a number of hypotheses (e.g., exposure to family violence; estrangement; parent alienation; issues of separation; developmental problems, such as Asperger’s Disorder) to explain causation.
Step 5.	Assess each parent’s strengths and weakness as a parent and the match between the parent’s ability and child needs
Step 6.	When family violence is identified, develop recommendations to create protection for the child from exposure to further violence and/or harm

moves on to Step 2. However, if there are suspicions of child abuse or substantial concerns about the child's safety with a violent parent, an alcoholic or drug addicted parent, or a parent who may kidnap the child, the evaluator has a number of options, including: (a) Call Child Protective Services; or (b) Make an interim set of recommendations to the parties, their attorneys, and the court that calls for a temporary change in the custodial and access arrangements so that the child's safety is assured. However, further complicating the offering of interim recommendations is the strongly debated issue regarding what decisions are in the "best interests" of the child (e.g., no contact by the child with an allegedly abusive parent, removal from an allegedly alienating parent). Following interim recommendation action by the evaluator, the target parent may demand that the evaluator be recused or the evaluator may ask the court for permission to withdraw from the case.

The evaluator must consider that both mothers and fathers in domestic violence families are at risk to use potentially harmful physical discipline, which may have an intergenerational transmission (Holden et al., 1998). A spiraling escalation of violence has been found in physically abusive families, which involves the parent using physical aggression to control the child, the male child using aggressive behavior back towards the parent, and the parent then escalating the amount of physical aggression used to control the child (Patterson, 1982). In the aforementioned study, Patterson also found that cross-gender violence was more prevalent in the families with aggressive boys so that boys and fathers used more verbal aggression towards the girls and mother in the family. Within families, the control of an individual by means of physical violence typically is not an isolated act, nor is it isolated to one person. For example, the probability of child physical abuse by a violent husband increases with the extensiveness of marital violence (Ross, 1996). Walker (2000) found that battered women were eight times more likely to use harsh discipline methods when living with the batterer compared to their use of discipline when the relationship with the batterer had terminated.

The co-occurrence between spouse and child abuse is well documented (Holden et al., 1998; Straus & Gelles, 1990). It is important for professionals to be alert to the fact that adults who use intimidation and violence to resolve conflicts and control their spouses may use the same tactics to control their children. When one form of abuse is found in the family, it is necessary for the evaluator to carefully assess for other forms of family violence (APA, 1996). Research shows that 30% to 60% of children whose mothers are victims of domestic violence are also victims of physical abuse (Edleson, 1999), while approximately 40% of victims of physical abuse are also exposed to domestic violence (Jouriles, Barling, & O'Leary, 1987). Children exposed to domestic violence are also at higher risk for sexual abuse. One study found that children living in domestic violence families were 12 to 14 times more likely to experience sexual abuse by the mother's partner as well as seven times more likely to be sexually abused outside of the home (McCloskey et al., 1995).

TABLE 3. Considerations in a Child Safety Assessment

-
1. Alleged perpetrator's behavior
 - a. Does he/she violate the D.V. injunction, if one exists
 - b. Does he/she stalk the victim
 - c. Does he/she leave threatening voice mails
 - d. Does he/she abuse alcohol or drugs
 - e. Does he/she have a history of domestic violence with other partners
 - f. Does he/she have a criminal history w/o violence
 - g. Does he/she have a history of suicide gestures/threats
 - h. Has he/she threatened to kill the victim if she left him
 - i. What weapons, if any, are in the parent's home
 2. Alleged victim's behavior
 - a. Does he/she violate the D.V. injunction (e.g., telephone calls or physical contact)
 - b. Does he/she discuss his/her fear and anger towards the batterer with friends/family in the presence of the children
 - c. Does he/she abuse alcohol or drugs
 - d. Does he/she have a history of domestic violence with other partners
 - e. Does he/she have a criminal history without violence
 - f. Does he/she have a history of suicide gestures/threats
 - g. What weapons, if any, are in the parent's home
 3. Child's behavior with each parent
 - a. Does the child want to spend time with the parent
 - (1) Does the child have an equally positive relationship with each parent
 - (2) Does the child have an affinity for one parent more than the other
 - (3) Is the child aligned with one parent as opposed to the other
 - b. Does the child's behavior indicate fear of the parent
 - c. Does the child verbalize fear of the parent
 - (1) Does the fear represent alienation
 - (2) Does the fear represent estrangement
 4. Each parent's caretaking behaviors toward the child
 - a. Does the parent undermine the other parent's authority with the child
 - b. Is there domestic violence in the parent's new relationship
 - c. What role does the parent expect their new significant other to play in raising the child
 - d. Does the new partner have any past allegations or convictions for domestic violence or child abuse
 - e. Does the parent make appropriate decisions for discipline
 - f. Does the parent make appropriate decisions for other child care functions (diet, sleep, exposure to television and movies)
 - g. Does the parent watch pornography when the child is present
 - h. Does the parent meet new partners through the Internet and bring them home
 - i. Does the parent use illegal substances while the child is present
 5. Prevailing family and extended family context
 - a. Is there a history of domestic violence perpetrated or experienced by any extended family members
 - b. Is there a history of child abuse perpetrated or experienced by any extended family members
-

Table 3 includes a list of questions to consider when assessing the safety of the child while in each parent's care during a custody evaluation with allegations of domestic violence.

Obvious and some not-so-obvious abuses of power and control (e.g., overcontrolling behavior, lack of awareness or respect for the child or mother's needs, and actual physical, sexual, and psychological abuse of the mother or the child) all place the child at greater risk for the development of significant psychological problems. In child custody cases, common times for batterers to exercise power and control are during parental access exchanges and while the child is in the batterer's care (Bancroft & Silverman, 2002). Batterers with substance abuse problems may put the child in danger by driving while under the influence. In fact, the most dangerous situation is when a parent (regardless of gender) abuses substances *and* is violent (Austin, 2000).

In child custody evaluations with allegations of domestic violence, it is also important to assess the child's safety with extended family members and to concurrently assess the reliability and validity of family members as collateral information sources. Although the batterer's family is often very supportive of the battered woman while the relationship is intact, when it ends, each person's family members may take sides. Children can be negatively psychologically impacted when the sides are drawn. Furthermore, since domestic violence may be intergenerational, children may not be safe in the care of a relative, such as a grandparent, who perpetrated spouse abuse and/or was abusive towards his or her own child when they were young.

If allegations of child sexual abuse occur in conjunction with allegations of domestic violence, it is critical to obtain a separate evaluation of the child by an expert in child abuse. Because assessing allegations of child sexual abuse is a highly specialized skill, only those with training and expertise should attempt to conduct such an evaluation (see Kuehnle, 1996, 2002). It is insufficient and not protective of the child to determine the veracity of an allegation of child abuse on the assessment of the mother's or father's emotional presentation (e.g., anger, exaggeration, fearfulness, manipulation).

Judges may ignore the increased risk of child abuse by batterers and become angry with the accusing parent when allegations of child abuse occur. Angry judges may make decisions based on their emotions rather than on factual evidence, which may interfere in determining appropriate solutions for a child's safety. Some judges react negatively to their own colleague's issuance of domestic violence injunctions when they perceive these injunctions to be used as a ploy or method to get a jump on the custody process.

Step 2. The Child's Behavior: Are There Behavior Problems with the Child?

In determining the child's adjustment, a number of methods should be used to evaluate the child, including careful questioning of the child by the evalua-

tor (refer to Kuehnle, 1996; Kuehnle, Greenberg, & Gottlieb, 2004; Walker & Shapiro, 2003); observation of the child across multiple settings; and administration of standardized tests to assess for cognitive, social, and emotional development, as well as psychological conflicts and trauma.

The collection of collateral data such as teacher and babysitter reports, witness statements, police reports, and hospital or other medical and dental records should also be pursued (e.g., Gould, 1998). Research shows that different sources of information may hold differing perceptions (Sternberg, Lamb, & Dawud-Noursi, 1998). Some of these perceived differences may be reflected in the identification of symptomatology on child behavior checklists or standardized questionnaires. The collections of multiple sources of collateral data are necessary to provide convergent and discriminant validation of the clinical hypotheses that the evaluator has linked with the legal issues at hand (Austin, 2002). As noted by Kirkland (2002), generally, the less aligned the collateral source, the more credible and objective the report.

Step 3. Parent-Child Relationships: Are There Problems with the Child's Relationships with Either Parent?

Child custody literature has used the construct of attachment theory as a way of assessing the parent-child relationship (Ainsworth, 1989; Bowlby, 1969). Based on attachment theory, a child's affectional "bond" is determined by six factors: persistence; endurance; emotional significance; link to a specific person (not interchangeable with anyone else); the child maintains proximity to or contact with the significant person; distress can be experienced at involuntary separation; and the child pursues security and protection from the attachment figure, which results in comfort for the child if the sought after attachment figure is consistently available (Cassidy, 1999).

Seeking security and protection is the defining feature in the parent-child "attachment bond" (Cassidy, 1999). Security is established when the child has confidence in the caretaker as an available and responsive provider (Wekerle & Wolfe, 1998). Research indicates that the child's development of a secure attachment with a caretaker is a positive intervening variable in resilience to damage from exposure to traumatic events (see Wolak & Finkelhor, 1998).

Most young infants are thought to form more than one attachment bond (Bretherton, 1980). Generally, the mother and father have primary roles as attachment figures early in an infant's life (Belsky, Gilstrap, & Rovine, 1984; Lamb, 1997, 1999). During their first year of life, children may have two or three attachment figures that usually are family members or individuals closely involved in the child's care. These attachment figures are not equivalent, nor are they interchangeable. The attachment hierarchy may be determined by the following set of factors: (a) how much time the infant spends with each caretaker; (b) the quality of care each provides; (c) each caretaker's

emotional investment in the child; and (d) the repeated presence across time of the attachment figure in the child's life (Colin, 1996).

Types of parent-child relationships. Despite the importance given to attachment bonds between the child and parent in the developmental research, there is a virtual absence of tools developed to assess attachment status outside of a research setting. Merely observing a parent play with a child cannot measure attachment or determine attachment status, nor can observing a parent take routine care of a child assess attachment. This is because play and caretaking are not equivalent to protection (Milchman, 2000). Since the techniques developed by researchers to assess attachment status are time intensive and complicated, these techniques are generally impractical in clinical or forensic settings. Using a family systems model, which may be more adaptable for use in clinical and forensic settings compared to the attachment model, Kelly and Johnston (2001) identified a continuum of parent-child relationships, specifically related to children from divorced or divorcing families. These relationships were labeled (a) positive relationships with both parents; (b) affinity with one parent; (c) alliance with one parent; (d) estranged from one parent (realistically based); and (e) alienated from one parent (pathologically based). Drozd and Olesen (2000) further clarified the parent-child relationships identified by Kelly and Johnston, in their delineation of the distinctions between alienation and estrangement. The authors of this current article have applied these reformulated five categories of parent-child relationships to child custody evaluations that include issues of domestic violence. Presently, these categories of parent-child relationships are theoretical and have not been empirically validated. These five relationships are described in Table 4.

Although research has not been conducted to validate the development of parent-child relationships within different family contexts, in "healthy" families, most children establish positive relationships with both of their parents. When compared to children living in nonviolent families, children living in violent homes have less secure relationships with their parents (see Margolin, 1998), which may leave the child feeling unsafe, unprotected, and with a view of him- or herself as ineffective and the world as hostile.

CONCLUSION

Many of the parents in violent families divorce, and some of these divorcing parents litigate over their children's custody. The dynamics of power and control common to violent families may be played out in the forum of family court. It is unknown what percentage of custody evaluators are adequately trained in the dynamics and evaluation of family violence. When addressing the "best interests" of the child, custody evaluators who are not adequately trained may make recommendations that fail to focus on the psychological and physical safety of the child living in a violent family. The authors of this article have set forth the Safety First Model as a structure for conducting child cus-

TABLE 4. Type of Parent-Child Relationship

Type of Relationship	Description
Equivalent Emotional Attachment	to both parents
Affinity	for one parent but still with an affectional bond to the other parent
Alignment	with one parent with little or no emotional bond with the other parent
Alienation	anger and hatred towards one parent while maintaining a close but sometimes unhealthy emotional bond with the other parent
Estrangement	with little or no emotion towards one parent (discarding the parent from their lives), usually while maintaining a relationship with the other parent. The estrangement is caused by something the estranged parent has done or failed to do and is the child's reaction to parent's actions. We hypothesize that estrangement may occur more frequently in families with domestic violence. We have labeled an estranged relationship associated with domestic violence a 'ruptured' parent-child relationship, to capture the child who has become devoid of feelings for the abuser, which is caused by the batterer's violent behavior.

today evaluations. This model is a step in the direction of breaking the cycle of violence by identifying the children living with domestic violence and in assisting the courts in structuring an environment of safety for these children. When children are safe, they develop secure attachments and positive relationships with both parents, and they are resilient in their navigation through childhood. They feel protected and nurtured, they have a strong sense of self-efficacy, and they experience the world as being safe and relationships as dependable and supportive.

The first three steps of the Safety First Model have been delineated in the present article; the remaining steps will be described in a future article. Utilizing the Safety First Model, the first step directs the evaluator to address the child's immediate safety. The second and third steps emphasize the evaluation of the child, including the child's psychological functioning and intimate relationships. In a future article, the authors will discuss in more specific detail the structure of the child and parent evaluations and the crafting of recommendations.

NOTES

1. The categories proposed by the typology of Holtzworth-Munroe and colleagues include four types of batterers: Chronic and Serious Antisocial, Chronic and Serious Borderline with Depression and Anxiety, Situational and Less Serious Family Only, and Low Level Antisocial. Johnson's (1995) uses a dichotomized categorization of vi-

olent relationships called "Patriarchal Terrorism" (e.g., controlling, physically and emotionally brutalizing male battering) and "Common Couple Violence" (e.g., bidirectional, interactive violence characterized by a low level of severity). Johnston and Campbell (1993) differentiate types of violent partner relationships based on their clinical observations; they labeled the five types: (1) Ongoing or Episodic Male Battering; (2) Female Initiated Violence; (3) Male-Controlling Interactive Violence; (4) Separation Engendered Violence/Postdivorce Trauma, and (5) Psychotic and Paranoid Reactions Leading to Violence.

2. Austin identified six categories: (1) Temporal Dimension associated with reactive and enduring characteristics; (2) Sex of Perpetrator and Causal Direction of Violence such as female instigator, male instigator, or bidirectional instigation; (3) Severity of Physical Harm categorized along a continuum from mild to moderate to severe; (4) Type of Aggression distinguishing between verbal and physical aggression; (5) Presence of Major Risk Factors including alcohol use, substance abuse, mental illness, history of violence; and (6) Children Exposed to Violence using a broad classification of exposed and not exposed.

3. Child custody evaluator is a relatively new term that is used to designate those mental health professionals who have specialized training to perform forensic child custody evaluations (CCE) for the courts.

4. Fla. Stat. ch. 61.13(2)(b)(2)

5. Cal. Fam. Code § 3044

6. Included in the DSM-IV-TR definition of a syndrome is the necessity of including both signs and symptoms. A sign is defined as "an objective manifestation of a pathological condition. Signs are observed by the examiner rather than reported by the affected individual" (American Psychiatric Association, 2000, p. 827). A symptom is defined as "a subjective manifestation of a pathological condition. Symptoms are reported by the affected individual rather than observed by the examiner" (p. 828).

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