

UNDERSTANDING THE BATTERER IN CUSTODY AND VISITATION DISPUTES

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c 1998

A sophisticated understanding of the mind of the abuser, his style as a parent, and of the tactics that he most commonly employs during separation and divorce, are essential to anyone making custody recommendations or working to design visitation plans that are safe for the children and their mother. Contrary to popular belief, children of batterers can be at just as much risk psychologically, sexually, and even physically after the couple splits up as they were when the family was still together. In fact, many children experience the most damaging victimization from the abuser at this point. A genuine batterer can be difficult to distinguish from one who is unfairly accused, and batterers who will be a grave risk to their children during unsupervised visitation can be hard to separate from those who can visit safely. The insights and expertise of those service providers who have extensive experience working directly with abusers needs to be drawn from, and the level of contribution from victims themselves to policy design also needs to be greatly increased. Custody and visitation battles amidst allegations of domestic violence require policies and interveners (judges, mediators, and Guardians Ad Litem) based in the most detailed knowledge, experience, sensitivity, and integrity. The stakes for children are very high.

This article is drawn largely from the author's ten years of experience working as a counselor and supervisor in programs for abusive men, involving contact with some 1500 abusers, and hundreds of their victims, over that period. During the first few years of this period I worked almost exclusively with voluntary clients, and during the latter period worked primarily with court-mandated ones. The characteristics of the clients changed remarkably little during that shift. In the late 1980's, professionals in batterer programs began paying particular attention to the behavior of clients with respect to probate processes, and we began asking victims more questions about the man's conduct with respect to visitation and custody. Since leaving direct work with batterers, I have served with increasing frequency as a custody evaluator (both as Guardian ad Litem and as Care and Protection Investigator), and have worked closely with child protective services.

I also have drawn from numerous published studies, several of which are listed in the back of this article. [I have chosen for reasons of ease to refer to the abuser as "he" and the victim as "she," but I am aware that there is a small percentage of cases of domestic violence to which this language does not apply.]

PROFILE OF THE BATTERER

Generalizations about batterers have to be made with caution. Batterers come from all socioeconomic backgrounds and levels of education. They have the full range of personality types, from mild and mousy to loud and aggressive. They are difficult to profile psychologically; they frequently fare well in psychological testing, often better than their victims do. People outside of a batterer's immediate family do not generally perceive him as an abusive person, or even as an especially angry one. They are as likely to be very popular as they are to be "losers," and they may be visible in their communities for their professional success and for their civic involvement. Most friends, family, and associates in a batterer's life find it jarring when they hear what he has done, and may deny that he is capable of those acts.

The partner and children of a batterer will, however, experience generalizable characteristics, though he may conceal these aspects of his attitude and behavior when other people are present:

The batterer is *controlling*; he insists on having the last word in arguments and decision-making, he may control how the family's money is spent, and he may make rules for the victim about her movements and personal contacts, such as forbidding her to use the telephone or to see certain friends.

He is *manipulative*; he misleads people inside and outside of the family about his abusiveness, he twists arguments around to make other people feel at fault, and he turns into a sweet, sensitive person for extended periods of time when he feels that it is in his best interest to do so. His public image usually contrasts sharply with the private reality.

He is *entitled*; he considers himself to have special rights and privileges not applicable to other family members. He believes that his needs should be at the center of the family's agenda, and that everyone should focus on keeping him happy. He typically believes that it is his sole prerogative to determine when and how sexual relations will take place, and denies his partner the right to refuse (or to initiate) sex. He usually believes that housework and childcare should be done for him, and that any contributions he makes to those efforts should earn him special appreciation and deference. He is highly demanding.

He is *disrespectful*; he considers his partner less competent, sensitive, and intelligent than he is, often treating her as though she were an inanimate object. He communicates his sense of superiority around the house in various ways.

The unifying principle is his attitude of *ownership*. The batterer believes that once you are in a committed relationship with him, you belong to him. This possessiveness in batterers is the reason why killings of battered women so commonly happen when victims are attempting to leave the relationship; a batterer does not believe that his partner has the right to end a relationship until he is ready to end it.

Most abusers do not express these beliefs explicitly; they are more likely to deny having them, or even to claim to have opposite convictions that are humane and egalitarian. An experienced batterers' counselor may have to spend several hours with the abuser before the underlying attitudes begin to show. These attitudes are generally evident to victims, however, who often feel frustrated at the batterer's ability to present a markedly different face to the outside world. This dual aspect to his personality also helps to keep the victim confused about what he is really like, and can contribute to her blaming herself for his abusive behaviors.

The level of physical violence used by batterers is on a wide spectrum. Some use violence as much as a few times per month, while others do so once or twice a year or less. A significant proportion of batterers required to attend counseling because of a criminal conviction have been violent only one to five times in the history of their relationship, even by the victim's account. Nonetheless, the victims in these cases report that the violence has had serious effects on them and on their children, and that the accompanying pattern of controlling and disrespectful behaviors are serving to deny the rights of family members and are causing trauma.

Thus the nature of the *pattern* of cruelty, intimidation, and manipulation is the crucial factor in evaluating the level of abuse, not just the intensity and frequency of physical violence. In my decade of working with abusers, involving over a thousand cases, I have almost never encountered a client whose violence was not accompanied by a pattern of psychological abusiveness.

Because of the distorted perceptions that the abuser has of rights and responsibilities in relationships, he considers himself to be the victim. Acts of self-defense on the part of the battered woman or the children, or efforts they make to stand up for their rights, he defines as aggression *against* him. He is often highly skilled at twisting his descriptions of events to create the convincing impression that he has been victimized. He thus accumulates grievances over the course of the relationship to the same extent that the victim does, which can lead professionals to decide that the members of the couple "abuse each other" and that the relationship has been "mutually hurtful."

Although a percentage of batterers have psychological problems, the majority do not. They are often thought to have low self-esteem, high insecurity, dependent personalities, or other results from childhood wounds, but in fact batterers are a cross-section of the population with respect to their emotional make-up. Certain labels such as "control freak" or "self-centered" have the appearance of accuracy, but even these overlook the fact that the battering problem is very context-specific; in other words, most batterers do not have an inordinate need for control, but rather feel an inordinate right to control under family and partnership circumstances. Thus unlike other problems with violence, battering behavior is mostly driven by culture rather than by individual psychology. Many batterers are "in touch with" their feelings and skilled in the language of therapy and recovery, which throws evaluators off the track. They may use their

childhoods and emotions as an excuse, to divert attention from their entitled and possessive attitudes.

Battering is a learned behavior, with its roots in attitudes and belief-systems that are reinforced by the batterer's social world. The problem is specifically linked to how the abuser formulates the concepts of *relationship* and *family*; in other words, within those realms he believes in his right to have his needs come first, and to be in control of the conduct (and often even of the feelings) of others. A recent research study showed that two factors, the belief that battering is justified and the presence of peers who support abusiveness, are the single greatest predictors of which men will batter; these two had a considerably greater impact than whether or not the man was exposed to domestic violence as a child (Silverman and Williamson).

Each batterer has his own mix of controlling and entitlement. Some monitor every move their partners make like a prison guard, but at the same time are somewhat lower in entitlement, contributing more to housework and childcare than other batterers (though still less than non-batterers). Other batterers don't control their partners freedom as severely, but become irate or violent when they are not fully catered to, or when victims remind them of responsibilities that they are shirking. The levels of manipulateness and overt disrespect also vary, so that each batterer has a particular style.

Because batterers are typically charming and persuasive, and are often kind and attentive early in relationships, he does not necessarily need to seek out a special kind of woman to victimize. Efforts to find common ground among battered women from the point of view of background or personality type have been largely unsuccessful (Hotaling and Sugarman), just as they have been with batterers. Service providers who assume that the victim must have had pre-existing problems of her own can make counterproductive interventions, as pathologizing of the victim can lead to re-injury.

BATTERERS' STYLE DURING SEPARATION AND DIVORCE

An abuser's desire for control intensifies as he senses the relationship slipping away from him. He focuses on the debt he feels his victim owes him, and his outrage at her growing independence. (This dynamic is often misread as evidence that batterers have an inordinate "fear of abandonment.") He is likely to increase his level of intimidation and manipulation at this point; he may, for example, promise to change while simultaneously frightening his victim, including using threats to take custody of the children legally or by kidnapping.

Those abusers who accept the end of the relationship can still be dangerous to their victims and children, because of their determination to maintain control over their children and to punish their victims for perceived transgressions. They are also, as we will see later, much more likely than non-batterers to be abusive physically, sexually, and psychologically to their children.

The propensity of a batterer to see his partner as a personal possession commonly extends to his children, helping to explain the overlap between battering and child abuse. He tends, for example, to have an exaggerated reaction when his ex-partner begins a new relationship, refusing to accept that a new man is going to develop a bond with "his" children; this theme is a common one in batterer groups. He may threaten or attack the new partner, make unfounded accusations that the new partner is abusing the children, cut off child support, or file abruptly for custody in order to protect his sole province over his children. A batterer who does file for custody will frequently win, as he has numerous advantages over his partner in custody litigation. These include, 1) his typical ability to afford better representation (often while simultaneously insisting that he has no money with which to pay child support), 2) his marked advantage over his victim in psychological testing, since she is the one who has been traumatized by the abuse, 3) his ability to manipulate custody evaluators to be sympathetic to him, and 4) his ability to manipulate and intimidate the children regarding their statements to the custody evaluator. There is also evidence that gender bias in family courts works to the batterer's advantage. (Massachusetts Supreme Judicial Court Gender Bias Study) Even if the batterer does not win custody, his attempt can be among the most intimidating acts possible from the victim's perspective, and can lead to financial ruin for her and her children.

After a break-up, the abuser sometimes becomes quickly involved with a new partner whom he treats relatively well. Abusers are not out of control, and therefore can be on "good" behavior for extended periods of time - even a year or two - if they consider it in their best interest to do so. The new partner may insist, based on her experience with him, that the man is wonderful to her, and that any problems reported from the previous relationship must have been fabricated, or must result from bad relationship dynamics for which the two parents are mutually responsible. The abuser can thus use his new partner to create the impression that he is not a risk.

An abuser focuses on being charming and persuasive during a custody dispute, with an effect that can be highly misleading to Guardians ad Litem, court mediators, judges, police officers, therapists, family members, and friends. He can be skilled at discussing his hurt feelings and at characterizing the relationship as mutually destructive. He will often admit to some milder acts of violence, such as shoving or throwing things, in order to increase his own credibility and create the impression that the victim is exaggerating. He may discuss errors he has made in the past and emphasize the efforts he is making to change, in order to make his partner seem vindictive and unwilling to let go of the past.

Where manipulation and charm do not work, the abuser may switch to intimidation, threatening or attacking those whom he perceives as being supportive to his partner. In the most extreme cases the abuser may attempt to kill the woman, her lawyer, or the children, and sometimes will succeed. In some cases custody evaluators have been afraid to release their recommendations because of their fear of the batterer's retaliation.

Batterers may continue their harassment of the victim for years, through legal channels and other means, causing periodic re-traumatizing of the victim and children and destroying the family's financial position. Motions by abusers for custody or for increases in visitation are common forms of retaliation for things that he is angry about. (They are also used to confuse the court; for example, lawyers who represent abusers encourage clients who are accused of sexual abuse to file for custody immediately; this move will cause the court to treat the allegation as "occurring in the context of a custody dispute.") If the abuser meets with periodic success in court, he may continue his pattern of abuse through the legal system until the children reach majority.

BATTERERS' STYLE IN MEDIATION OR CUSTODY EVALUATION

Batterers naturally strive to turn mediation and GAL processes to their advantage, through the use of various tactics. Perhaps the most common is to adopt the role of a hurt, sensitive man who doesn't understand how things got so bad and just wants to work it all out "for the good of the children." He may cry in front of the mediator or GAL and use language that demonstrates considerable insight into his own feelings. He is likely to be skilled at explaining how other people have turned the victim against him, and how she is denying him access to the children as a form of revenge, "even though she knows full well that I would never do anything to hurt them." He commonly accuses her of having mental health problems, and may state that her family and friends agree with him. The two most common negative characterizations he will use are that she is hysterical and that she is promiscuous. The abuser tends to be comfortable lying, having years of practice, and so can sound believable when making baseless statements. The abuser benefits to the detriment of his children if the court representative fails to look closely at the evidence - or ignores it - because of his charm. He also benefits when professionals believe that they can "just tell" who is lying and who is telling the truth, and so fail to adequately investigate.

Because of the effects of trauma, the victim of battering will often seem hostile, disjointed, and agitated, while the abuser appears friendly, articulate, and calm. Evaluators are thus tempted to conclude that the victim is the source of the problems in the relationship.

Abusers increasingly use a tactic I call "preemptive strike," where he accuses the victim of doing all the things that he has done. He will say that she was violent towards him and the children, that she was extremely "controlling" (adopting the language of domestic violence experts), and that she was unfaithful. If he has been denying her phone access to the children during their weekend visits with him, he will likely complain to the court that she is preventing *him* from calling the children during the week. If he has been highly inflexible about the visitation schedule, he will accuse her of inflexibility. These tactics can succeed in distracting attention from his pattern of abusiveness; in the midst of a cross-fire of accusations, court representatives are tempted to throw up their hands and declare the couple equally abusive and unreasonable.

Mediators and GAL's tend to have a bias in favor of communication, believing that the more the two parents speak to each other, the better things will go for the children. In domestic violence cases the truth is often the opposite, as the abuser uses communication to intimidate or psychologically abuse, and to keep pressuring the victim for a reunion. Victims who refuse to have any contact with their abusers may be doing the best thing both for themselves and for their children, but the evaluator may then characterize her as being the one who won't let go of the past or who can't focus on what is good for the children. This superficial analysis works to the batterers advantage.

Abusers are likely to begin the mediation process with an unreasonable set of demands, and then offer compromises from those positions. This strategy can make the victim look inflexible, as she refuses to "meet him in the middle." She may relent under these circumstances out of fear that the mediator will describe her negatively to the judge. These compromises may then be used against the victim later. For example, she may agree to unsupervised day visits in order to avoid the risk that the judge will award overnight visitation, and then months later she is asked by a lawyer, mediator, or GAL, "If he is so dangerous, why did you voluntarily allow him unsupervised visitation?" On the other hand, if she is inflexible from the beginning, the abuser will accuse her of being on a campaign to get revenge by cutting him off from the children. There is, in other words, no path she can take to avoid criticism and suspicion, and the abuser capitalizes on her dilemma.

Finally, mediation sessions and the time spent waiting for them to begin are opportunities for the abuser to re-victimize the battered woman with scary looks, threatening comments muttered in passing, degrading accusations made about her to the mediator, and intimidating or ridiculing comments made to her by his lawyer.

WHY DOMESTIC VIOLENCE MAY BE REPORTED AT SEPARATION/DIVORCE FOR THE FIRST TIME

Court personnel and other service providers look skeptically at allegations of abuse that arise during custody and visitation battles. Batterers try to feed these doubts by saying, "She never said I was abusive before; she's just using this accusation to get the upper hand." In fact, there is no evidence that false allegations rise substantially at this time, and there are many reasons why an abused woman may not have made prior reports. Judges, mediators, and court investigators need to take each allegation on its own terms and examine the evidence without assumptions about the timing.

It is not at all uncommon for a battered woman to tell no one about the abuse prior to separation because of her shame, fear, and desire to help the abuser change. Many victims quietly hope that ending the relationship will solve the problem, a myth that most professionals share; when she discovers that his abuse is continuing or even escalating after separation, she finds herself forced to discuss the history of abuse in hopes of protecting herself and her children. It is

not uncommon for an abuser to be more frightening after separation than he was before, and to increase his manipulation and psychological abuse of the children, for reasons covered above.

A victim's decision to separate from an abuser is often the last step in a gradual process of realization that she has been undergoing. Because of increased support from friends, a helpful book that she has read, or a series of discussions with a helpful advocate or support group, she may have come to understand that she has options to get free from the abuse. She is taking the leap of openly discussing domestic violence for the first time precisely because she is healing. Some influential psychologists, such as Janet Johnston (see below) interpret the woman's reevaluation of the history of the relationship as evidence of vindictiveness or scapegoating on her part, when it may actually indicate growing health.

The separation itself may have resulted from an escalation in the man's level of violence or verbally degrading behavior. During two years that I handled all the intakes to a batterer program, approximately 30% of the clients had been separated from the victim since the time of their arrest, demonstrating how frequently an escalation in violence leads immediately to a break-up. Unfortunately, these abusers may be labeled less dangerous by evaluators, on the grounds that their violence was a response to the stress of separation and divorce, an analysis that reverses cause and effect.

Finally, because an abuser creates a pervasive atmosphere of crisis in his home, victims and children have difficulty naming or describing what is happening to them until they get respite from the fear and anxiety. A period of separation may be a victim's first opportunity to reflect on what has been happening to her, and to begin to analyze and articulate her experience. Batterers can use any misunderstanding of this process to gain sympathy from evaluators.

WHY CHILD ABUSE MAY BE REPORTED AT SEPARATION/DIVORCE FOR THE FIRST TIME

Allegations of child abuse that arise during custody and visitation conflicts are treated with similar skepticism by court personnel and service providers. A large-scale national study found that the rate of false child sexual abuse allegations does not increase at this time, contrary to popular belief (Thoennes and Tjaden). As with domestic violence allegations, there is no substitute for careful and unbiased examination of the evidence. Batterers who do abuse their children can be convincing at portraying themselves as victims of a deliberate strategy on the part of the victim in order to derail proper investigating.

There are two salient reasons why child abuse reports may first arise at separation or divorce. First, children may disclose abuse at this time that is longstanding. The awareness of the custody battle can make the children afraid of being placed in the abuser's custody, or of being forced to spend increased time with him without the protective presence of the other parent. This fear can lead children to make the frightening leap involved in discussing the abuse. After separation, children may begin spending extended unsupervised time with the abuser for the first

time ever, so that the abuse escalates or they fear that it will. Increased visitation may cause panic in a victim of child abuse; a case of mine illustrated this point, with a child disclosing a detailed history of sexual abuse immediately after her visitation with her father was increased from one night every other weekend to two. Finally, children are known to be more likely to disclose abuse in the midst of *any* disruption or major change in their lives. (See MacFarlane et. al. on the above points.)

Secondly, child abuse may begin or intensify after separation. Once a relationship is over, the children may be the last avenue the abuser has to punish or harass his victim, or to force her into reuniting. Some victims report that they have been forced to get back together with the abuser in order to protect their children, because he was abusing, neglecting, or threatening the children during unsupervised visitation. Many abusers are aware that hurting the children is perhaps the single most painful way in which they can hurt their ex-partner. Even if he does not physically or sexually abuse the children, psychological abuse is present in the unsupervised visitation of most batterers, following predictably from their characteristic entitled attitudes, controlling behaviors, selfishness, and desire to punish. Where there are credible reports of a history of domestic abuse, even one involving relatively low levels of physical violence, allegations of child abuse have to be evaluated with care and without bias, regardless of when they arise.

THE CONNECTION BETWEEN BATTERING AND CHILD ABUSE

Batterers are several times as likely as non-batterers to abuse children, and this risk appears to increase rather than decrease when the couple separates. Multiple studies have shown that 50% to 70% of men who use violence against their intimate partners are physically abusive to their children as well. A batterer is seven times more likely than a non-batterer to frequently beat his children (Straus). A batterer is at least four times more likely than a non-batterer to be an incest perpetrator. (Herman 1991, McCloskey et. al.) Psychological abuse to the children is almost always present where there is domestic violence; in fact, the abuse towards their primary caretaker is *itself* a form of emotional abuse of the children, as numerous studies now document. It is true that battered women are also more likely to abuse children than non-battered women are, but unlike with batterers, those levels decline rapidly once the relationship separates (Edleson and Schechter).¹

A batterer also tends to involve his children in the abuse of the mother. He may require the children to report on the victim's activities during the day, degrade or humiliate her in front of them, or persuade them that she deserves to be abused. He may even involve them directly in abusing her; for example, a client of mine taught his two-year-old to call the mother "Mommy bitch." He may be cruel to the children as a way of getting at her; one of my clients had cut up his daughter's prom dress with scissors one night while angry at his wife. He may do them special favors after abusing the mother, to get the children on his side. He may tell them that their

mother doesn't love them. He may threaten to take the children away from her, legally or illegally.

These types of tactics usually increase at separation and are joined by new ones, such as telling young children "You are going to come live with Daddy now" and other forms of terrorization. If the mother has a new partner to whom the children are developing an attachment, the batterer may try to frighten the children about him or make them feel guilty for their connection to him.

Children of batterers are at particular risk for sexual abuse (Herman 1991; McCloskey et. al.; Paveza; Sirls; Truesdell et. al.). The profile of an incest perpetrator is similar in many respects to that of a batterer. The incest perpetrator typically has a good public image, making it hard for people know him to believe him capable of sexual abuse. He is self-centered and believes that the child is responsible to meet his needs. He is controlling and often harshly disciplinarian as a parent, while at other times giving the children - particularly the incest victim - special attention and privileges. He often prepares the child for months or years in a "grooming" process, akin to the charming and attentive behavior used by batterers early in relationships. He usually will have no diagnosable mental health condition. He will tend to confuse love and abuse; just as a batterer may say, "I hit her because of how much I love her," the incest perpetrator believes that his times of sexually abusing the child have actually been moments of special intimacy. Incest perpetrators define themselves as having been provoked, just as batterers do; for example, he may say that a four-year old child "came on to" him. He often sees the child as a personal possession, feeling that "no one has any right to tell me what I can do with my child." This list of similarities continues, making the high statistical overlap between battering and child sexual abuse unsurprising. (See Groth; Herman 1981; Herman 1988; Leberg)

It is important to note that the level of violence used by a batterer is only one measure of his risk to the children. His level of entitlement, his degree of self-centeredness, the extent of his manipulateness, his capacity for cruelty, and other aspects of his profile give important information about his likelihood to abuse the children. We will return to these assessment questions below.

JANET JOHNSTON'S TYPOLOGY OF BATTERERS AND THE AFCC RISK ASSESSMENT: THE QUEST FOR SIMPLE SOLUTIONS

Efforts are underway nationally to ease the complexity of assessing risk to children from visitation with batterers by placing batterers into distinct types, based largely on the work of Janet Johnston. For example, a risk assessment distributed nationally by the Association of Family and Conciliation Courts (AFCC) draws heavily from Johnston's work. The types Johnston posits are as follows:

Type A: "Ongoing or Episodic Male Battering"

Type B: "Female-Initiated Violence"

Type C: "Male Controlled Interactive Violence"

Type D: "Separation and Postdivorce Violence"

Type E: "Psychotic and Paranoid Reactions"

(These types are called by slightly different names in the AFCC risk assessment, but are exactly the same in other respects.)

Type A is considered the real batterer; he is very frequently and severely violent, and he uses violence to control his partner. Type B is violence that is initiated by the victim; she gets hurt because she is smaller, but her behavior is the problem. Type C is violence caused by "mutual verbal provocations," and again the woman is the victim only because she is physically smaller; she is considered equally abusive. Type D is violence that results from the stress of separation and is completely uncharacteristic for the abuser. Type E is violence resulting from a mental health problem.

This typology contains more problems that can be covered here. The types were pre-conceived, with researchers instructed to assign each case to one of the categories. The research has little external validity; her types have no relationship to any patterns observed by domestic violence professionals in the clinical setting. Relying on these categories leads to serious errors in crafting visitation plans. Risk to children *can* be assessed, as we will see, but not by this approach.

The great majority of batterers do not fit any of Johnston's types, because they exert "chronic pervasive control," but it is not accompanied by the most severe or frequent violence. The most common batterer is one who uses violence two or three times a year, whose partner has never been hospitalized with injuries, and who shows no evidence of sadism. Nevertheless, his partner and children exhibit trauma symptoms due to their fear of the abuser, the repeated denial of their basic rights, and the pattern of psychological attack. Assessing the risk to these children from unsupervised visitation is a complex process, and the danger varies greatly from case to case.

These categories encourage us to assess the *victim* rather than the abuser. The "A" type of batterer is considered the only real batterer; he is described as having a victim who is severely traumatized, who is passive and withdrawn, and who rarely starts arguments or challenges the batterer. A woman who is stronger, angrier, or generally more unpleasant to interact with, would be likely under Johnston's approach to be seen as mutually abusive and provocative, the "C" type of relationship; she would thus be considered largely responsible for the man's violence. In reality, most abused women, even those who are terrified, do not give up all forms of fighting back, and continue attempting to protect their rights and the rights of their children. The more that the victim refuses to submit to the abuser's control, the more likely he is to escalate his violence. Under Johnston's typology, the more courageously a woman attempts to defend herself and her children, the less responsibility the abuser has for his actions. Using this approach serves

the batterer's interests well, but endangers the children. The result of this approach is that some of the *most dangerous* abusers, those who are the most determined to dominate at all costs, are ironically declared to be the lowest risk to their children.

Studies of trauma survivors also demonstrate that symptoms will vary greatly from person to person. Some battered women may become passive and withdrawn, but others are more likely to show hostility, disjointed thinking, or extreme mistrust, precisely as a response to the severity of the abuse they have endured; the second group is the most likely to be labeled "provocative." Women in this group run the greatest risk of having their abuser win custody or extended unsupervised visitation, which he can then use to continue terrorizing her and the children.

Abusers almost always characterize their relationships as mutually abusive, if they acknowledge any behavior problems of their own at all. Under close investigation, however, most domestic abusers, even those who use relatively low levels of physical violence, are revealed to involve extensive patterns of verbal degradation, psychological abuse, and other types of cruelty on the abuser's part, and to involve a marked imbalance of power. There is no substitute for careful evaluation to see if this is the case.

The concept of "violence resulting from mutual verbal provocations" is in itself a disturbing one. What kind of arguing is a woman permitted to do before she is defined as provoking violence? A woman who is being abused is likely to have multiple sources of resentment: the unrelieved burden of childcare, the insults and name-calling, the degrading sexual comments, the affairs, the neglect, the violence. If she periodically becomes enraged and confronts her abuser about these things angrily, is she provoking violence? Is there any way in which she can forcefully defend her own interests, or her children's, without being labeled provocative? This characterization can only serve the interests of the abuser. In fact, it appears to be an adopting of the batterer's view, endorsing his way of characterizing his victim as holding responsibility for his actions. Johnston even goes so far as to say that if a woman "tried to leave or refused to communicate with him," the abuser's violent response should be considered part of a mutual provocation (Johnston, pg.196).

In sum, the danger that a domestic abuser represents to his children can only be assessed by examining *him* (as common sense would dictate), not by examining his victim.

The "stress of separation" category, (type "E") is also a risky one. As discussed above, separation may occur as the result of an escalating pattern of abusiveness, with the physical attack being the last straw. Such an escalation would be likely to continue post-separation, with important implications for the children. The formation of this type also raises an important clinical question; if Johnston suggesting that there is no significant difference between men who use violence in response to the stress of separation and those who do not? In fact, most men do *not* use violence towards intimate partners, even during an acrimonious divorce; those who do so

are likely to have the other characteristics typical of batterers. Their risk to children then has to be properly evaluated.

A few other problems are high priorities to mention. First, this approach is based on the assumption that the risk to children from visitation comes primarily from exposure to new acts of physical violence. As serious as this risk is, it is not in fact the greatest one; the far greater danger is of physical, sexual, and psychological abuse by the batterer during the visits. Children from domestic violence are particularly vulnerable psychologically because they are already scarred by the violence they have been exposed to. Johnston's typology does nothing to identify those batterers who are most likely to abuse their children post-separation, does not examine what kind of atmosphere assists children to recover from the trauma of divorce and domestic violence, and does not discuss any other indicators of a batterer's risk to children other than his level of physical violence.

Second, this typology does nothing to help assess the risk that an abuser will batter in his next relationship. Although abusers blame their violence on their current victim and on the specific relationship dynamics, both research studies and clinical experience make clear that the problem lies within the abuser. Abusers have a high rate, regardless of their level of physical violence, of battering in their next long-term relationship. Children of batterers are therefore at risk of exposure to domestic violence in their father's new relationship.

Johnston sometimes accepts abusers' explanations of their actions at face value. She writes, for example, about men who she says slap their partners " in a misguided effort to quell her 'hysteria'" (pg. 196). Batterers are known for their violent punishment of partners who attempt to express anger, which Johnston is apparently unaware of. She is actually describing a batterer who is highly intolerant of his victim's efforts to have a voice, which has far-reaching implications for both her and her children.

Johnston appears to have no awareness of the overlap between battering and incest perpetration. In one of her articles (Johnston, July 1993) a striking passage describes the relationship between girls younger than seven or eight years old and their batterer fathers:

In general, there were poor boundaries between these men and their daughters, especially among the substance-abusing men, with mutual seductiveness and provocation of his aggression. These fathers needed validation of their masculinity and attractiveness; they pulled for this affirmation from their little daughters.."

Johnston shows no sign of recognizing this as incest, although it reads like a description from a training course on sexual abuse. It is also important to note that she is holding these girls equally responsible for the dynamics of their relationships with their fathers, which certainly raises questions about her judgement in assigning responsibility for abuse in adult relationships.

In cases where a batterer does have a mental illness (Type E), the disorder cannot be assumed to be the cause of his battering. Most mentally ill batterers also have the typical attitudes and behaviors of batterers, and therefore addressing the mental health problem alone will not necessarily reduce the domestic violence. Johnston appears unaware that a person can simultaneously have a mental health problem and a battering problem, neither of which is reducible to the other.

Type B, where the victim initiates the violence, needs to also be treated with care. The question of which person strikes first is of limited value in assessing domestic violence; the more relevant questions are which party is in fear, which party is being systematically torn down or controlled, and which party is suffering the long-term psychological damage. Careful evaluation sometimes reveals a picture quite different from the initial impression.

ASSESSMENT OF RISK TO CHILDREN FROM VISITATION WITH A BATTERER

Assessing the safety of children with batterers during unsupervised visitation requires careful examination of all available evidence, with as few preconceptions as possible about the credibility of either party. Even a highly skilled service provider cannot "just tell" that an alleged abuser is telling the truth or is not dangerous, even after several hours of interviews and even with the assistance of psychological testing. These can be important sources of information, but careful assessment of the alleged victim's version of events, comparison with outside sources (to assess credibility), examination of court records, and confrontation of the alleged abuser to assess his reactions are all essential to an evaluation.

Where persuasive evidence of a history of domestic abuse is present, risk to the children from unsupervised visitation can be best assessed by examining:

- * the abuser's history of directly abusive or irresponsible behavior towards the children
- * his level of psychological cruelty towards the victim
- * his level of willingness to hurt the children as a deliberate or incidental aspect of hurting the mother (such as throwing things at her with the children nearby, being mean or deliberately risk-taking to the children when angry at her, failing to pay child support that he has resources for)
- * his level of manipulativeness towards family members
- * his level of selfishness and self-centeredness towards family members, including expectations that the children should meet his needs
- * whether he has been violent or physically frightening in front of the children
- * whether he has been verbally degrading to his partner in front of the children
- * the severity or frequency of his physical violence and threats, including threats to hurt himself
- * his history of sexual assaults against the mother, which are linked to increased risk of sexual abuse of the children and increased physical danger
- * his history of boundary violations towards the children
- * his substance abuse history

- * the level of coercive control he exercises over his partner and children
- * his level of entitlement (attitude that his violence was justified, expectation that his needs should always be catered to, seeing the children as personal possessions)
- * the extent of his past under-involvement with the children (e.g. failing to know basic information such as the child's birth date, names of pediatricians or school teachers, or basic routines of the children's daily care)
- * his level of refusal to accept the end of the relationship
- * his level of refusal to accept mother's new partner being in the children's lives
- * his level of refusal to accept responsibility for past abusive actions (including continued insistence that relationship was more or less equally and mutually destructive, continued insistence that his violence was provoked, continued minimization)
- * his level of escalation
- * his level of inability to put the children's needs ahead of his own and to leave them out of conflicts with his partner
- * the ages and genders of the children (younger children may be more vulnerable to physical or psychological abuse, female children are at somewhat higher risk for sexual abuse)

Notice that the level of the abuser's physical violence and the pervasiveness of his control are important factors, but are only two among many that have to be evaluated. Risk of sexual abuse, for example, is better predicted through entitlement and self-centeredness, history of boundary violations, level of manipulateness, and sexual assaults against the partner. Information from psychological evaluations or testing is limited in its ability to assess danger, but can point to additional issues that need to be addressed.

With a list of factors this long and complex to consider, it is evident that formulaic approaches to declaring some batterers safe for visits and others unsafe are impossible. Mediators, Guardians ad Litem, and judges need to be prepared to spend some extra time (which is understandably hard to come by). Extensive training on domestic violence by those with experience with both victims and abusers is essential.

Statements by children about their view of the situation need to be approached with great caution. Children of an abuser may side with him in order to protect themselves, or because he has successfully persuaded them through his words and actions that their mother is not worthy of respect. Young children should not be asked their preferences about custody or visitation, and the wisdom of asking even older children is in dispute.

Because of the complexities involved in assessing risk to children from visitation, a state-certified batterer program is a valuable and underutilized tool in making evaluations. The program has the familiarity with patterns of behavior and thinking common to abusers, and therefore can help sort out the more dangerous clients. batterers' counselors have far more knowledge and experience than others regarding this particular population, regardless of professional degree. The program spends many more hours over a period of weeks or months

than any court representative can, and thus gains an important body of information and insight. Using the batterer program as a condition of visitation, whether supervised or unsupervised, could assist mediators, GAL's, and judges in making their longer-term determinations. Uncertified or newer batterer programs should be avoided for these delicate cases, where the potential consequences of errors in judgement are high.

Family courts need to become a stronger link in the community response to domestic violence, as custody and visitation disputes are one of the arenas where the greatest re-victimizing of battered women and their children occurs (and often continues for years). The most careful discussions and painstaking, rigorous research are required in the months and years ahead, with a greatly elevated participation of specialists in battered women and batterers. Probate court personnel, Guardians Ad Litem, and other service providers also need to participate in community roundtables on domestic violence, so as to become part of the community safety net. Through multidisciplinary task forces, knowledge and perspectives are shared, mutual learning occurs from the accumulated experience and expertise of police officers, prosecutors, battered women's advocates (including formerly battered women), batterers' counselors, domestic violence lawyers, concerned therapists, and others. The potential for healing among children traumatized by domestic violence depends on these types of community efforts, in order to increase the sophistication of our responses.

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1. Part of the confusion here is that *non-abusive* men sometimes do have improved parenting with their children, and therefore closer relationship, after a separation or divorce; they now are spending time alone with the children, and thus are forced to take a larger role in the children's care. Abusers, however, are rarely observed to respond in this way.