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Special Report

A Human Rights Resource and Action Packet for Domestic Violence Survivors Seeking Custody of Their Children in the Massachusetts Family Courts

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A Human Rights & Resource Action Packet on Domestic Violence & Child Custody

A NOTE ON USING THIS RESOURCE PACKET

For over three years, the Battered Mothers' Testimony Project used human rights as a tool to examine the difficulties faced by the Massachusetts domestic violence survivors who seek custody of their children in family court. We had an overwhelming response from survivors, many of whom have contacted us for help with their cases. Unfortunately, we are not legal advocates, and can not offer legal advice or counseling services.

Still, we hope to help the many survivors who find themselves feeling alone and helpless as they struggle with difficult court cases. This resource packet is a compilation of all the information that we have on the resources available to you. We hope that you study the packet thoroughly and that you are able to make good use of these resources. We also hope that you will reach out to other survivors to advocate for change in the family court system and have dedicated the last section of this packet to giving you tools to help you in that effort.

PLEASE REMEMBER that this packet should be used in conjunction with our report Battered Mothers Speak Out: A Human Rights Report on Domestic Violence and Child Custody in the Massachusetts Family Courts. **The packet is not intended to substitute for legal representation or professional counseling services.**

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About the Battered Mothers' Testimony Project:

Since 1999, the Battered Mothers' Testimony Project at the Wellesley Centers for Women has been working to document and address the human rights abuses inflicted on battered women and their children by the Massachusetts family court system in the context of child custody and visitation litigation. To our knowledge, the Battered Mothers' Testimony Project is the first initiative in the world to address partner abuse and child custody issues as human rights abuses. Our primary goal is to assess whether the Massachusetts family court system is acting in accordance with internationally accepted human rights standards and norms in selected cases, and to identify and promote the changes necessary to ensure that the family courts meet their human rights obligations. The project is statewide and multi-disciplinary and involves the leadership of survivors and advocates at all levels.

As a first step, we held a Human Rights Tribunal on Domestic Violence & Child Custody at the Massachusetts State House in honor of Mother's Day in 2002. The Tribunal focused on the public testimonies of five battered mothers and the responses of four invited speakers from the fields of child advocacy, human rights, and community activism/local government. It was a resounding success and received same-day coverage in a Boston Globe editorial.

On November 25, 2002, WRN held a press conference at the Women's Educational and Industrial Union in Boston to announce the release of our report, *Battered Mothers Speak Out: A Human Rights Report on Domestic Violence and Child Custody in the Massachusetts Family Courts*. November 25 was chosen as the date for the press conference because it is the International Day Against Violence Against Women and also marks the beginning of an annual global campaign for women's human rights entitled "The 16 Days of Activism Against Gender Violence." The press conference generated widespread print, radio and television media coverage throughout the Commonwealth. This groundbreaking report is the culmination of three years of fact-finding and research conducted with the assistance of advocates and survivors across the state. The report draws on interviews with battered mothers as well as with lawyers, advocates, service providers and family court personnel to analyze circumstances in which the Massachusetts family courts are violating internationally accepted human rights laws and standards in child custody and visitation cases where there is a history of partner abuse.

In the report, we identify and discuss six interesting categories of human rights violations found to be committed by the family courts against battered mothers and their children:

- I. Failure to protect battered women and children from abuse.
- II. Discrimination and bias against battered women.
- III. Degrading treatment of battered women.
- IV. Denial of due process to battered women.
- V. Allowing the batterer to continue the abuse through the family courts.
- VI. Failure to respect the economic rights of battered women and children.

Select Case Summaries & Findings From:
Battered Mothers Speak Out:
A Human Rights Report on Domestic Violence and Child
Custody in the Massachusetts Family Courts

Everyone has the right to life, liberty and security of person.
Universal Declaration of Human Rights, article 7

Human rights are inscribed in the hearts of people;
They were there long before lawmakers drafted their first proclamation.
Mary Robinson, Former U.N. High Commissioner for Human Rights

Overview

Human rights are much more than a body of law. Human rights constitute a universal value system and vision of principles that form the foundation of global freedom, justice, and peace. These rights are based on the fundamental principle that all people – women, children and men – possess an inherent human dignity and are equally entitled to enjoy their human rights and equally responsible for respecting the human rights of others. Governments throughout the world, including the United States, have clear and specific responsibilities to respect, protect and fulfill the human rights of those within their jurisdictions.

Since the United Nations proclaimed the Universal Declaration of Human Rights in 1948, the international community had adopted numerous laws, standards, and mechanisms to protect and promote the human rights of individuals vis-à-vis their governments. The Battered Mothers' Testimony Project used these standards to investigate and evaluate how the Massachusetts family courts handle child custody and visitation decisions when there is a history of partner abuse and, in some cases, child abuse as well.

Battered Mothers Speak Out is a human rights report produced in November 2002 by the Battered Mothers' Testimony Project at the Wellesley Centers for Women. This report documents and analyzes six categories of human rights violations found to be committed by the Massachusetts family courts in selected child custody and visitation cases with a history of partner abuse. The report draws on: (a) in-depth testimonies of 40 survivors across Massachusetts; (b) focus groups with survivors, lawyers, advocates, and service providers; (c) a written survey of service providers and advocates; and (d) interviews with state actors in the family court system, including judges, guardians ad litem, probate probation officers and Department of Social Service workers, among others. The full report, which includes detailed recommendations for change, can be ordered from the Wellesley Centers for Women's publications office at (781) 283-2510, or downloaded from our website at: www.wcwonline.org/wrn

Based on the full report, this document: 1) provides summaries of select battered women's testimonies; and 2) highlights our findings and human rights analysis of the issues under study.

Note: All names are pseudonyms.

was clearly Gary's new partner. The guardian ad litem chose to believe Gary's claims that Leslie was strictly a platonic friend. The judge then accepted the guardian ad litem's recommendations, despite the documented history of severe domestic violence. Two years later, Gary beat Leslie severely, an event that led Leslie to disclose to Sandy that she had suffered repeated beatings from Gary and had been keeping them secret. At this point the guardian ad litem resigned from the case, and a different judge immediately imposed professional supervision on Gary's visits.

Case Summary #3

Lorie had suffered one of the most severe patterns of domestic violence that was reported to us. For example, her husband, Noah, had hit her hard in the face with his head, breaking one of her front teeth (an incident for which she had dental records as evidence); repeatedly pulled clumps of hair out of her head; slapped her in the face, knocking her glasses off, in front of the children; tore off her clothes; and one time picked up a large butcher knife while Lorie had their baby in her arms and said to her, "Put the kid down, I'm going to kill you now!" Lorie has extensive documentation of the abuse, including detailed statements from witnesses who had observed these events and Lorie's many injuries, which the judge and the custody evaluator apparently refused to read. Custody of all children was awarded permanently to the batterer with no examination of the extensive evidence of domestic violence.

Lorie reported a number of forms of degrading and disrespectful treatment by state actors. The guardian ad litem said to her, for example, "I know you lied to me. You better tell me the truth now, because I'm getting phone calls from people and they can tell me the truth." The guardian ad litem also described Lorie as irrationally angry and as overly emotional and unstable because she sometimes broke into tears, thus ignoring the depth of trauma engendered by Lorie's extreme history of battering. The guardian ad litem also discredited her reports of domestic violence, despite his own acknowledgment that Noah was controlling, domineering, and dishonest. Lorie also reported recurring experiences in which judges did not let her speak at hearings, read and shuffled papers while important witnesses were testifying, and were nearly falling asleep during trial.

Case Summary #4

Fran had suffered a long history of violence from her husband, Nathan, that included kicking her hard enough to injure his own foot; wrapping the telephone cord around her neck and then pinning her to the bed, holding her there until she began to lose consciousness; driving in a terrifying manner with her and the children in the car and screaming that he was going to kill them all; and dragging her into his car in public when she was trying to escape, which led to a man in a nearby car to physically intervene so she could get away.

Fran experienced several obstacles to due process. The most frequent was that she was prohibited from speaking at hearings by the judge, who was willing to listen only to what the probate probation officer would summarize. The probate probation officer, who apparently was biased against Fran and inappropriately friendly with Nathan, would misrepresent statements Fran had made to her, which the judge would not give Fran the opportunity to correct. This same probate probation officer took control of Fran's case repeatedly, which appeared to violate proper process at the family court, where the probate probation officer is normally chosen randomly for each hearing. This same probate probation officer circumvented a critical judicial order: The judge had ordered Nathan's participation in a batterer's intervention program, but the probate probation officer permitted him instead to

The Six Human Rights Abuses Identified By the Battered Mothers' Testimony Project at the Wellesley Centers for Women

Excerpted From: *Battered Mothers Speak Out: A Human Rights Report on Domestic Violence and Child Custody in the Massachusetts Family Courts*,

Wellesley Centers for Women, November 2002

I. FAILURE TO PROTECT BATTERED WOMEN AND CHILDREN FROM ABUSE

I don't think there is a worse thing in the world than not being able to protect your children. Like someone's got my hands tied behind my back and I'm watching them beaten up, and I can't protect them. (Participant in study)

More than half of the forty women we interviewed reported that a state actor – typically a judge, guardian ad litem, or probate probation officer – had granted or recommended joint or sole physical custody of the children to their ex-partners at some point during the family court litigation. In addition, one of the most common complaints of the women in our study was that a family court state actor granted or recommended that their ex-partners have unsupervised visitation with the children, including overnight visits. Such court orders force women and children into ongoing, unprotected contact with their abusers, and place them at risk of being harmed or threatened physically, sexually, or psychologically as a result. Indeed, the majority of women we interviewed said that after they left their ex-partner and went to family court, he subjected them and their children to some form of abuse or mistreatment.

Even where pick-up and drop-off is at the police station, women get harassed, followed, and threatened by ex-partners. (Legal advocate at a battered women's program)

Our study also found problems in certain cases with state actors' ignoring or minimizing mothers' reports of partner or child abuse and mistreatment, failing or refusing to investigate partner abuse or mothers' allegations of child abuse, failing to examine or credit documented evidence of partner or child abuse, and mishandling child sexual abuse allegations.

FAILURE TO PROTECT IS A HUMAN RIGHTS VIOLATION

Applicable human rights laws:

[Governments should] exercise due diligence to prevent, investigate and punish acts of violence against women, whether those acts

Our study also indicates that there are state actors in the family court system who do not find battered women credible and therefore dismiss their allegations of partner and child abuse. The advocates we surveyed also reported the existence of bias against battered mothers. As one advocate noted, “[Probate probation officers] disbelieve and pathologize battered moms.”

Further, our study revealed that some state actors hold battered mothers to higher behavioral and parenting standards than fathers. Many survivors reported feeling that they constantly had to prove themselves as parents in ways that their abusive ex-partners did not, or that some state actors were quick to criticize them or hold them responsible as parents, but did not do the same with their ex-partners.

Advocates and survivors in our focus groups also described experiencing and/or witnessing discrimination against battered mothers in the Massachusetts family courts on the basis of race, ethnicity, language ability, class, educational level, income, and/or sexual orientation.

DISCRIMINATION AND BIAS IS A HUMAN RIGHTS VIOLATION

Applicable human rights laws:

[Governments shall] establish legal protection of the rights of women on an equal basis with men.
U.N. Convention on the Elimination of All Forms of Discrimination against Women, article 2

All people have the right to equality, no matter their sex, race, ethnicity, age, sexual orientation or other distinctions, and governments are responsible for treating all people within their jurisdictions equally. When state actors in the Massachusetts family courts exhibit bias and discrimination against battered mothers, they violate battered mothers' human rights to non-discrimination, equal protection of the law, equality in judicial proceedings, and due process. Indeed, equality is a bedrock principle of human rights law. The right to non-discrimination and related rights are found in such documents as the Universal Declaration of Human Rights, the U.N. International Covenant on Civil and Political Rights, the U.N. International Convention on the Elimination of All Forms of Racial Discrimination, and the U.N. Convention on the Elimination of All Forms of Discrimination against Women.

III. DEGRADING TREATMENT OF BATTERED WOMEN

[The judge] told me off a couple of times. He yelled at me – that I needed to shut up, that I needed to stay quiet... I need to keep my emotions to myself... They treat you like you're kids in there. (Participant in study)

Nearly every woman in our study said that judges, guardians ad litem, and/or probate probation officers had treated her with condescension, scorn, and disrespect, including by responding to her claims of partner and child abuse with sarcasm and dismissal. Compounding the problem is the fact that most of these women reported being personally mistreated by more than one family court official with whom they interacted.

Almost half of the women we interviewed reported that the judge in their case denied them an adequate opportunity to tell their side of the story or to respond to issues that had been raised by their ex-partners. Some women also commented that their ex-partners were consistently given more time and opportunity to speak in court as well as to present evidence and witnesses than were the women, particularly if the women were unrepresented. Granting men a greater opportunity than women to speak in court is a major concern because it can contribute directly to outcomes that are biased in favor of fathers and against mothers and children.

Another reported due process problem is probate probation officers who pressure battered mothers to engage in face-to-face mediation and/or dispute intervention with their abusers, despite knowledge of the partner abuse. Successful mediation requires equal bargaining power between the parties, a requirement that cannot be met in cases of partner abuse. Mediation between batterers and their victims exposes victims to danger and can result in their agreeing to terms that are not in their or their children's best interests.

In addition, many survivors reported to us that they were not given copies of the guardian ad litem reports in their cases. In some cases, they were only allowed to read them in their attorneys' offices; in other cases, they were not allowed to read them at all. This impounding of guardian ad litem reports serves to protect them from being scrutinized and challenged by the parties, which is particularly concerning since guardian ad litem reports are heavily relied upon by judges as evidence. For battered mothers, this problem ultimately affects their ability to protect their children's best interests.

DENIAL OF DUE PROCESS IS A HUMAN RIGHTS VIOLATION

Applicable human rights laws:

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations.

Universal Declaration of Human Rights, article 10

[Governments] shall...ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination.

U.N. Convention on the Elimination of All Forms of Discrimination against Women, article 2

Everyone has the human right to due process of law, including a fair hearing for resolving disputes, freedom of speech, and equal protection of the law. When battered mothers are denied their due process rights, their ability to achieve justice and safety for themselves and for their children is seriously compromised. In cases where the courts uphold their ex-partners' rights to due process but fail to uphold theirs, battered mothers may also be denied equal protection of the law. These rights are enshrined in the Universal Declaration of Human Rights, the U.N. International Covenant on Civil and Political Rights, the U.N. Convention on the Elimination of All Forms of Discrimination against Women, and the U.N. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

III. ALLOWING THE BATTERER TO CONTINUE THE ABUSE THROUGH THE COURTS

He's forced me to go back to court endlessly. I can't remember how many motions we have on our docket. There's got to be 150.

VI. FAILURE TO RESPECT THE ECONOMIC RIGHTS OF BATTERED WOMEN AND CHILDREN

[The family court litigation has] financially crippled me and, therefore, interfered with financial resources that should have gone to taking care of the kids. It put me in debt. I've had to file for bankruptcy twice. (Participant in study)

Survivors as well as attorneys and service providers reported that there are state actors in the Massachusetts family courts – particularly judges – who are negatively impacting battered women's and children's economic well-being through their actions and failures to act. Specific problems include judges who make unfair or unreasonable child support orders, fail to hold batterers accountable for nonpayment of child support, and allow batterers to continue their financially draining litigation abuse tactics.

A majority of the women we interviewed reported that they suffered financial hardship related to their family court ordeals. Some said that they had spent tens or even hundreds of thousands of dollars on legal fees and court-related costs, and others said that they were hundreds of thousands of dollars in debt. This problem is compounded by the fact that the majority of women in our study had substantially lower incomes than their ex-partners to begin with. For many survivors, these factors conspire to prevent them from being able to hire an attorney at all or from being able to retain an attorney throughout the entire course of the litigation.

Some women said that judges reduced the amount of child support to compensate for the cost of supervised visitation, an arrangement that, in effect, makes children pay for the cost of visiting with a man who abused them and/or their mothers. Furthermore, many women in our study reported that inadequate child support orders have caused them and their children financial hardship.

The judge knew I was on food stamps. He knew I was on [public assistance]. He knew that the kids and I were on Mass Health [public health insurance]. So he knew we had no money and still he didn't order Tim to pay me child support. (Participant in study)

FAILURE TO RESPECT ECONOMIC RIGHTS IS A HUMAN RIGHTS VIOLATION

Applicable human rights law:

[Governments] shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child.

U.N. Convention on the Rights of the Child, article 27

Everyone has the right to an adequate standard of living, and governments are responsible for taking all appropriate steps to ensure that people within their jurisdictions have access to the resources necessary to attain one. The downward financial spiral in which many of the women we interviewed now find themselves can be traced in part to certain family court judges' actions or

UNDERSTANDING THE BATTERER IN CUSTODY AND VISITATION DISPUTES

By R. Lundy Bancroft
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 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 need 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 remarkably little during the 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

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, dependant 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 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 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 manipulativeness and overt disrespect also vary, so that each batterer has a particular style.

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.

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 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 uncommon for an abuser to be more frightening after separation than he was before, and to increase his manipulation and psychological abuse of children, for reasons covered above.

A victim 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 scape-goating 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 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 crises in his home, victims and children have difficulty naming and 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

directly in abusing her; for example, a client of mine taught his 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 children on his side. He may tell them 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 and 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; Sirles; Truesdell et.al.) The profile of an incest perpetrator is similar in 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 measure of his risk to the children. His level of entitlement, his degree if self-centeredness, the extent of his manipulativenness, his capacity for cruelty, and other aspects of his profile give important information about his likelihood to abuse his 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"

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 as 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 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.

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 confrontations 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 his 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 manipulateness towards his 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

- American Psychological Association Presidential Task Force on Violence and the Family Washington, D.C.: APA, 1996
Includes lethality assessment; risk of kidnapping; connections among different forms of abuse; batterers' likelihood to file for custody
- American Psychological Association "Guidelines for Child Custody Evaluations in Divorce Proceedings" American Psychologist 49 (7) July 1994, pgs, 677-680
Cautions on misuse of psychological evaluation; states expectation that the evaluator get additional expert consultation if domestic violence is involved
- Ayoub, C., Grace, P., Paradise, J., and Newberger, E., "Alleging Psychological Impairment of the Accuser to Defend Oneself Against a Child Abuse Allegation: A Manifestation of Wife Battering and False Accusation" in Assessing Child Maltreatment Reports Haworth Press, 1991, pgs. 191-207
- Bancroft, Lundy "Assessing Risk from Unsupervised Visitation With Batterers" Available from Resource Center on Domestic Violence: Child Protection and Custody (800) 527-3223
- Bowker, Lee et. al " On the Relationship Between Wife Beating and Child Abuse" Perspectives on Wife Abuse Yllo, Kersti and Bograd, Michelle(Eds.) Sage, 1998
70% of the batterers in this study abused the children; sexual assaults against the mother were highly predictive of child abuse; evidence that battering is a strategy for domination rather than a product of psychopathology
- Brodzinsky, D. "On the Use and Misuse of Psychological Testing in Child Custody Evaluations" Professional Psychology: Research and Practice Vol. 24, No. 2
Offers various cautions
- Campbell, Jacquelyn "Prediction of Homicide of and by Battered Women" in Campbell, Jacquelyn, Ed. Assessing Dangerousness Sage, 1995
Evidence that sexual assaults increases dangerousness
- Crites, Laura and Coker, Donna "What Therapists See that Judges May Miss" in The Judges Journal Spring 1988
Abuser's parenting style; relationship problems do not cause abuse; importance of specialized abuse counseling; under-involvement as parents; retaliatory reasons for seeking custody; limited value of psychological evaluations; range of personality types of abusers; public image; ability to convince others, including therapists, that he is the victim; negative judgments about an angry victim; problems with "mutual provocation" arguments; problems with joint custody.
- Daly, Martin, and Wilson, Margo Homicide New York: Aldene de Gruyter, 1988
Information on lethality of batterers, particularly role of possessiveness
- Goetting, Ann "Men Who Kill Their Mates" Journal of Family Violence Sept. 1989
Evidence that substance abuse increases risk of lethality
- Groth, Nicholas " The Incest Offender" in Sgroi, Suzanne, M.D., Ed. Handbook of Clinical Intervention in Child Sexual Abuse Lexington Books, 1982

Jouriles, E.N., Murphy, C.M. and O'Leary, D.K. " Interspousal Aggression, Marital Discord, and Child Problems" Journal of Counseling and Clinical Psychology number 57, pgs. 453-455
Discussion of batterers' parenting styles

Kantor, G.K. and Straus, M. A. " The Drunken Bum' Theory of Wife Beating" Social Problems Volume 34, No. 3
Alcohol not causative in domestic violence

Leberg, Eric Understanding Child Molesters: Taking Charge Thousand Oaks: Sage, 1997
Profile of child sexual abuser, including denial, manipulateness, grooming of the victim,
careful preparation of the social environment, abuse of the child's mother

MacFarlane, Kee, and Waterman, Jill Sexual Abuse of Young Children The Guilford Press, New York, 1986.
Contains an excellent discussion of sexual abuse allegations that arise
for the first time during custody or visitation disputes.

McCloskey, L.A., Figueredo, A.J., and Koss, M. "The Effect of Systemic Family Violence
on Children's Mental Health" Child Development No.66, pgs. 1239-1261
Batterers more than six times as likely as non-batterers to perpetrate incest:
incest present in almost 10% of the battering homes in their study

"Model State Code on Domestic Violence" National Council of Juvenile and Family Court Judges

Myers, John Evidence in Child Abuse and Neglect Cases New York: Wiley and Sons, 1997
There is no psychological profile of the sexual offender-cites many sources

Pagelow, Mildred Daley "Justice for Victims of Spouse Abuse in Divorce and
child Custody Cases" in Violence and Victims Vol. 8, No.1, 1993
Why victims don't disclose the abuse; use custody disputes as a power tactic; problems
with joint custody; evidence that children of batterers are better off in sole custody, even if
little or no paternal contact is one result; likelihood of batterers to abuse the children.

Paveza, G. "Risk Factors in Father-Daughter Child Sexual Abuse" Journal
of Interpersonal Violence 3 (3), Sept. 1998, pgs. 290-306
Domestic violence one of the top four risk factors in this study

Rotman, Arline et. al. Domestic Violence Visitation Risk Assessment
Association of Family and Conciliation Courts, 1994
Contains an excellent sample supplemental order of visitation issues for judges to use in domestic
violence cases, and some useful guides to assessing physical danger. Unfortunately, this guide
is misdirected in other respects, as it relies heavily on Janet Johnston's profoundly flawed
typology and, like Johnston fails to address the primary risks to children from batterers

Sanford, Linda The Silent Children Garden City: Anchor Press, 1988
Explains the cultural supports for child sexual abuse, with a compelling analysis

**MASSACHUSETTS RESOURCES FOR
SURVIVORS, CHILDREN AND ADVOCATES**

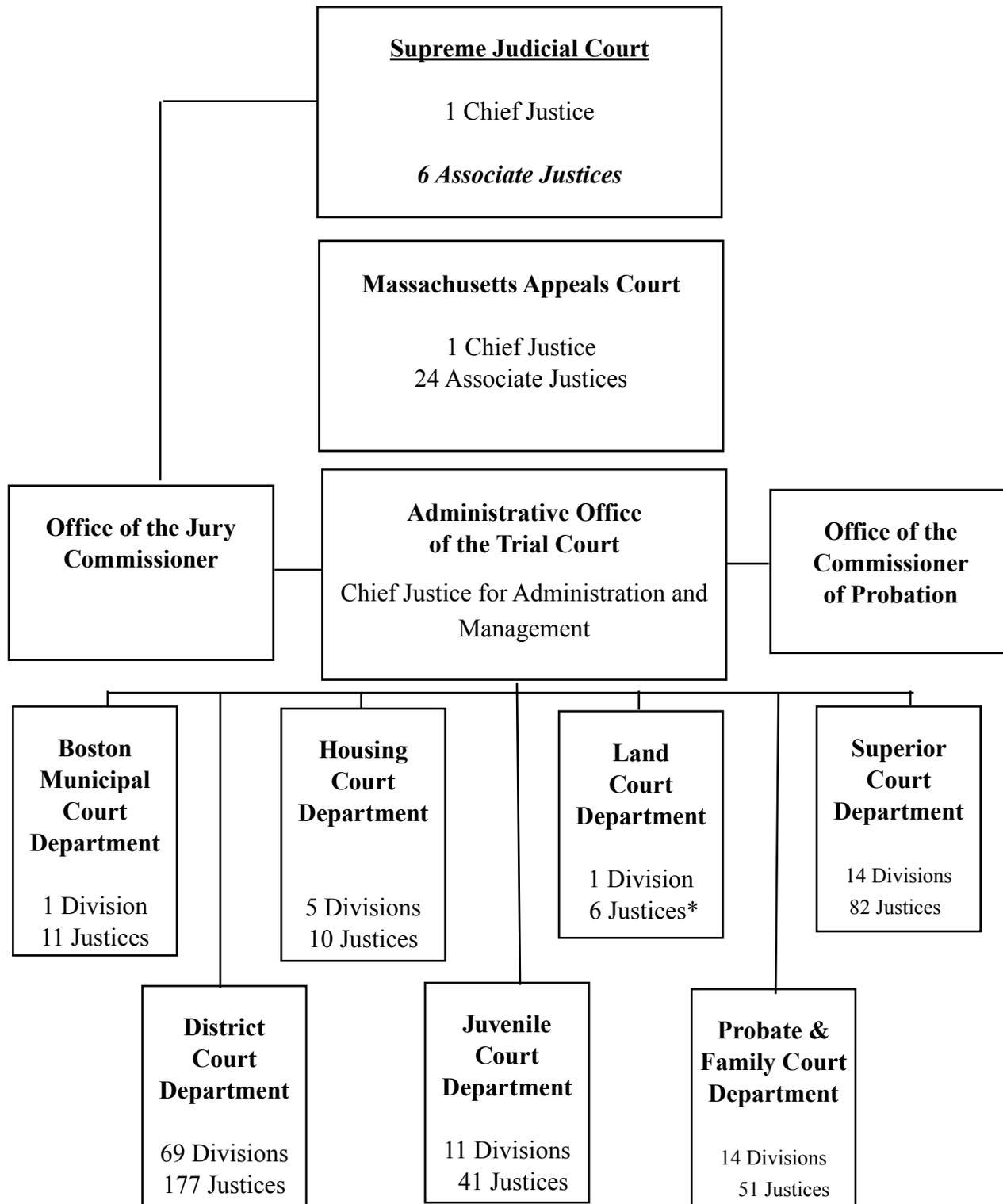
*Ideas for survivors, advocates and other
concerned individuals and/or organizations.*

SCHEMATIC REPRESENTATION OF THE MASSACHUSETTS COURT SYSTEM
Fiscal Year 2001(www.state.ma.us/courts)

*According to St. 2001, c. 177 (the fiscal year 2002 Judiciary budget),□

The

number of Justices indicated for the three Courts includes those additions. The number for all Courts is the maximum authorized by statute; the actual number of judges varies depending on vacancies.



upon which an order or orders under said chapter 209A was based may also form the basis for a finding by the probate and family court that a pattern or serious incident of abuse has occurred.

If the court finds that a pattern or serious incident of abuse has occurred and issues a temporary or permanent custody order, the court shall within 90 days enter written findings of fact as to the effects of the abuse on the child, which findings demonstrate that such order is in the furtherance of the child's best interests and provides for the safety and well-being of the child.

If ordering visitation to the abusive parent, the court shall provide for the safety and well-being of the child and the safety of the abused parent. The court may consider:

- (a) ordering an exchange of the child to occur in a protected setting or in the presence of an appropriate third party;
- (b) ordering visitation supervised by an appropriate third party, visitation center or agency;
- (c) ordering the abusive parent to attend and complete, to the satisfaction of the court, a certified batterer's treatment program as a condition of visitation;
- (d) ordering the abusive parent to abstain from possession or consumption of alcohol or controlled substances during the visitation and for 24 hours preceding visitation;
- (e) ordering the abusive parent to pay the costs of supervised visitation;
- (f) prohibiting overnight visitation;
- (g) requiring a bond from the abusive parent for the return and safety of the child;
- (h) ordering an investigation or appointment of a guardian ad litem or attorney for the child; and
- (i) imposing any other condition that is deemed necessary to provide for the safety and well-being of the child and the safety of the abused parent.

Nothing in this section shall be construed to affect the right of the parties to a hearing under the rules of domestic relations procedure or to affect the discretion of the probate and family court in the conduct of such hearings.

<http://www.state.ma.us/legis/mgl/208-31a.htm> (3/26/2003)

LEGAL RESOURCES CONTINUED ...

New Center for Legal Advocacy

257 Union Street

New Bedford, MA 02740

Intake Tel: 1-800-244-9023

Service Areas: Abington, Acushnet, Attleboro, Avon, Berkley, Bridgewater, Brockton, Dartmouth, Dighton, East Bridgewater, Easton, Fairhaven, Fall River, Freetown, Gosnold, Hanover, Mansfield, Mattapoisett, New Bedford, North Attleboro, Norton, Raynham, Rehoboth, Rockland, Seekonk, Somerset, Stoughton, Swansea, West Bridgewater, Westport, Whitman.

Pro Bono Legal Project of Tri-City Community Action Program

110 Pleasant St.

Malden, MA 02148

Tel: (781) 322-4125

Service areas: Everett, Malden, Medford, Melrose, and Wakefield

South Middlesex Legal Services

354 Waverly St.

Framingham, MA 01702

Tel: (508) 620-1830

Service areas: Central and southern Middlesex county and northern Norfolk county

Volunteer Lawyers Project of the Boston Bar Association

Tel: (617) 423-0648

Service areas: Boston and surrounding towns; Suffolk County; parts of Middlesex, Norfolk, And Plymouth counties

Volunteer Lawyers Service of Massachusetts Justice Project

332 Main St., Suite 640

Worcester, MA 01608

Tel: (508) 831-9888 or (888) 427-8989

Service area: Worcester County

Western Massachusetts Legal Services

127 State St.

Springfield, MA 01103

Tel: (413) 781-7814

Service areas: Franklin, Hampshire, Hampden, and Berkshire counties

Federal Poverty Guidelines For the 48 Contiguous states and the District of Columbia (Published in the Federal Register: February 7,2003)

Most programs that offer free or low-cost legal services or other assistance to domestic violence survivors require that you be financially eligible to receive these services. Generally speaking, these programs base financial eligibility on the poverty guidelines that are issued annually by the U.S. Department of Health and Human Services. For example, Greater Boston Legal Services serves families whose monthly income does not exceed 125% of the Federal Poverty Guidelines. Similarly, the Women’s Bar Foundation Family Law Project provides volunteer attorneys to clients whose incomes are not greater than 250% of the Federal Poverty Guidelines. Therefore, **it is important that you contact each program separately to find out whether you qualify for their services.**

The table below can help you figure out where your income falls with respect to the Federal Poverty Guideline that was issued in 2003. For example, if you are a family of two people and your income is \$12,120 per year or less, you meet the federal poverty guideline. However, if you are a family of two and you make \$24,240 per year, you make twice the amount that is defined as the poverty level. Once again, it is important that you contact each program that offers services to find out whether you qualify.

Family Size	Annual Income that is 100% of Poverty Guideline	Annual Income that is 187.5% of Poverty Guideline	Annual Income that is 200% of Poverty Guideline	Annual Income that is 250% of Poverty Guideline
1	\$8,980	\$16,837.50	\$17,960	\$22,450
2	\$12,120	\$22,725	\$24,240	\$30,300
3	\$15,260	\$28,612.50	\$30,520	\$30,520
4	\$18,400	\$34,500	\$36,800	\$46,000
5	\$21,540	\$40387.50	\$43,080	\$53,850
6	\$24,680	\$46,275	\$49,360	\$61,700

DOVE

Quincy

(617) 471-5087

Ask for: Community Based Victim Services

Elizabeth Stone House

Jamaica Plain

(617) 522-3659

Ask for: Parent Child Center

FINEX House

Jamaica Plain

(617) 436-2002

Ask for: Crisis Intervention Project

HarborCOV

Chelsea

(617) 884-9799

Ask for: Battered Women's Program

Health and Education Services

Beverly

(978) 927-4506

Ask for: Victims of Crime and Loss

Holy Family Medical Center

Methuen

(978) 687-0151

Ask for: Children Who Witness Domestic Violence

New Bedford Child and Family Services

New Bedford

(508) 996-8572

Ask for: The Caring Network

Northampton Center for Children and Families

Northampton

(413) 587-3265

Ask for: The Children's Clinic

Roxbury Comprehensive Community Health Center

Roxbury

(617) 442-7400

Ask for: Victims of Violence Program

DOMESTIC VIOLENCE VISITATION PROGRAM SERVICES IN MASSACHUSETTS

The following organizations offer visitation programs that provide a safe and neutral environment for children to visit with their non-custodial parents. Please call each program to find out whether they offer supervised visits, non-supervised visits, parent pick-up and drop-off exchanges, or other related services.

Children's Services of Roxbury

(617) 989-2635

The Meeting Place, Cambridge

(617) 661-9711

Children's Supervised Visitation, Framingham

(508) 626-8434

Alternative House, Lowell

(978) 937-5777

New Hope, Hyannis and Worcester

(508) 752-8709

Brockton Family and Community Resources, Brockton and Quincy

(508) 583-6498

Portuguese Youth Council, Fall River

(508) 679-0962

Mass. Society for the Prevention of Cruelty to Children, Athol, Greenfield & Northhampton

(413) 773-3608

YWCA of Western MA, Springfield & Northhampton

(413) 747-8417

Martha's Vineyard Community Services

(508) 693-7900

Elizabeth Freeman Center, Pittsfield, North Adams & Great Barrington

(413) 443-3016

DTA area offices continued ...

Lowell

131 Davidson Street
Lowell, MA 01852
(978) 446-2400
Fax (978) 458-7563

Malden

200 Pleasant Street
Malden, MA 02148
(781) 388-7300
Fax (617) 727-7493

Milford

25 Birch Street
Milford, MA 01757
(508) 634-7100
Fax (508) 792-7267

New Bedford

160 West Rodney French Boulevard
New Bedford, MA 02744
(508) 961-2000
Fax (508) 961-2100

Newmarket Square

1010 Massachusetts Avenue
Boston, MA 02118
(617) 989-2200
Fax (617) 427-9214

North Adams

37 Main Street
North Adams, MA 01247
(413) 663-1100
Fax (413) 664-9274

North Shore

35 Congress Street
Salem, MA 01970
(978) 825-7300
Fax (978) 741-4869

Pittsfield

75 South Church Street
4th Floor
Pittsfield, MA 01201
(413) 236-2000
Fax (413) 448-2466

Plymouth

61 Industrial Park Road
Plymouth, MA 02360
(508) 732-3100
Fax (508) 830-9433

Revere

300 Ocean Avenue
Revere, MA 02151
(781) 286-7800
Fax (617) 727-4567

Southbridge

79 North Street
Southbridge, MA 01550
(508) 765-2400
Fax (508) 765-0740

Springfield Liberty St.

95 Liberty Street
Springfield, MA 01103
(413) 858-1000
Fax (413) 784-1044

Springfield State St.

310 State Street
Springfield, MA 01105
(413) 858-1300
Fax (413) 784-1049

Taunton

21 Spring Street
Taunton, MA 02780
(508) 884-5300
Fax (508) 880-5301

Worcester

9 Walnut Street
Worcester, MA 01608
(508) 767-3100
Fax (508) 792-7259

Books to Read With Children

A Family that Fights by Sharon Chesler Bernstein. Whitman and Co., 1991

Breaking the Silence: Art Therapy With Children From Violent Homes

by C.A. Malchiodi. Brunner/Mazel Publishers, New York, 1990

Daisy by Diane Davis, illus. Peter Thornton, Carolrhoda Books, 1991

A book for elementary age children, with multicultural illustrations.

Feelings, Families, and Friendships: Understanding Violence and Creating Peaceful

Relationships: A Workbook for Young People by Boulder County Safehouse, Boulder, CO

A workbook that helps children to express themselves about violence and discusses ways for them to take care of themselves if there is violence in their lives, including violence at home.

Hear My Roar: A Story of Family Violence by Dr. Ty Hochban,

illus. Vldyana Krykorka, Annick Press, 1994

A book for elementary aged children, with illustrations of an animal family.

Kids Workbook On Family Violence by the Minnesota Coalition for Battered Women

and The Early Childhood Studies Program of the University of Minnesota, 1987

Workbook designed for use by elementary school children that includes an adult guide. Addresses battering, domestic abuse, and child abuse and neglect.

Living With My Family by Deaton and Johnson. Hunter House, 1991.

Workbook for children.

Never, No Matter What by Maryleah Otto. Woman's Press, Toronto, ON, 1988

A children's story about a mother who leaves an abuser and goes to a women's shelter.

Some Secrets are for Sharing by Randy Winston-Hillier, Waterfront Books

Elementary level.

Something is Wrong at My House: A Book About Parents'

Fighting by D. Davis. Parenting Press, Seattle, 1984

Storybook for grades K-3 and 4-6. Discusses feelings and ways to cope with living in a violent home.

Take Care with Yourself by Laurie White and Steven

Spencer, illus. Alice Eve Cohen, Day Star Press

For older pre-school and younger elementary students, with multicultural illustrations.

Games for Use With Children

The Talking, Feeling, Doing Game

The Nurturing Game

The Ungame (older children and teenagers)

INTERNET RESOURCES

The websites listed below provide a variety of information that may be useful to you. These sites also provide links to additional sites on these issues.

www.custodyprepformoms.org (active as of 11/04)

www.thelizlibrary.org/liz (active as of 11/04)

www.ncadv.org (active as of 11/04)

<http://cavnet2.org/partners1.cfm?partnerid=15263>
(active as of 11/04)

*Database compiled by CAVNET (www.cavnet.org) an on-line information center on violence against women.

There are also online support groups that may be of interest to you. The following online support group is for non-custodial mothers:

www.groups.yahoo.com/group/Non_Cust_Mom_Link
(active as of 11/04)

In addition, the following online support group is for battered mothers fighting for custody of their children:

www.groups.yahoo.com/group/MomsAgainstAbuse-MAA
(active as of 11/04)

To subscribe, go to:

www.MomsAgainstAbuse-MAA-subscribe@yahoogroups.com
(active as of 11/04)

Women's Law Project

125 South 9th Street, Suite 300

Philadelphia, PA 19107

Tel: 215-928-9801

Fax: 215-928-9848

Email: info@womenslawproject.org

Web: www.womenslawproject.org

* Released report, *Justice in the Domestic Relations Division of Philadelphia Family Court: A Report to the Community*, April 2003.

Domestic Violence, Visitations and Custody Decisions in New York Family Courts

US Department of Justice Document Number 195793 (August 8, 2002)

Author: Chris O'Sullivan

Web Link: <http://www.ncjrs.org/pdffiles1/nij/grants/195793.pdf>

Survivor-Led Activist Groups

California Protective Parents Association

Karen Anderson: kandersonpt@yahoo.com

California Protective Parents Association

15 E. Plymouth Highway

lone, CA 95640

Email: kandesonpt@yahoo.com

*The California Protective Parents Association is a survivor-led organization working to reform the family courts in California.

Arizona Protective Parents Network

Box 33396, Phoenix, AZ 85061-3339

Tel: AZPPN2002@YAHOO.COM

United For Justice

Idelle Clarke

United for Justice

280 West Sierra Madre Boulevard # 244

Sierra Madre, CA 91024

Tel: (626) 836-9265

Email: idelc@earthlink.net

*United For Justice is a survivor-led organization working to reform the family courts in California.

Resource Center on Domestic Violence: Child Protection & Custody

Tel: 800-527-3223

Web address: <http://ncjfcj.unr.edu>

National Coalition Against Domestic Violence

P.O. Box 18749

Denver, CO 80218-0749

Tel: 303-839-1852

Fax: 303-831-9251

American Bar Association Commission on Domestic Violence

740 15th Street, N.W., 9th Floor

Washington, D.C. 20005-1022

Tel: 202-662-1737/1744

Fax: 202-662-1594

Email: abacdvt@abanet.org

Information on Human Rights Organizations and the United Nations

Amnesty International USA

Web: www.amnestyusa.org

Women's Program: www.amnestyusa.org/women/

National Office

Amnesty International USA
322 Eighth Avenue
New York, NY 10001
Tel: (212) 807-8400
Fax: (212) 627-1451

Legislative Office

Amnesty International USA
600 Pennsylvania Ave. SE, 5th Floor
Washington, DC 20003
Tel: (202) 544-0200
Fax: (202) 546-7142

Northeast Regional Office

58 Day Street
Davis Square
Somerville, MA 02144
Tel: (617) 623-0202
Fax: (617) 623-2005

Email: aiusane@aiusa.org

Human Rights Watch

Web: www.hrw.org

Women's human rights: www.hrw.org/women/index.php

U.S. program: www.hrw.org/us/index.php

New York Office

350 Fifth Avenue, 34th floor
New York, NY 10118-3299 USA
Tel: 1-(212) 290-4700, Fax: 1-(212) 736-1300
mail: hrwnyc@hrw.org

Washington, D.C. Office

1630 Connecticut Avenue, N.W., Suite 500
Washington, DC 20009 USA
Tel: (202) 612-4321, Fax: (202) 612-4333
Email: hrwdc@hrw.org

Websites for Key International Human Rights Laws

Universal Declaration of Human Rights (UDHR), 1948

United States in agreement by virtue of U.N. membership

<http://www.un.org/Overview/rights.html>

U.N. Declaration on the Elimination of Violence against Women (DEVAW), 1993

United States in agreement by virtue of U.N. membership

<http://www1.umn.edu/humanrts/instree/e4devw.htm>

U.N. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979

United States signed in 1980 (has not ratified).

<http://www.unhchr.ch/html/menu3/b/e1cedaw.htm> ; <http://www.un.org/womenwatch/daw/cedaw/recomm.htm>

U.N. Convention on the Rights of the Child (CRC), 1989

United States signed in 2000 (has not ratified).

<http://www.unhchr.ch/html/menu3/b/k2crc.htm>

U.N. International Covenant on Civil and Political Rights (ICCPR), 1966

United States ratified in 1992.

http://www.unhchr.ch/html/menu3/b/a_ccpr.htm

U.N. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), 1984

United States ratified in 1994.

http://www.unhchr.ch/html/menu3/b/h_cat39.htm

U.N. International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), 1965

United States ratified in 1994.

http://www.unhchr.ch/html/menu3/b/d_icerd.htm

U.N. International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966

United States signed in 1977 (has not ratified)

http://www.unhchr.ch/html/menu3/b/a_ceschr.htm

The Hague Convention on the Civil Aspects of International Child Abduction, 1980

United States is a party to this convention

<http://adams.patriot.net/~crouch/haguetext.html>

FILING PROFESSIONAL COMPLAINTS

As we have mentioned elsewhere in your information packet, you have the right to file complaints against professionals involved in your case who have shown bias, unethical behavior, or other irresponsible or unprofessional conduct. However, you should consider before making the complaint whether the person may be in a position to retaliate against you for doing so. Also, you should be aware that the great majority of complaints are not acted upon. Filing complaints can be valuable even if no action is taken, however, because they increase the pressure on the oversight boards to eventually take seriously the systemic mistreatment of battered mothers in custody and visitation litigation.

In order to file a complaint, you will need to call the appropriate office below, and request that a copy of the complaint form be sent to you. In general, complaints are only accepted in writing.

GUARDIANS AD LITEM

To file a complaint against a GAL, you will need to find out what the person's degree and license is. Most GALs are lawyers, psychologists, social workers, or Licensed Mental Health Practitioners.

Attorneys (J.D.)

Board of Bar Overseers
75 Federal St.
Boston, MA 02110
(617) 728-8700

Psychologists (Ph.D.)

Mass. Division of Registration
Board of Psychologists
239 Causeway
Boston, MA 02114
(617) 727-9925

Social Workers (M.S.W.)

Mass. Division of Registration
Board of Social Workers
239 Causeway
Boston, MA 02114
(617) 727- 3073

Licensed Mental Health Counselors (L.M.H.C.)

Mass. Division of Registration
Board of Allied Mental Health
239 Causeway
Boston, MA 02114
(617) 727-3080

MODEL FORMAT AND CONTENT FOR A COMPLAINT LETTER TO THE PROBATE AND FAMILY COURT

Note: For use by litigants in family court who are victims of domestic violence and are dissatisfied with proceedings to determine child custody and visitation. This document should not be used as a form, but rather as a guideline for drafting a letter. In addition, be aware that sending such a letter could result in retaliation by the court against you or your attorney.

(Tip: Send this letter certified mail, return receipt requested.)

VIA CERTIFIED MAIL

(Insert Date)

The Honorable Sean M. Dunphy
Chief Justice
Probate and Family Court
Commonwealth of Massachusetts
Suite 210
2 Center Plaza
Boston, MA 02108

Dear Chief Justice Dunphy:

I am writing to make you aware of problems I have had with _____ (enter name of county) Probate and Family Court during the course of our custody and/or visitation litigation (choose one or both).

I am asking for your office's help in rectifying the problems I am experiencing/have experienced. I am concerned that my right to full and fair proceedings is not being honored and I am particularly interested in protecting the best interests of my child/children.

(the following paragraph is optional)

In addition, I hope that other court users will not experience the problems that I have encountered. Therefore, I ask that you take immediate action to alleviate these kinds of problems so that I and other court users can be assured that our children's best interests are served and that our rights to full and fair proceedings are safeguarded and protected.
(end of optional paragraph)

Background of My Case

My partner and I separated in _____. (give month and year)

We have _____ (# of children) children, aged _____.

Contested custody/visitation (choose one or both) proceedings began in _____. (give month and year)

The judge(s) assigned to this case is/are _____.

After separation my partner has violated my restraining order against him/her _____ (enter # of times) times in the following situations: _____

These types of abuse have continued for _____ (enter months or years).

My Children Are Also Abuse Survivors and/or Witnesses of Domestic Violence

(As above, detail child abuse/mistreatment suffered by your children, and/or partner abuse witnessed by your children, both prior to and after you separated from your partner. Highlight any abuse that your ex-partner inflicted on your children while they were in his/her custody or on a visit with him/her. Tip: Try to keep this description to 1/2 a page, but give specific examples of the kind of abuse.)

These types of abuse have continued for _____ (enter months or years).

I Have Suffered the Following Problems with My Case

- *Provide a description of the problems you have had with the court process. Specify problems with judges, attorneys, GALs, probate probation officers, and other court staff such as clerks. Tip: Organize and present your information as clearly and briefly as possible.*
- *Provide as much information as you can that proves your claims. For example, if you claim that your ex-partner is a batterer, mention police or medical reports that document the battering. If you are unable to document your claims with reports from other parties, give as full a description as you can.*
- *If possible, provide evidence showing that you have never been found unfit.*
- *When discussing the problems you have encountered, describe how these problems have affected you and your children emotionally, physically, and economically.*

The following is a list of the types of problems you may have encountered:

- The judge granted or recommended custody of my children to my ex-partner, a batterer, or to his relative.
- The judge granted or recommended unsafe visitation with my ex-partner, a batterer *(specify if overnight visits)*.
- The judge has failed to apply the Presumption of Custody Law (1998) which states that it is not in children’s best interests to be placed in the custody of a parent who has abused the other parent or the child.

My Contact Information

(Provide only as much information as you are comfortable with.)

My Attorney's Contact Information

(If you do not have an attorney, record that information here and list any reasons why you do not have an attorney at this time.)

Thank you for your attention to my concerns. I look forward to your response.

Sincerely,

(Name)

Enclosures.

We suggest that you send copies of this letter to your state representative.

IMPORTANT: Keep a copy of this letter for your records.

A) Collect Data and Conduct Evaluations.

The family court system should collect detailed annual data about divorce proceedings, including, but not limited to:

- The number of contested and uncontested divorces initiated in and processed by the probate and family courts.
- The number of cases (both contested and uncontested) that involve child custody and visitation disputes.
- The number of divorce cases and child custody/visitation disputes that involve allegations of domestic violence and/or child abuse.
- The disposition of the various types of divorce and child custody cases.
- The numbers of cases where guardians ad litem and/or expert entities and/or psychological evaluations were used, the types of recommendations they made to the court, and the extent to which the court followed these recommendations.
- The number of cases where mediation was conducted despite the fact that there was an active 209a or allegations of partner abuse.

B) Create Meaningful Complaint Processes. Battered women consistently express frustration with the lack of accessible and meaningful complaint procedures in the family court system. In addition, it appears that there is no established process for court users to make complaints. Proper receipt and use of court user feedback is essential for creating accountability and maintaining the integrity of the court system.

C) Abolish the Guardian ad Litem System. If the GAL system cannot be overhauled, I/We feel that it would be better to abolish it than to leave it in its present condition. As a stop-gap measure, I/we ask that GALs be appointed in domestic violence, child abuse and child custody cases *only after both parties consent to the appointment of the proposed GAL*. In the long-term, the money saved from abolishing the GAL system could be allocated towards hiring additional family court judges to hear domestic violence and child custody cases.

D) Enforce existing laws and policies.

- 1) As a first step, enforce the Guidelines for Judicial Practice re. forbidding mediation or face-to face dispute intervention in cases where there is a 209A in effect.
- 2) Revise Guidelines to forbid mediation where either of the parties even alleges partner abuse.
- 3) Ensure proper application of the Presumption of Custody Law (M.G.L. ch. 208 §31A) regardless of whether or not the litigants or their attorneys invoke the law.

I/We appreciate your time and consideration of this request, and look forward to your response.

Sincerely,
Name, Address, City, Zip

Public Information Office for the Supreme Judicial Court

210 New Courthouse
Boston, MA 02108
Tel: 617/557-1114
Fax: 617/742-1807

Commission on Judicial Conduct

14 Beacon St.
Boston MA 02108
(617) 725-8050