

New Mexico Family Impact Seminar

***Family Violence and Children:
Perspectives for Policy***

Domestic Violence and Children

by
Stephanie Walton

January 2005



Department of Extension Home Economics
Department of Family & Consumer Sciences
College of Agriculture and Home Economics
New Mexico State University

Domestic Violence and Children*

Stephanie Walton[†]

Violence negatively affects not only the abused partner, but also children in the home. Domestic violence advocates and child welfare experts are increasingly aware of the effects of violence on children in the household.

Effects of Domestic Violence on Children

Where there is partner abuse, there is a higher likelihood that children also are abused or neglected. In fact, studies estimate that in 30 percent to 60 percent of homes where domestic violence occurs, child abuse and neglect also occur.¹ Even when the children are not being directly maltreated, they are affected by the violence. Researchers report that 80 percent to 90 percent of children who live in homes with domestic violence are aware of the violence. Parents often underreport children's awareness of the violence, mistakenly assuming that children were asleep or otherwise engaged.²

Where there is partner abuse, there is a higher likelihood that children also are abused or neglected.

Domestic violence can affect parents' ability to meet their children's needs. As noted, men who batter their partners also are more likely to abuse children in the home. Research indicates that fathers who batter are less available to their children, less likely to engage rationally with their children, and less affectionate.³ Advocates argue that there are other, obvious effects, such as the lessons about the use of power in relationships and the confusing emotions children experience when one parent abuses the other. Victims of domestic violence may be less emotionally available to their children for several reasons: because they are preoccupied with keeping themselves and the children safe or they are experiencing depression or other emotional trauma related to the battering.⁴ Some studies suggest that women who are victims of domestic violence use more punitive measures on their children or exhibit more aggression toward their children,⁵ and a few studies have shown that women who are abused are more likely to abuse their children.⁶ Advocates assert that, in spite of the trauma they are experiencing, most women still may be able to parent their children effectively, and that they do all they can to protect their children from harm and exposure to the violence.

*From Walton, S. 2003. Domestic Violence and Children. In S. Walton, When Violence Hits Home: Domestic Abuse and Families (pp. 23-29). Copyright © 2003 by the National Conference of State Legislatures. All rights reserved. Reprinted with permission.

[†]Stephanie Walton, B.A., is a Senior Policy Specialist with the Children & Families Program, National Conference of State Legislatures (Denver office)

The primary risk factor for boys to become batterers as adults is exposure to domestic violence as a child.

Girls who are exposed to violence are more likely to become victims of domestic abuse as adults.

The primary risk factor for boys to become batterers as adults is exposure to domestic violence as a child.⁷ Girls who are exposed to violence are more likely to become victims of domestic abuse as adults.⁸ Other effects include the following.

- Children who are exposed to violence are more aggressive than children from nonviolent homes. They are more likely to act out physically against their peers.⁹
- They may exhibit depression, anxiety, fear, insomnia, and low self-esteem.¹⁰
- They demonstrate lower cognitive ability. They may have difficulty concentrating, and generally perform poorly in school compared to children in nonviolent homes. They have lower scores on a variety of verbal, motor and cognitive skills.¹¹
- Children also may display physical symptoms such as headaches, stomachaches, diarrhea, ulcers and asthma, probably as reactions to increased stress.¹²
- It is unclear whether children's exposure to domestic violence leads to impaired social function, other than their increased aggression.¹³

Researchers caution that not all children are affected in the same ways by exposure to domestic violence. Some children are more resilient than others, and the effects of witnessing violence are mitigated by particular circumstances.¹⁴ Experts have identified various protective factors that may lessen the effects on children, including:

- The level of violence in each family,
- The degree to which a child is exposed to the violence,
- The presence or lack of other stressors in the child's environment,
- The presence or lack of harms faced by the child,
- Individual coping skills of the child, and
- Other protective factors, such as the child's relationship to adults in the home or a close relationship with another adult such as a relative or teacher.

The co-occurrence of domestic violence and child abuse poses particular challenges. Often, the children and the mother are equally in need of services, but the systems in place may work at cross-purposes. Domestic violence advocates attempt to assist the mother. They believe that helping her achieve safety is the best way to help her children. Most advocates respect individual women's choices, even when women return to their abusers. They believe that she is best able to judge how to keep herself and her children safe.

Child welfare workers focus primarily on the children. Because they may not recognize the dynamics of domestic abuse, they may hold mothers responsible for children's abuse, even when the partner is the perpetrator. Mothers have been charged with "failure to protect" their children from abuse, and have had children taken from their care. This lack of understanding has caused victims of domestic violence to not trust the child welfare system or, in some instances, domestic violence advocates. Some women hesitate to seek help because they fear losing custody of their children. In some cases, removing children from the home is warranted. Even when caseworkers are sensitive to the circumstances of women in violent homes, they may feel that children will be safer away from the abusive environment. When victims are not in control of a situation, they cannot guarantee their children's safety

Policy Responses to Help Children in Violent Homes

Lawmakers have become increasingly aware of the problems faced by children who are exposed to domestic violence and the complexities of providing services for families that are experiencing violence. They have responded in the areas of family law, criminal domestic violence law and child welfare law. More recently, policymakers have begun to address the service systems that help families deal with violence.

Family Law

Most states have addressed domestic violence in divorce and custody laws. In many states, judges are required to consider evidence of domestic violence when determining the best interests of the child in custody decisions. Since 1996, at least six states have created a presumption against awarding sole or joint custody to a domestic violence perpetrator.¹⁵ States also have limited the visitation rights of domestic violence perpetrators. They may create a presumption against awarding visitation or allow judges to order supervised visitation in some cases. During the past six years, 13 states have passed laws creating a presumption against awarding custody to a parent who is convicted of murdering the other parent.¹⁶

Some of these laws can be controversial. Noncustodial parents' advocates

Law makers have responded in the areas of family law, criminal domestic violence law and child welfare law. More recently, policymakers have begun to address the service systems that help families deal with violence.

argue that some parents will falsely allege domestic abuse to enhance their chances of gaining custody. In response, some state laws require evidence of domestic abuse—such as restraining orders or records of police visits to the home—before such abuse can be considered in custody decisions. Laws prohibiting custody awards to parents who murder their partners may prevent some battered women who kill their abusers in self-defense from having custody of their children.

Criminal Law

Two approaches exist within criminal law to address children’s exposure to domestic violence. At least 12 states have laws that enhance penalties when domestic violence is committed in the presence of a minor.¹⁷ At least three states have created a separate crime of committing domestic violence in the presence of a minor.¹⁸ In Georgia, such a crime is characterized as criminal child abuse. Utah defines it as both criminal child abuse and as a separate domestic abuse crime. Proponents of these laws argue that benefits include:

- Increasing awareness of the effects of childhood exposure to domestic violence;
- Expanding the resources that are available to help children who are exposed to domestic violence (such as making children eligible for Victims of Crime Act [VOCA] funding); and
- Holding batterers accountable for the effects of their actions on children.

Other experts caution that such laws could have unintended consequences, such as unnecessary referrals to the child welfare system, which could lead to removal of children from the care of the battered spouse or mothers who are charged with “failure to protect” their children from exposure to domestic abuse. Children also may be forced to testify against their parents, causing undue anxiety and stress, and these laws may lead to an increased burden on the justice system.¹⁹

A 2000 study of prosecutors’ offices in jurisdictions that have enhanced penalties or separate crimes found that prosecutors in those jurisdictions were more likely to report cases involving children to child protection authorities, but not to pursue “failure to protect” charges against the mothers. However, children were not more likely to be removed from the home solely due to the presence of domestic violence. In those cases where children were removed from the home, other risk factors also were present, such as child abuse or substance abuse.²⁰ The study found that the statutes enabled prosecutors to more aggressively pursue charges against the offender; that law enforcement officers were more likely to list children that witnessed the incident in their reports; and that children

became eligible for other services, such as victim compensation funds. However, the study was limited to jurisdictions with increased awareness of domestic violence and children, as identified by prosecutor coordinators in each state, and the situation may be different in other jurisdictions.

Changing the Definition of Child Maltreatment

Alaska broadened its definition of child maltreatment to include witnessing domestic violence. Alaska's law differs from those in other states where child protection workers investigate children who are exposed to domestic violence under the state's general child maltreatment definitions. It specifically authorizes child welfare intervention in a family when domestic violence is present. Supporters of laws such as Alaska's argue that they can alert authorities to other possible child maltreatment, since there is an established link between child maltreatment and domestic abuse. They also can facilitate treatment for children to help them cope with the domestic abuse. In addition, such laws may encourage increased cooperation between child welfare and battered women's advocates.

A number of domestic violence experts and child welfare advocates express caution regarding these laws. They feel that defining all childhood exposure to domestic violence as maltreatment is overly broad, because not all children are harmed by such exposure. Intervention may not be warranted in all cases. In the absence of a close relationship between domestic violence service providers and child welfare workers and lack of understanding of domestic violence on the part of child welfare workers, experts are concerned that children will be removed from the home and the mother will be held accountable for the violence against her. In addition, most child welfare offices already are understaffed and have difficulty serving the children in their care. Experts question the wisdom of adding to the burden of child welfare agencies without providing adequate training and resources.

Broadening the definition of child maltreatment can overwhelm child welfare agencies. In 1999, Minnesota passed a law defining child neglect to include domestic violence that occurs within sight or sound of a child. All domestic violence cases where children were present were reported to county child welfare agencies as possible child maltreatment, prompting investigation by child welfare workers. The state experienced a 100 percent increase in reports of child maltreatment. The Minnesota Association of County Social Service Administrators estimated that counties would need an additional \$30 million annually to respond to the increased workload.²¹ In addition, the wording of the law and its interpretation by the department led some workers to hold victims responsible for the violence and to attempt to remove children from their mothers' care, even when they were residing in shelters.²² The Legislature repealed the law in 2000.

The Alaska Legislature passed laws outlining procedures for investigating cases.

Some advocates argue that, if such laws are appropriately worded and implemented, they can be effective. Alaska adopted a more limited definition of exposure to domestic violence as child maltreatment and implemented the law with extensive training of child welfare workers. In contrast to the Minnesota law, which defines exposure to violence as per se maltreatment, Alaska's statute requires that the child be subjected to specifically defined conduct that places him or her at risk of harm before the state can intervene on the child's behalf.²³ The Alaska Legislature also passed laws outlining procedures for investigating cases, with an emphasis on keeping the child in the custody of the non-offending parent; exempting certain mandatory reporters, such as shelter workers, from reporting exposure to domestic violence if the child is not in danger; and exempting mothers who flee for their own safety from charges of child abandonment.²⁴

In addition, the child welfare system and domestic violence advocates in Alaska worked closely to educate child welfare workers, prosecutors, law enforcement officers and others about the law. Lawmakers and advocates believe that the law has successfully helped families deal with violence and educated the appropriate people about the dynamics of violent relationships and the effects of domestic violence on children. They emphasize the importance of a collaborative approach and training of involved workers to ensure the success of this approach. The Alaska statutes resulted from months of work by advocates, the Department of Health and Social Services, staff from the governor's and lieutenant governor's offices, members of the judiciary, the Department of Corrections, the Department of Public Safety, and the attorney general's office.

Working with Child Welfare and Domestic Violence Service Systems

Practitioners have become increasingly aware of the overlap between domestic violence and child maltreatment. As a result, they have focused more attention on the relationship between domestic violence and child welfare service systems. Experts are coming to the realization that these systems, along with the courts, law enforcement and other service providers, must work together to address the needs of children in violent families and achieve safety for all family members.

Several innovative programs around the country have achieved some level of collaboration among systems and have enhanced services for families. Massachusetts, for example, began in 1986 to examine the relationship between the Department of Social Services (DSS), which delivers child protective services, and community-based domestic violence service providers.²⁵ The child protection and domestic violence service communities worked to overcome mistrust and competition for resources to reach a common goal of better services for families. The department established a Domestic Violence Unit, staffed by specialists who offer

training to other DSS staff and consultation on individual cases. The specialists also co-facilitate, with shelter staff, support groups for battered women and act as liaisons between DSS and the domestic violence service providers. Based on the success of this program, DSS added staff who specialize in batterer intervention services. The legislature supported efforts to help domestic violence victims by allocating funding for a continuum of services, including a network of programs and a statewide hotline. Programs include emergency shelters, transitional housing, community education and outreach, and economic and legal advocacy. Other legislative appropriations include funding for services— such as therapy—for children who are exposed to violence and specialized shelters for battered women who have substance abuse problems. Most of these programs are funded with federal funds appropriated by the legislature, the Social Services Block Grant (SSBG), and Family Violence Prevention and Services Act (FVPSA) funding.

National experts have identified several effective practices from these programs and have developed a set of recommendations contained in the book, *Effective Intervention in Domestic Violence And Child Maltreatment Cases: Guidelines for Policy and Practice*, also known as the “Greenbook.” The Greenbook states that successful approaches to helping children in violent homes include all the relevant players. In addition to collaboration between child welfare systems and domestic violence advocates, it is important to involve law enforcement agencies; the courts; batterer intervention program providers; probation officers; health, mental health and substance abuse treatment providers; public housing providers; welfare caseworkers; and job training programs. Everyone involved with these families needs to be trained about the dynamics of domestic violence and the role and resources of the other service providers. Services should be tailored to meet the individual needs of families and should be culturally appropriate. Communities need to develop methods for sharing information, as needed, to help family members, but also need to be careful to maintain confidentiality. Various programs and approaches need to be studied and evaluated for effectiveness. Are they improving the safety of women and children? Are they succeeding in keeping children in the custody of at least one parent? Currently, only limited information is available regarding the effectiveness of these efforts.

The federal government has funded six demonstration sites based on recommendations from the Greenbook. The grants include an evaluation component, which will enhance knowledge of the effectiveness of such programs. The six demonstration sites are San Francisco County, Calif.; Santa Clara County, Calif.; El Paso County, Colo.; St. Louis County, Mo.; Grafton County, N.H.; and Lane County, Ore. In addition, Connecticut, North Carolina, Texas and West Virginia have initiated pilot projects based on the Greenbook recommendations and have funded them through other means.

Legislators can take a number of steps to enhance community efforts to protect children and their mothers in violent homes.

What Can Legislators Do?

Legislators can take a number of steps to enhance community efforts to protect children and their mothers in violent homes.

- Mandate cross-training. Child welfare workers, health care workers, law enforcement officers and others involved with violent families should learn about domestic violence, how it affects children, ways to assist victims of violence, and the resources available in the community. Many communities report that the most successful training brings together workers from different disciplines to learn from each other and build better relationships.
- Mandate or encourage co-location of services. State and local governments are asking staff from various agencies to provide services in one location. For example, domestic violence advocates work in child welfare and public assistance offices, helping to screen families for violence and provide needed services. Officials report that workers are more likely to discover violence that otherwise may go undetected and provide appropriate interventions. Co-location of staff also can contribute to improved relations among various service providers.
- Fund pilot programs, or use funding to encourage collaboration. Several states have passed legislation to provide funding for pilot programs, such as supervised visitation centers, or to pay for co-location of service providers. In Tennessee, for example, the legislature appropriated child abuse prevention funds and stipulated that funding²⁶ should first serve families where there is domestic violence. Often, federal funds are available for innovative programs if states provide matching funds, so the costs of programs can be shared.
- Mandate counseling and services for some children in violent homes. Providing services for children in domestic violence cases highlights their needs and brings attention to the effects of domestic violence on children. Such laws should include screening so that more resilient children do not receive unnecessary services and unnecessary intervention in the family is avoided. In 2001, Nevada passed legislation that authorizes courts to refer children who witness domestic violence to protective services for counseling; funding was provided through the victims of crime fund.²⁷
- Create state certification standards for batterer intervention programs that include parenting training and responsible fatherhood training, or authorize a state department to set standards and certify

programs. Setting statewide standards for batterer intervention programs helps to ensure consistency and quality. In addition, the legislature can direct that such programs include parenting training and information about the effects of domestic violence on children. Georgia passed legislation in 2002 that directs the Department of Corrections to establish statewide standards and certification for batterer intervention programs.²⁸

- Create or expand membership of statewide domestic violence task forces or commissions. Commissions should include representatives from domestic violence programs, health care and child welfare agencies, prosecutors' offices, law enforcement agencies and so forth. Legislatures also can enhance existing partnerships—such as state fatality review boards—by including child welfare and domestic violence advocates.
- Grant child welfare workers authority to order that batterers be removed from the home when appropriate, rather than removing a child from the care of the non-offending parent. This may be accomplished either through agency regulations or legislation.
- Incorporate evaluation components into any programs or initiatives that are directed at helping children in violent homes. To determine the effectiveness of new programs and enhance the chances of continued funding, legislatures need to know if new laws and programs are operating successfully.

Practitioners emphasize that these approaches are effective only with active participation by and support from people in the various systems that are involved. Some legislative approaches may not be effective until relationships have improved among different service providers. It also is important for legislators to encourage and support local efforts to enhance communication and trust.

Conclusion

Intervening quickly with children who are exposed to violence is critical to improving their lives and ending the cycle of violence, and most advocates agree that helping women achieve safety also is key to helping children. A number of promising approaches exist to help families escape domestic abuse. Legislators can play a significant role in encouraging collaboration between the various systems that can help mothers and their children achieve safety.

Intervening quickly with children who are exposed to violence is critical to improving their lives and ending the cycle of violence.

End Notes

- ¹ “Domestic Violence and Children: Analysis and Recommendations,” *The Future of Children* 9, no. 3 (Winter 1999), 4.
- ² Children’s Defense Fund, *Domestic Violence and its Impact on Children: Fact Sheet* (Washington, D.C.: Children’s Defense Fund, Summer 2002), 1.
- ³ “Domestic Violence and Children,” 7.
- ⁴ *Ibid.*, 40-41.
- ⁵ *Ibid.*, 7.
- ⁶ U.S. Department of Health and Human Services, Administration for Children and Families, National Clearinghouse on Child Abuse and Neglect Information, *In Harm’s Way: Domestic Violence and Child Maltreatment*. (Washington, D.C., U.S. DHHS, n.d.).
- ⁷ APA, *Violence and the Family*, 37.
- ⁸ *Ibid.*, 19.
- ⁹ “Domestic Violence and Children,” 27.
- ¹⁰ *Ibid.*
- ¹¹ *Ibid.*
- ¹² Children’s Defense Fund, *Domestic Violence and its Impact on Children*, 2.
- ¹³ “Domestic Violence and Children,” 27.
- ¹⁴ *Ibid.*, 38-39.
- ¹⁵ NCSL, *Children, Youth and Families Legislative Summaries*.
- ¹⁶ *Ibid.*
- ¹⁷ Alaska Stat. §12.55.155; Ariz. Rev. Stat. Ann. §13-702; Ark. Stat. Ann. §5-4-702; Calif. Pen. Code §1170.76; Fla. Stat. Ann. §921.0024; Hawaii Rev. Stat. §706-606.4; Idaho Code §18-918(7)(b); Miss. Code Ann. §97-3-7; Mont. Code Ann. §45-5-206; Okla. Stat. Ann. Tit. ²¹ §644; Or. Rev. Stat. §163.160(3); Wash. Rev. Code Ann. §9.94A.535.
- ¹⁸ Del. Code Ann. Tit. 11, §1102; Ga. Code Ann. §16-5-70; Utah Code Ann. §76-5-109.1.
- ¹⁹ Debra Whitcomb, “Prosecutors, Kids, and Domestic Violence Cases,” *NIJ Journal* no. 248 (2002), 3.
- ²⁰ Debra Whitcomb, *Children and Domestic Violence: Challenges for Prosecutors* (Newton, Mass.: Education Development Center Inc., 2000), 82.
- ²¹ Lois Wiethorn, “Protecting Children from Exposure to Domestic Violence: The Use and Abuse of Child Maltreatment Statutes,” *Hastings Law Journal* 53, no. 1 (November 2001): 106.
- ²² *Ibid.*, 105-106.
- ²³ Alaska Stat. §47.10.011.
- ²⁴ Alaska Stat. §§47.17.035, 47.17.020, 47.10.013.
- ²⁵ Pamela Whitney and Susan Schechter, *Building an Integrated Statewide Response to Domestic Violence and Child Maltreatment: Massachusetts Service and Fiscal Strategies*. (Edna McConnell Clark Foundation, 2000), 1.
- ²⁶ Tenn. Code Ann. §71-6-203.
- ²⁷ Nev. Rev. Stats. §§200.485, 217.160.
- ²⁸ Ga. Code Ann. §§19-13-10 et seq., 19-13-17.

For further information on the New Mexico Family Impact Seminar, contact:

Bruce Jacobs, Ph.D
Extension Specialist
New Mexico State University
Department of Extension Home Economics
MSC 3AEP.O. Box 30003
Las Cruces, NM 88003-0003
(505) 646-4270; Fax: (505) 646-1889
bjacobs@nmsu.edu

or

Charolette Collins, M.S.
Extension Specialist
New Mexico State University
Department of Extension Home Economics
9301 Indian School Road NE, Suite 108
Albuquerque, NM 87112
(505) 332-3765; Fax: (505) 332-3681
collins@nmsu.edu

For further information on bringing a family perspective to policymaking, see the Policy Institute for Family Impact Seminars website at: <http://www.uwex.edu/ces/familyimpact/>

Walton, S. (2005). Domestic violence and children. In B. Jacobs (Ed.), *Family violence and children: Perspectives for policy* (pp. 25-34) (New Mexico Family Impact Seminar Briefing Report #1). Las Cruces, NM: New Mexico State University.

© 2005 New Mexico State University. New Mexico State University is an equal opportunity employer. All programs are available to everyone regardless of race, color, religion, gender, age, disability, or national origin. New Mexico State University and the U.S. Department of Agriculture cooperating.