



**UNDERSTANDING DOMESTIC VIOLENCE:
PRACTICE GUIDELINES TO SUPPORT EFFECTIVE CASA AND
DOMESTIC VIOLENCE PARTNERSHIPS**
2007

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UNDERSTANDING DOMESTIC VIOLENCE

PRACTICE GUIDELINES FOR NEW YORK STATE CASA STAFF AND VOLUNTEERS

Purpose of this training

Currently, over 800 CASA volunteers statewide advocate on behalf of more than 1000 abused, neglected and at-risk children in Family Court proceedings in 35 counties. It is estimated that at least one-third of that number has had some experience with domestic violence. These are among CASA's most challenging cases. By expanding our volunteer and staff capacity in this area, we could facilitate the safety and permanence of many more children. As the project is implemented in counties across New York, and as Integrated Domestic Violence (IDV) Courts begin to accept more Article 10 (child abuse and neglect) cases, CASA's expertise will be critical.

CASA currently provides child advocacy in domestic violence cases, and there is a Domestic Violence component in the National CASA curriculum. However, there is still room for knowledge enhancement regarding awareness of the issue of domestic violence and the capacity to respond appropriately.

CASA's experience with these cases mirrors other reports and research which show that domestic violence cases pose particular challenges in terms of supporting family strengths and promoting family stability, while balancing adult and child protective needs. Community and court responses to these cases can lack adequate assessment, appropriate service provision and coordination, and communication among all service providers, courts and advocates to protect children and inform decisions that lead to permanency.

It is the intent of these guidelines to foster a better understanding of the dynamics of domestic violence, to clarify CASA's role with respect to domestic violence, to better understand the experience of children and adults who are affected, and to underscore the importance of safety.

These trainings will not equip CASA volunteers to function as domestic violence advocates or providers. In fact, these guidelines are premised on the idea that CASA has a very important, but prescribed role that is distinct from that of a domestic violence expert.

These guidelines provide information that will enable CASA volunteers to:

- *Be aware of the barriers to safety faced by victims.*
- *Understand the power and control dynamics of domestic violence.*
- *Understand CASA's role with respect to domestic violence. Know how to respond in situations which assert pressure to step outside of the CASA role.*
- *Know what actions to take and which to avoid in order to protect the safety of victims and their children.*
- *Know what actions to take to increase the CASA volunteer's safety.*
- *Be knowledgeable about local domestic violence services.*

In addition to these guidelines, other resources have been compiled. These include an annotated bibliography, articles, training resources, provider contact information, etc.

Domestic Violence - Definition and Prevalence

Definition

Domestic violence is a pattern of abusive behavior that one person uses to control an intimate partner. The abuse can be physical, sexual, psychological, emotional, or economic. Usually the abuse occurs over a period of time and usually becomes more severe.

Domestic violence occurs because one person feels entitled to abuse and control another. There is not an equal distribution of power between the abuser and the victim. Instead, there has been a concerted effort by the abuser to control the victim.

Domestic violence is not caused by mental illness, drug or alcohol abuse, genetics, anger, or stress. It is a choice. It is learned through observation, experience and socialization in the family, in the community, and in the media, and reinforced by the fact that it works and by society's failure to intervene. Abusers abuse because they can. They choose this behavior and there are often few, if any, consequences.

Prevalence

It is difficult to ascertain the extent of the problem due to different reporting methodologies and underreporting. In 2003, the U.S. Centers for Disease Control and Prevention reported that 5.3 million intimate partner victimizations occur each year among U.S. women aged 18 and older, resulting in two million injuries and 1,300 deaths. The estimated financial cost of domestic violence against women is \$4.1 billion in medical and mental health care and \$1.8 billion in loss of productivity. (CDC, 2004)

Although both men and women experience intimate partner violence, this is primarily a crime against women. Women are 2-3 times more likely to report being pushed or shoved and 7-14 times more likely to report being beaten, choked, or tied down. (Tjaden and Thoennes, 2000) In 2001, women accounted for 85% of the victims of intimate partner violence and men accounted for approximately 15% of the victims. (CDC 2003) *(For the purposes of these guidelines, the batterer is referred to as the male partner.)*

U.S. Department of Justice statistics show that about half of all intimate partner victims between 1993-98 reported physical injury and 4 out of 10 victims sought professional medical treatment. (Rennison and Welchans, 2002) *(While the above data, and all other statistics contained in these Practice Guidelines are important to note, it is also important to keep in mind the strictures and limitations of research in this area and the difficulties in establishing any kind of "control" assessment involving issues of domestic violence.)*

The Impact of Domestic Violence on Children

Impact of Exposure to Domestic Violence

Abusive behavior may or may not be witnessed by others. Children, however, are probably the single most frequent witnesses.

Each child responds differently to exposure to domestic violence. They are often placed in an untenable situation. They may love both parents, but may be forced to choose between them. Some children fear physical retribution if they side with the victim, yet other children may feel the need to intervene.

Children may be asked to keep secrets or to be the messenger for the abusive parent. They see no way but to keep up the lies the family has created for the public. They may walk on eggshells, be hyper-vigilant, waiting to hear orders like, “Tell your mother to get in here RIGHT NOW!” They may feel helpless or assume guilt for causing the violence themselves. They may feel abandoned, in need of nurturing, angry and/or hurt.

It can be a lonely, inconsistent, and unpredictable life for children in homes with domestic violence. Friends may not be allowed to come over or the children may be too humiliated and embarrassed about their home life to want anyone to see it. The family/children may need to move frequently and they may experience extreme “ups and downs” in the degree of volatility in their home life.

Potential Effects

Each child will experience domestic violence in their own way, depending on any number of variables, such as age, gender, type of abuse, length of exposure, child’s involvement, and adult relationships. However, children exposed to intimate partner violence are more likely to exhibit behavioral and physical health problems. (Jaffee and Sudermann, 1995) Children of abused women are up to 15 times more likely than other children overall to be physically abused and neglected and girls with abusive fathers are more likely to be sexually abused. (ABA, 1994)

The specific needs (protective, practical, therapeutic, medical, educational and social) of each child witness should be thoroughly assessed and a comprehensive response should be put in place (at the level deemed necessary) to promote recovery and well-being.

Potential Emotional, Behavioral, and Physical Effects on Children

(It is important to note that this is not a checklist for screening purposes.)

Assuming Responsibility	Feeling if they could be “better” the abuse would stop.
Anxiety and Guilt	Worrying about when the next outbreak of violence will occur and feeling guilty for not being able to stop it.
Fear	Afraid that a parent will become injured or die, fear that one or both parents will abandon them, or fear of harm, abduction or molestation by the abuser. Fear of being alone.
Grief	Grief over loss of one or more parent, or grief over the loss of their home and lifestyle.
Confusion	Upset by conflicting feelings of love, fear and hate for their parents.
Lack of Trust	Difficulty forming positive relationships with others. For infants, disruption of attachment to caregivers.
Need to Please	Some children may be overly eager to please their mother or father or other adults in an attempt to secure some consistent parenting.
Aggression	Acting out the violence witnessed in the home. Children may destroy property, be cruel to animals or be verbally abusive.
Passivity	Avoiding conflict and internalizing feelings.
Depression	Overwhelmed by the uncertainty of their lives, having suicidal thoughts.
School Problems	Wanting to stay home to help stop the abuse or to step into the role of caretaker for the victim. Poor attention span.
Poor social skills	Using lies or manipulation. Being guarded, secretive, or isolating themselves.
Physical Problems	Self abuse, developmental delays, speech disorders, somatic complaints such as stomach aches, headaches, fatigue, lack of proper nutrition, physical or sexual abuse.

Sources: Compiled with input from New York State Office for the Prevention of Domestic Violence; the National Clearinghouse on Child Abuse and Neglect; Children and Domestic Violence, A Bulletin for Professionals; U.S. Department of Health and Human Services (2003); STOP Domestic Violence of Essex County; and Essex County CASA.

Nicholson v. Scopetta

An important 2004 Court of Appeals decision (Nicholson, et al. v. Scopetta, et al.) provided much clarity on statutory law in the areas of domestic violence and child abuse and neglect and places these complicated issues in a context that may be helpful for CASA volunteers to understand.

In 2001, the Nicholson v. Scopetta case was filed in U.S. District Court on behalf of mothers and their children who were the subject of child neglect proceedings in New York City based solely on allegations that the mother “allowed” the children to witness domestic violence in the home. The Court, recognizing that mothers and their children have independent rights, separated the case into two subclasses, battered custodial parents, and children. (Freedman and Kramer, 2004)

In 2002, U.S. District Court Judge Jack B. Weinstein issued a preliminary injunction concluding that, “New York City may not penalize a mother, not otherwise unfit, who is battered by her partner, by separating her from her children; nor may the children be separated from their mother, in effect, visiting upon them the sins of their mother’s batterer.” (Freedman and Kramer, 2004)

In December 2004, New York State’s highest Court, the Court of Appeals, held that removals of children are not authorized when the sole allegation is that a child witnessed his/her mother being abused. Shortly after this decision, a settlement was reached and New York City’s Administration for Children’s Services (ACS) agreed that children should not be automatically removed because their mother is being abused.

The New York State Office of Children and Family Services (Local Commissioner’s Memorandum – Summary of NYS Court of Appeals decision Nicholson v. Scopetta, et al. 12/04) offers this interpretation of the Nicholson decision:

The first question that the Court was asked to certify was, “Does the definition of ‘neglected child’ include instances in which the sole allegation is that the parent or other person responsible for the child’s care allows the child to witness domestic abuse against caretaker?” The Court said No. “More is required that is proof of actual or imminent danger of physical, emotional, or mental impairment of the child.” The Court was clear that if the sole allegation is that mother was abused (i.e. victim of domestic violence) and the child witnessed the abuse, a showing of neglect could not be made.

The Court concluded that for a victim of domestic violence, a fact-based inquiry must be made based upon severity and frequency of the violence and the resources and options that are available to the victim, and must include consideration of the risks attendant to leaving, risks attendant to staying and suffering continued abuse, and the risks attendant to seeking assistance through government channels, criminal prosecution of abuser, and relocation.
(See **Appendix 1**)

Relationship Between Domestic Violence and Child Abuse

Children living in homes where there is domestic violence are more likely to be victims of abuse themselves. In a national survey of 6,000 American families, 50% of the men who

frequently assaulted their wives also frequently abused their children. (Strauss, et al., 1990) The U.S. Advisory Board on Child Abuse suggests that domestic violence may be the single major precursor to child abuse and neglect fatalities in the United States. (HHS, US Advisory Board on Child Abuse and Neglect, 1995)

Child Protective Services and Domestic Violence Partnerships

Throughout the country some groundbreaking dialogue is taking place about the intersection of child protection and domestic violence.

As of 2006 in New York State, thirteen communities have developed model CPS-DV Partnerships with funding from NYS Office of Children and Family Services. These partnerships seek to facilitate constructive dialogue and mutual support to help protect the safety of both women and their children.

In each of these counties, a domestic violence advocate is co-located at the CPS office and typically provides case consultation, participates in home visits and cross training and works jointly with case workers to safety plan with battered women and their children. The DV Advocate also participates in a workgroup of CPS and DV staff to develop a protocol and, often times, to case conference. Desired outcomes of these projects include: improved casework practice and joint case planning; improved safety for adult and child victims; and the prevention of further abuse and out-of-home placements. As a result of these projects, CPS workers are learning more about domestic violence dynamics, philosophies and appropriate interventions for victims of domestic violence and their children; and DV workers are learning more about CPS mandates and responsibilities. Standard protocols are being developed in each county which include screening tools and joint case work practice guidelines.

Who is the Victim?

There is no typical profile of victims of domestic violence, but the majority of the victims are women. They may be married or single, young or old, gay or straight. Victims are of all ages and come from all racial, religious, educational, and socioeconomic backgrounds. Neither children nor the elderly are immune. Men can be victims, but the majority of the victims of domestic violence are female.

Responsibility for the abuse may be placed on the victim, reinforcing issues of domestic violence involving abuser entitlement to a relationship that satisfies their own needs. Victims are not “asking for it.” The abuser is the only one who can stop the abuse. It is important to focus on abusers and their accountability and not what the victim is doing or not doing.

Every victim is different, and each responds on her own time table and in her own way to the abuse. It is not uncommon for victims to feel isolated, powerless, helpless, and for obvious reasons, under tremendous stress. It is also not unusual for victims to be optimistic, give the abuser another chance, and hope for change.

Barriers to Leaving

It is not always easy to recognize a controlling person. Control can sometimes be misrepresented as love or genuine concern for one's well being. Isolation from family and friends is a common strategy used by abusers. For example, while a suggestion that one partner stay home or quit their job might sound appealing at first, it can also be a tactic of isolation and control. In some cases, the victim may not see the abuse until the pattern has emerged; for example, when the abuser asserts control over the victim's interactions with her family and friends and they are no longer allowed to visit.

Well-meaning individuals, including relatives and friends, often feel qualified to offer advice or counsel to victims. It is the victim who knows best how to assess risk in her particular situation. Supportive counseling from highly trained domestic violence advocates can help. Evidence from over twenty years of research demonstrates that leaving an abuser increases a victim's risk of serious physical harm. (OPDV 2000, 2003) In the majority of instances (75%) in which a victim was killed by her abuser, it was after she left, or when she was in the process of leaving.

It is wrong assume that domestic violence doesn't exist because the victim remains involved with the abuser or continues to reside with the abuser. There are many reasons why a victim is forced to stay or to return to her abuser. It may take six to eight attempts before a victim permanently leaves the abuser. The victim must grapple with so many issues in making a decision to leave including, **and most importantly**, issues of **SAFETY**.

Additional issues to consider involve:

- housing
- work/childcare
- feelings of responsibility for the batterer's behavior
- love
- shame
- hope that the batterer will change
- children's school stability
- financial resources
- proximity to family and friends
- the support and safety of their community
- negative experiences with the system or with friends
- her belief system
- legal status or language barriers
- fear of further violence
- religious and cultural factors
- family pressure

Although domestic violence advocates can help victims explore their options and assess the safety risks, victims are the best experts in determining the level of risk associated with the various options. The victim is in the best position to weigh whether the public systems and protocols set up to protect victims are functioning in such a way as to decrease rather than increase the danger in her specific situation. These circumstances will vary from one community to another and also are different in terms of the specific circumstances of each victim.

Protective Strategies of the Victim

Victims of domestic violence are often in survival mode. Without a sufficient understanding of domestic violence, volunteers and professionals may rely on their subjective interpretations of a battered parent's demeanor. Historically, adult victims' decisions or behaviors have been misinterpreted as instability, apathy, uncooperativeness, or even vindictiveness.

The following are ways that an adult victim may try to protect herself and her children, which could lead to the above misinterpretations.

- Fighting back and defying batterer (may have led to her arrest)
- Sending the children away from home
- Pleasing and placating the batterer
- Remaining silent for fear of making it worse
- Leaving to try to make things better
- Returning to try to make things better
- Avoiding the perpetrator (e.g. working separate shifts)
- Dropping the protective order or withdrawing from help
- Learning to be "devious" as a way to survive
- Drinking and using drugs to numb the pain

It is important to note that exposure to domestic violence does not necessarily mean a child has been abused or neglected. Nor does it mean that all children exposed to domestic violence will have lasting negative effects. It is possible for a victim to make a safe home for the child. A strong relationship with the adult victim/parent may be one of the most powerful ways to help children heal from the effects of domestic violence. Some children will demonstrate enormous resilience while others may show negative outcomes. (Hughes et al., 2001)

Who is the Abuser?

There is no typical profile of an abuser. They come from all classes, races, and ethnic groups. They are predominantly, but not exclusively, men. They pose a risk and detriment to their partners and to their children.

Abusers are those individuals who feel entitled to control others. They employ many tactics to exert this control. These tactics are *choices*. Underlying these tactics are firm attitudes and belief systems (which society historically supports) that abusers use to justify their behavior.

Lundy Bancroft (2002), an expert working with abusers, describes abuse as a “problem of values and attitudes.” He writes, “***Abuse grows from attitudes and values, not feelings. The roots are ownership, the trunk is entitlement, and the branches are control. Abuse and respect are opposites. An abuser is neither a monster nor a victim, but has a complex and destructive problem that should not be underestimated.***”

Possible Early Warning Signs of an Abuser

While not all the behaviors below always signal abuse, the presence of one or more of these characteristics could be an early warning sign of controlling behavior. (Bancroft, 2002)

- Is disrespectful to partner and former partners, or may be overly doting and respectful to partner
- Regularly verbally abusive
- Avoids responsibility
- Must be the center of attention
- Gets involved quickly in intimate relationships
- Sets rules that don't apply to themselves
- Has a different public and private demeanor. May be employed and part of the community with no criminal record, yet depersonalized and vengeful at home, may assault without provocation, or inflict pain and torture to people and/or animals
- Treats partner differently in public and private/may appear accepting, but retaliate nonetheless
- Purports to be the victim of the partner's abuse
- Blames the partner for the abuse (e.g. she knew she wasn't supposed to do that)
- Resists limit-setting by others, reacts with violence toward any limit-setting
- Uses statements of guilt or remorse as a way to avoid consequences
- Describes the protective actions by the victim (e.g., leaving or calling police) as her way to make the abuser look bad, get a leg up in court, or hurt him (retribution for infidelity)
- Presents as a stable and calm partner (e.g., using her stress or anger about the situation as an example while, on the other hand, he is extremely cooperative)
- Denies or minimizes his actions (e.g., she bruises easily or I just pushed her a little)
- States that the victim has been the barrier to resolving the family's problems (e.g. she won't go to counseling) and all he wants to do is be a good father and keep the family together.
- Presents his behaviors as being misunderstood (e.g., he is protective of her)

Caveat: It is extremely important to note that the absence of these signs does not signify that abuse or controlling behavior is not taking place. Power and control of the situation by the abuser is one of the most important elements of domestic violence and the tactics employed in asserting that power and control may be extremely subtle and/or may actually be the opposite of those listed above. In fact, the abuser may present a respected public face and demeanor, very different from that face and demeanor exhibited at home.

Abusers' Attitudes

A system of beliefs and attitudes underlies abusive behavior and the choices made by abusers. Some of these beliefs or rationalizations include:

- I am entitled to control you.
- I am better than you.
- You create all our problems. You drive me to violence.
- Drugs or alcohol make me do things for which I am not responsible.
- Everybody else is an idiot.
- My partner and my children are my property so I can tell them what to do and do what I want to them.
- I am not responsible.
- My partner is less competent than I am.
- It's a man's world.
- No one has the right to tell me what to do.
- I am the leader and you are here to serve me and follow my lead.
- I *have* to watch you all the time to make sure you do things the right way (my way).
- If you don't meet my needs, then I'm allowed to find someone who can, but you are still expected to be faithful to me.
- It's OK to hit someone to keep them in line.
- My feelings come first.
- Children are to be seen and not heard and not seen too much.
- You defied me; therefore, I have a right to retaliate.

It is important to note that some of these beliefs/rationalizations may be presented in a subtle manner and may be couched in reasonable statements, but the underlying issues of power and control exist.

Tactics of Control

All abusers use tactics to control their partners. The abuser chooses tactics that work to increase their control. They discard tactics that are not working, and employ new ones to maintain control.

The following examples of control tactics are commonly referred to throughout the literature on domestic violence and can be found on Power and Control Wheels developed by the Duluth Abuse Intervention Project (see **Appendix 2**). The quotes are attributable to the experiences of actual victims of domestic violence in Essex County, New York.

Emotional and Psychological Abuse

- Inflicting mental anguish.

“We live three miles from the nearest road. He takes a knife to my neck almost every day. I can hardly ever get to the phone and I’m afraid to call anyone because he will know. I’m 76 years old. I’m really afraid of him. I spend most of my days alone in the woods. I’ll see if my sister can bring me to your office next Tuesday.” (This is also an example of a physical threat.)

- Name-calling, humiliation, or degradation in public or private.

“Stupid! I told you to shut up about that!”

- Making victim feel guilty.

“You are such a slob!”

- Making and breaking promises repeatedly.

“I’ll take you out when you learn how to clean this house!”

- Gradual isolation from family or friends.

“I told you to stay away from that loser.”

- Pressure to leave work or become pregnant.

“No wife of mine will work while I’m still around.”

- Violating personal boundaries of victim, reading emails or letters, checking phone messages, taping phone calls, searching through clothes, closets, purses, or diaries.

“What are you doing with this phone number? I thought I told you to stay away from that loser.”

- Telling victims they are crazy or mentally ill.

“She forgot to take her wacky pill today.”

- Feels entitled to control their partner.

“When you’re in my house, you’ll abide by my rules.”

- Express publicly their interest in other partners in front of victim.

“I’d like to get a little of that action.”

- Contend the victim is a bad parent.

“You can’t even keep those kids quiet.”

- Makes false accusations.

“He attacked me. I called the police. When the police arrived, he told them I was crazy and suicidal. I told them I was the one who called, not him. But they didn’t listen. They took me and locked me up in the hospital.”

Coercion and Threats

- Threatening to harm the victim, victim’s children, other relatives, friends, or pets.
- Threatening suicide.
- Exposure of private information about victim.
- Forcing victim to commit or participate in crimes.

Using Children

- Threatening to call or calling Child Protective Services to report the victim.
- Using the children to control the victim’s behavior.

“I brought them in this world and I can take them out.”

- Sabotaging victim’s relationship with their children.

“Sorry, Mommy was late again so we don’t have any time for ice cream.”

- Threaten to or petition the court to gain full custody of the children.

“No court is ever going to give you custody, I’ll see to that.”

- Threaten to kidnap the children.

“Come on kids, you want to go with me this weekend?”

- Use corporal punishment on the children.

“Don’t make me get out the belt again.”

- Allow children to engage in activities that threaten their health or safety.

“I told them only sissies wear helmets.”

- Use children to gain information

“What did your mother say to that social worker?”

Intimidation

- Breaking sentimental items in front of victim.
- Reckless driving.
- Staring, silence, or giving victim certain “looks.”

Sexual Abuse

- Forcing a victim to have sex against their will.
- Hurting partner physically during sex.
- Coercing partner to have unsafe sex (e.g., without a condom).
- Grabbing victim's body inappropriately in public.
- Forcing victim to have sex with others.
- Intimating that not complying with sexual requests will have negative consequences.

Physical Abuse

- Pushing, slapping, punching, choking, hair pulling, biting, shaking.
- Withholding medical treatment, food, or sleep.
- Forced use of drugs or alcohol.

Economic Abuse

- Preventing victim from working.
- Controlling all the finances.

“He completely partitioned off the house into two parts. He has control of the heat, the water, and the telephone. Those parts are in his half. I have cancer. I haven't had heat or hot water for two weeks. We are married, but the house is in his name. I spoke to the police but they told me there was nothing they could do. I have to go for an operation next week.”

Using Privilege

- Feels entitled to control others.
- Compelling the victim to work while abuser stays home.
- Views partner, children, or pets as objects to own.
- Believes rules apply to others, not the abuser.

As stated earlier in the Guidelines, it is important to note that there are also other control tactics that are employed by abusers involving a public vs. private “face” that may be far more subtle in their presentation and, therefore, may be more difficult to identify as pertaining to issues of domestic violence.

CASA's Role in Cases Involving Domestic Violence

The role of the CASA volunteer is to be an independent gatherer of the facts in a case. CASA volunteers do not do assessments nor do they provide recommendations to the Court or other involved agencies.

When working as a court-assigned CASA on a case involving domestic violence, the CASA volunteer's basic role and duties will not change. Measures taken to help protect the safety of the victim, her children and the CASA volunteer should be practiced universally because the potential for domestic violence is present in all cases. Safety concerns in these situations are especially important for the volunteer to consider and will be addressed in this section of the Guidelines.

It is perhaps what a CASA does NOT do that most greatly contributes to a positive outcome on a case involving domestic violence. It requires extreme discipline and care to scrutinize every action to avoid compromising the victim's safety. It requires NOT overstepping one's role and NOT assuming expertise that is rightly that of the domestic violence advocate. CASA's knowledge about domestic violence is critical -- and may serve to bring attention to this issue where it might otherwise be overlooked or misunderstood.

Many of the following recommendations grow out of the experience of CASA volunteers in Essex County through their work with families in which there is domestic violence.

Some domestic violence dynamics CASA volunteers might observe

- There seems to be a forced silence.
- Family members minimize or deny the violence. Victims may recant their reports as a safety strategy for themselves and their children.
- Abuser controls the conversations, the finances, the appointments, etc. (*This dynamic can be subtle and, therefore, extremely difficult to identify.*)
- Victims make excuses or lies for the abuser. This may also be a safety strategy for the victim.
- Body language and eye contact may be signals. Some victims will look to the abuser before answering questions, or may avoid eye contact with the interviewer. This should not be misinterpreted as resistant or uncooperative behavior.
- Abuser uses their drug or alcohol use as an excuse for their behavior.
- Abuser may be sweet and charming, even doting – which is to say, there may be nothing obviously wrong.
- Victim is prevented from driving or working.

Safety

A CASA volunteer must consider his/her own safety in all cases. It may be wise to inform supervisors of scheduled home visits by CASA volunteers. In addition, CASA policies do not

preclude volunteers from leaving an address and phone number of their home visits with a friend or relative. This does not violate confidentiality. They should not, however, leave other identifying information, such as names of the family members.

The circumstances of a particular case should dictate how a CASA volunteer interacts with family members – the location of visits, whether to visit alone or with a supervisor or another volunteer, whether to make an in-person visit at all. It is also important to remember that domestic violence may be a concern in foster and adoptive families as well.

Information Gathering

As with any case, CASA will gather information from multiple sources. The following are some reminders and strategies to increase the power of information gathering related to domestic violence.

As a routine part of fact-finding on any case, CASA should determine whether or not there is a documented history of violence by checking police and court records, bearing in mind that the absence of any history of physical violence may not provide clarity to the situation. Domestic violence is about power and control, which may not always be exhibited in ways that are officially and legally documented. Domestic violence may exist even if there has been no documented involvement with the family court or criminal justice systems.

Keep in mind that domestic abusers may not be reliable reporters. They may try to paint themselves in the most favorable light.

Do not assume that the family court has information about previous documented encounters with law enforcement **or** past/pending convictions related to abuse. Frequently, when multiple courts are involved, they are not aware of concurrent proceedings. CASA can play a vital role in facilitating the exchange of critical information.

Reports to the Court

In reports to the court, CASA volunteers can inform the court of prior criminal and/or current history and concurrent Orders of Protection that may have been issued by other courts. CASA can also inform the court of a history of domestic incident reports.

CASA volunteers should never include any family addresses or phone numbers in their reports. In situations involving domestic violence, this might expose the victim to further risk by informing the abuser of her whereabouts.

As noted above, **every action taken and everything written in CASA reports should be scrutinized for its potential to endanger the victim and children.**

Providing Opportunities for Disclosure

CASA volunteers must be aware that domestic violence, although perhaps not immediately evident, exists in some of the families with whom they are working. The CASA volunteer should make sure the suspected victim/s have several opportunities to speak with you alone. Partners and children may be threatened by the abuser and may not be free to speak or schedule appointments for fear of retaliation from the abuser.

Interviewing Tips

The CASA volunteer sets the tone and the parameters for interviews with the family. A good way to start an interview is to tell all family members that you would like to speak with everyone together and alone. Presenting the practice of conducting separate interviews for everyone as “standard” affords the victim some protection.

Ask the family for a place to conduct your interviews. With children, the goal is to find a way to speak privately with the child without being alone with the child. This may be accomplished by sitting outside, in a separate room with the door open, at school if that is acceptable to the parents, etc. It may be harder to find opportunities to speak privately with each adult family member, particularly if the abusive partner limits access. Be certain that you don’t arouse suspicion through your attempts to interview the potential victim alone. Assume that all e-mail, regular mail, phone calls, and even meetings arranged outside of the home are monitored by the abuser.

It is critical that the CASA volunteer take charge of this process and manage it in a way that yields the most accurate information while not compromising safety. **The lack of a disclosure of domestic violence does not necessarily mean that it is not happening.** At any given time, making disclosures may not be in the best interest of the victim; it is often dangerous to disclose.

A CASA volunteer should make it clear, up front, to all parties they interview, that they do not withhold from the court any information that they gather. This gives the parties the power to control the information they wish to share. It also helps the volunteer to avoid situations where they could later be accused of jeopardizing someone’s safety or of sharing confidential information.

Whether to Talk Specifically about Domestic Violence

While some victims may be reluctant to discuss their situation, others are waiting for someone to ask them about the abuse and are waiting for the right time to discuss it. Victims have sometimes commented that they never disclosed because no one asked. The goal is not to probe or investigate, but simply be ready to respond appropriately if a victim does disclose to you.

A volunteer could ask the DSS caseworker if any domestic violence services are being provided to the victim, although it is possible that the caseworker might not have that knowledge or there may be strictures placed on the information’s disclosure.

Initially, a CASA volunteer should not ask victims if they are working with a domestic violence program. Victims may be embarrassed about their situation, feel that the volunteer is advising them to seek services, or feel the volunteer is insinuating they are somehow inadequate because they are not seeking services. Some may refrain from disclosing such information for reasons of safety.

If a victim does mention domestic violence, a CASA volunteer could then ask the victim if she is working with the domestic violence program. In such a case, a CASA volunteer needs to be knowledgeable about the domestic violence programs in their community. The CASA

volunteer could orally and in private give the victim the domestic violence agency phone number and/or a brief description of services, but should be mindful not to give advice or suggest a course of action for the victim to take, nor to provide written information that could compromise safety.

For example, a CASA volunteer could say that they know that all services in their area's domestic violence program are free, confidential, and *voluntary*. While some courts do mandate domestic violence services for victims, domestic violence programs offer their services voluntarily. All provide a Domestic Violence hotline. Additionally, some may have the resources to offer transportation, some childcare, safe housing, supportive counseling, and court advocacy.

Neutrality and Confidentiality

Remember, a CASA volunteer's role is one of neutrality. CASA volunteers do not provide any direct services and must not be viewed as aligning with any party in a case. While a CASA volunteer might feel compelled to offer advice or assistance, they must often make a conscious effort to avoid becoming personally involved. Various family members will often ask the CASA to discuss information they have gathered from other involved parties. **It is never the CASA volunteer's role to share any case information between family members, unless the information received involves a risk of physical danger. In those instances, it would be advisable to immediately consult with your supervisor regarding how to address the situation.**

Each CASA and domestic violence program has rules governing confidentiality. The domestic violence records are confidential and can be released under court order. CASA and domestic violence programs may also share information when both the CASA program and the domestic violence program have received signed releases from the person receiving domestic violence services. Decisions about asking for a release will be made on a case-by-case basis. CASA should not interpret the domestic violence program's confidentiality policies as an unwillingness to work with community partners, but as a legal requirement and a necessary function of their role.

Monitoring Court Orders

A CASA volunteer must educate him/herself about domestic violence. CASA monitors orders issued by the court, including those involving services that are being provided to assist the family with domestic violence issues, and reports as to whether these services are being accessed. Criminal and family courts may also mandate services for the abuser. CASA reports can inform the court about the abuser's compliance or non-compliance with mandated services. These reports should only report regarding compliance and should not make statements regarding the abuser's "progress" or lack thereof.

A CASA is a reporter of the facts. It may also be necessary for CASA to report if the victim does not comply with court-mandated services. Issues involving the propriety of victim-mandated services are complex and elicit varying opinions. In circumstances in which a court does order compliance with these services, it may, as a result of confidentiality constraints, be necessary to obtain a release from the victim or court order in order to gather information,

including facts that could be helpful in addressing any issues regarding valid reasons contributing to the non-compliance.

A Coordinated Community Response

A CASA volunteer can participate in his/her community's coordinated response to domestic violence through attendance at local task force meetings, where parties such as the social service departments, police, probation, the District Attorney's office, judges, attorneys, medical personnel, domestic violence advocates, mental health professionals, CASA, and others meet with the common goals of holding abusers accountable, educating the community about domestic violence, promoting victim safety, and advocating for expanded services.

Frequently Mandated Services

While the CASA volunteer is not specifically charged with recommending services, or assessing the quality of services to which an abuser is referred, knowing more about different services and their appropriateness may enable CASA to provide more informative reports to the court.

The services described below are among those to which abusers may be referred once domestic violence becomes known to the court or to a service provider.

Violence Intervention Programs (VIP), Batter Intervention Programs (BIP), or Batterer Programs (BP)

Family Court judges often order respondents to complete a violence intervention program. These orders are often in the form of Orders of Protection and Orders of Supervision. If a respondent has not complied, they can be found in Contempt of Court and jailed for up to six months.

The New York State Office for the Prevention of Domestic Violence (OPDV) revised its recommendations in 2003 regarding batterer programs. "In sum, our experience indicates that offender accountability can be best achieved through more effective and consistent use of probation supervision and other criminal justice sanctions rather than batterer programs." (NYS OPDV, 2003) **Violence Intervention programs, Batterers Intervention Programs and Batterer Programs may often be more effectively used as an accountability and judicial monitoring tool, rather than as actual services to the individual batterer.**

If batterer programs are to be used by a community, referrals should be used in conjunction with a criminal justice or other system response that imposes consequences if the abuser fails to attend the program or re-offends. (Jaffee and Sudermann, 1995)

OPDV considers that these batterer programs would generally contain the following components:

1. The program will not blame external factors such as the victim, alcohol/drugs, or emotional problems as the cause of the violence.

2. The program will use group education, not couples counseling, anger management, psychotherapy, or mediation.
3. Abusers with substance abuse problems should be required to concurrently attend a substance abuse treatment program.
4. The program should maintain a limited confidentiality policy where the victim is entitled to information regarding the abuser's status in the program.

OPDV considers that voluntary participation in a violence intervention program is not acceptable as such voluntary participation can be used as a manipulation by the abuser to: a) try to convince the victim to return, b) to allow the abuser to drop out of the program without consequence, or c) to convince the victim that they are working on the relationship. (NYS OPDV, 2000)

Couples Counseling

Couples counseling is a dangerous practice and is not recommended when there is domestic violence. Couples counseling focuses on therapeutic or treatment models which disregard the dynamics of domestic violence. People in relationships where there is unequal power and who are being hit, intimidated, or otherwise controlled by their partners are not free to engage in open dialogue. Open dialogue could increase the risk of violence after the counseling session. In couples counseling, victims may take responsibility for instigating the violence, thus shifting responsibility from the abuser to the victim. Victims may also be placed at risk for additional abuse and/or control should they participate. (NYS OPDV, 2000) The victim may also be placed at risk of retaliation should they refuse to participate.

Anger Management

Anger management programs have not been demonstrated to be an effective way to stop the violence in most domestic violence situations. Anger management implies that the abuser is unable to control his/her anger and behavior and thus, is not responsible for it – another excuse for domestic violence. In fact, abusers almost always control themselves when required, such as, in court, with the police, or with their boss, but do not feel the need to control anger directed at their partner, and may feel entitled to use anger as a means to control partner. Anger management programs focus on the abuser being unable to control violent tendencies due to a triggering effect. This suggests that the victim triggers the violence. (NYS OPDV, 2000)

Mediation

For many of the same reasons that couples counseling is not recommended, mediation is generally NOT considered an effective or appropriate response to domestic violence. The American Bar Association has noted in a statement that when mediation is used in cases that involve domestic violence, an opt-out prerogative should be included:

Resolved, that the American Bar Association recommends that court-mandated mediation include an opt-out prerogative in any action in which one party has perpetrated domestic violence upon the other party. (ABA, 2000)

Role of the Law Guardian

CASA volunteers strive to complement, not duplicate, the duties of other responsible parties involved in abuse and neglect cases. Law Guardians and CASA volunteers can work together to assist the Court so that the best interests of the child is served. While every case is different, it is important to consider the specific role each participant might play in responding to the domestic violence aspects of a case. Below, the role of Law Guardian is described and the complementary nature of CASA's work is defined.

In New York State, all children in child abuse and neglect cases are assigned a Law Guardian. CASA volunteers can work closely with the Law Guardian who can actively speak for the child in court.

The following is adapted from "The Ten Commandments for CASA and Law Guardian Communication" by Margaret Burt, Esq., and captures aspects of this relationship.

- The Law Guardian must protect the legal rights of their clients and are not always free to act in a social work capacity. The New York State Appellate Division has advised Law Guardians that they are to take the posture the child WANTS in a particular case, except in certain circumstances.
- CASA volunteers often have an important, non-legal, point of view and frequently obtain valuable information related to a case. They can also facilitate services for the child and family. CASA is directed to provide information that will inform the court when it is making decisions regarding the best interests of children.
- The Law Guardian and the CASA volunteer can work together to identify bottlenecks in the system for children and work together to alleviate them. Both can acknowledge that for children in foster care, the goal is always safe and quick permanency even though they may disagree on the best route to arrive there. CASA volunteers and Law Guardians can listen to their respective positions, be flexible, and be aware of and use effectively the power of their combined forces.

Domestic Violence Service Providers

There are approved domestic violence service providers in each county. The services these programs offer vary from county to county, but always include information and referral services, advocacy, counseling, community education and outreach activities and hotline services to a victim of domestic violence, whether or not the victim is eligible for public assistance. Some may also provide support groups, child care and other services. It will be important for CASAs to be aware of who the provider(s) are and know what services are available. The following are the hotlines for New York State:

New York State Domestic and Sexual Violence Hotline

- In English:
 - Voice telephone number: 1-800-942-6906
 - TTY for the Hearing Impaired: 1-800-818-0656

- In Spanish – Línea Contra la Violencia Doméstica y Agresión Sexual del Estado de Nueva York:
 - Voice telephone number: 1-800-942-6908.
 - TTY for the Hearing Impaired: 1-800-780-7660 (This includes a language bank of 140 different languages.)

New York State Elder Abuse Hotline: 1-800-342-9871

New York State Child Abuse Hotline: 1-800-342-3720

New York State Child Abuse and Neglect Prevention Information Line: 1-800-342-7472

CASAs should also know the local program and hotline numbers to they can share this information with victims (see **Appendix 3**).

In addition, a number of websites can provide additional information, such as:

New York State Office of Children and Family Services, <http://www.ocfs.state.ny.us>. The mission of the New York State Office of Children and Family Services is to serve New York's public by promoting the well being and safety of our children, families and communities. OCFS is to achieve results by setting and enforcing policies, building partnerships and funding and providing quality services. It provides legislative updates, regulations, resources, programs and services for victims of domestic violence. For a list of approved domestic violence providers, go to <http://ocfsws.ocfs.state.ny.us/domesticviolence/>.

New York State Office for the Prevention of Domestic Violence, <http://www.opdv.state.ny.us>. The New York State Office for the Prevention of Domestic Violence (OPDV) mission is to promote positive social change through actions that develop leadership, resources and collaboration within and across communities to end domestic violence and the underlying social tolerance that perpetuates it.

New York State Coalition Against Domestic Violence, <http://www.nyscadv.org>. The New York State Coalition Against Domestic Violence (NYSCADV) is a not-for-profit membership organization whose mission is to eradicate domestic violence and to ensure the provision of effective and appropriate services to victims of domestic violence through community outreach, education, training, technical assistance and policy development.

New York State Division of Criminal Justice Services, <http://criminaljustice.state.ny.us/ofa/domviolcrtfactsheet.htm>. The New York State Division of Criminal Justice Services is a multi-function criminal justice support agency whose responsibility is to improve the effectiveness of New York's justice system. On this website, the New York State Domestic Violence Courts Program fact sheet describes the components of the domestic violence court in New York State for screening, referral, and monitoring of cases. The website also includes the names of the current domestic violence court operations in New York State.

Office of New York State Attorney General, http://www.oag.state.ny.us/crime/domestic_violence.html. This website discusses indicators of

abuse and the support, rights, resources and compensation for victims. It also describes steps to take if you are in an abusive relationship.

Prevent Child Abuse, <http://www.preventchildabuseny.org>. This organization is the only not-for-profit agency in New York State whose singular mission is to prevent child abuse in all its forms. Formed in 1980, Prevent Child Abuse New York is a member of Prevent Child Abuse America, and serves the entire state in partnership with a statewide network of member organizations and individual volunteers and members.

Legal System Response

CASA Volunteers do not provide legal representation or advice. If a victim is in need of these services, CASA and other providers can work together so that an appropriate referral is made. The following is meant to serve as a general overview. It is important to note that local practice may differ from this description.

This information is adapted from The 2004 New York State Coalition Against Domestic Violence Handbook, the Unified Court System and the National Clearinghouse on Child Abuse and Neglect Information, US Department of Health and Human Services.

Federal Law

Under federal law, anyone convicted of misdemeanor domestic violence loses their right to obtain a license and carry a firearm. This includes police officers, military personnel, and corrections officers. A misdemeanor crime of domestic violence means an offense that:

“Has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.”

New York State Family Courts

In New York State, victims of domestic violence can access both criminal and civil (Family and/or Supreme) Courts. Family Court can be used to bring family offense petitions by people who: are married, divorced, related by blood or marriage, or have a child in common whether or not they have been married. Partners who are gay or lesbian, or partners who are unmarried and pregnant with no other children in common, may not bring family offense petitions in the Family Court.

In order to seek relief from domestic violence in the Family Court, a person must file a Family Offense petition in Family Court alleging one of the family offenses enumerated in the Family Court Act. A victim alleging one of these offenses has the right to seek an emergency, ex-parte (without the other party present for the 1st appearance only) order of protection. The victim has the right to see the judge on the same day they file such a petition, although it is important that all parties be alerted that this is just the beginning of a much longer legal process.

The relief sought may be an order of protection, whereby the court directs someone to stay away from another person, or an order of protection that directs someone to “refrain from” offensive acts against others. These orders could be for up to two years or, in some cases, as long as five years. They can also be very specific or more general, and include adults and children as protected parties. Other relief requested may be temporary custody of the children, child support, or specific visitation requests.

Seeking an order of protection is not right for all domestic violence victims. Victims often instinctively know if seeking an order of protection may increase or decrease their safety. Such an order may be granted, but the abuser may not comply, and retaliation risks may be created. Domestic violence advocates can help victims explore their options and the ramifications of choosing such an order.

Family Court in New York State is considered an open court, so relatives, friends, and advocates may be present in the courtroom during the case. Judges do have the discretion, however, to close the court should they choose.

During after-hours, holidays, or weekends when the Family Court is closed, a victim can ask a town, village, or city court justice to issue a Temporary Order of Protection, which lasts only until the next business day in Family Court. The victim must then proceed in Family Court.

It may be helpful for CASA Volunteers to be aware of the following facts:

- New York State Labor Law requires an employer to allow persons to take time off for Family Court with one day’s notice to the employer.
- New York State law also requires judges to consider domestic violence in determining custody and visitation, giving the judge wide latitude in determining how much weight to give the existence of domestic violence in custody decisions
- Victims in New York State can access emergency services and shelter, regardless of their income, resources, or immigration status.

New York State Supreme Courts

Supreme Court is used for separation or divorce. If the parties are in the process of divorce, separation, or annulment, they can request an order of protection anytime before trial. If an order of protection is attached to a divorce order it is valid for the duration of the divorce.

New York State Criminal Courts

In New York State Criminal Courts, it is the District Attorney who brings the case. If a victim calls a member of law enforcement because of domestic violence, the law requires that the police must come and must complete a Domestic Incident Report (DIR) whether or not there is an arrest. If the police find a felony has been committed, they must make an arrest. If the police find a misdemeanor has been committed, they are required to make an arrest unless the victim asks them not to. The police can not ask if the victim wants an arrest. If the offense committed is a violation, the police must witness it to make an arrest. A victim can receive an order of protection in the Criminal Court. For a felony, the order can be for a maximum of five years, although this rarely occurs.

New York State Integrated Domestic Violence Courts

In 2003, Chief Judge of New York State Judith Kaye announced the expansion of integrated domestic violence (IDV) courts in order to better serve families facing domestic violence. The goals of this specialized court are to protect victim safety, increase abuser accountability, and promote more-informed judicial decision-making. Prior to the creation of the IDV courts, families had to appear in multiple courts with multiple judges. The Integrated Domestic Violence (IDV) Court concept, is “one family – one judge” and it was created to handle all related cases pertaining to a single family where the underlying issue is domestic violence.

The threshold requirement for entry into any IDV Court is a pending criminal case involving allegations of domestic violence and a Family Court or Supreme Court matrimonial action (divorce). Family Court cases could include child custody or visitation, support cases, Juvenile Delinquent (JD), Person In Need of Supervision (PINS), and child abuse and neglect cases. Individual cases are not consolidated, however, and each retains its own integrity and confidentiality.

As of May 2006, there were 28 IDV Courts in operation throughout the state and 9 in the planning stages. Each IDV Court creates its own administrative process to identify eligible cases. Many of these courts begin with limited case acceptance, such as only misdemeanors at first, and then later add felony cases. Also, some courts have begun operations with limited case matches, such as, only child custody or support cases.

Conclusion

Although a CASA volunteer is specifically assigned to advocate on behalf of a particular child, their potential impact in terms of domestic violence will extend beyond the child. As communities begin to examine the relationship between domestic violence and child welfare, informed CASAs can make a substantive difference in protecting the well-being of women and their children as well as fostering collaborative relationships among courts, local DSS, domestic violence providers and others involved in the lives of these children and their families.

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Speak with your supervisor about additional reading and local training opportunities.

Appendix 1

Local Commissioners Memorandum



George E. Pataki
Governor

NEW YORK STATE
OFFICE OF CHILDREN & FAMILY SERVICES
52 WASHINGTON STREET
RENSSELAER, NY 12144

John A. Johnson
Commissioner

Local Commissioners Memorandum

Transmittal:	04-OCFS-LCM-22
To:	Local District Commissioners
Issuing Division/Office:	Strategic Planning & Policy Development
Date:	December 21, 2004
Subject:	Summary of New York State Court of Appeals Decision, <u>Nicholson, et al. v. Scopetta, et al.</u>
Contact Person(s):	See Page 4
Attachments:	None
Attachment Available On – Line:	N/A

I. Purpose

The purpose of this memo is to provide social services districts with a summary of the recent New York State Court of Appeals decision in Nicholson, et al. v. Scopetta, et al., which answers three specific questions regarding the meaning of State law governing child protection in cases where there are allegations of domestic violence.

II. Background

The case initially was brought in federal court by parents whose children had been removed from their homes by the New York City Administration for Children's Services (ACS) in child protective cases involving domestic violence. The United States District Court for the Eastern District of New York held that ACS, as a matter of policy, removed children from mothers who were victims of domestic violence solely because they allowed their children to witness the abuse. ACS appealed that decision to the United States Court of Appeals for the Second Circuit (Second Circuit). In reviewing the case, the Second Circuit decided that it could not determine the appeal until the New York State Court of Appeals answered three certified questions regarding what New York Law requires in relation to child protective services cases involving victims of domestic violence, 344 F.3d 154 (C.A.2, 2003). The New York State Court of Appeals (Court) issued its decision answering the three certified questions on Tuesday, October 26, 2004. The Court's decision was based on its interpretation of existing State statutory law.

III. Program Implications

First Certified Question

Does the definition of a “neglected child” under Family Court Act (FCA) §1012(f), (h) include instances in which the sole allegation of neglect is that the parent or other person legally responsible for the child’s care allows the child to witness domestic abuse against the caretaker?

The Court answered no and held that more is required under New York law for a finding of neglect against a victim of domestic violence than proof of the fact that the child witnessed domestic violence against the victim. The Court held that for the family court to find neglect there must be “proof of actual (or imminent danger of) physical, emotional or mental impairment to the child.” Imminent danger of impairment must be near or impending, not merely possible. The Court also provided guidance on the meaning of the term “minimum degree of care.” The Court described the term as referring to a baseline of proper care that all parents must meet regardless of lifestyle, social position or economic position and noted that the standard is minimum degree of care, not maximum or ideal care. In addition, the Court held that there must be “a link or causal connection” between the allegation of neglect and the circumstances that allegedly produced the impairment or imminent danger of impairment of the child. This is consistent with the State’s long-standing understanding and interpretation of the statutes and is not a departure from the policy the State has previously promulgated.

For impairment of emotional health to be established, the statute requires that the “impairment must be clearly attributable to the unwillingness or inability of the respondent to exercise a minimum degree of care toward the child,” FCA §1012(h). The Court established an objective reasonable person standard to determine whether a parent exercised a minimum degree of care: “[W]ould a reasonable and prudent parent have so acted, or so failed to act, under the circumstances then and there existing.” This standard includes consideration of “the special vulnerabilities of the child.” The Court also noted that, while expert testimony may often be necessary to show impairment of emotional health or imminent risk thereof and to show that the impairment or risk is clearly attributable to the failure of the parent to exercise a minimum degree of care, the statute does not require such testimony. This is an important clarification, as earlier case law has sometimes suggested that expert testimony was essential to a showing of neglect based on impairment or imminent danger of impairment of a child’s emotional health.

The Court concluded that, for a victim of domestic violence, the fact-based inquiry must be made based upon the severity and frequency of the violence and the resources and options available to the victim, and must include consideration of the risks attendant to leaving, risks attendant to staying and suffering continued abuse, and risks attendant to seeking assistance through government channels, criminal prosecution of the abuser and relocation. The Court gave two examples of where a victim of domestic violence could be found to have neglected her child: where the mother acknowledged the child knew of repeated violence and had reason to be afraid of the batterer, yet the victim allowed the batterer to return to their home several times; and where the child was regularly or continuously exposed to extremely violent conduct between the parents and there was proof of the fear and distress of the child as a result of long exposure to the violence. However, the Court was clear that if the sole allegation is that the mother was abused (i.e., was a victim of domestic violence) and the child witnessed the abuse, a showing of

neglect could not be made. In order to maintain a charge of child neglect, there would have to be proof that the child was actually harmed or placed in imminent danger of harm because of the mother's failure to exercise minimal care.

Second Certified Question

Can the injury or possible injury, if any, that results to a child who has witnessed domestic abuse against a parent or other caretaker constitute "danger" or "risk" to the child's "life or health," as those terms are defined in FCA §§1022, 1024, 1026-1028?

The Court re-stated this question to ask whether emotional injury from witnessing domestic violence can rise to a level that establishes an "imminent danger" or "risk" to a child's life or health, so that removal is appropriate either by court order or as an emergency removal without a court order. In answer to the second certified question, the Court held that before issuing a removal order, the family court must do more than identify imminent risk of serious harm. The family court must weigh whether the harm can be mitigated by reasonable efforts to prevent removal and must determine whether removal is in the best interests of the child by balancing the risk if the child stays in the home against the harm removal might cause the child. The Court also held that the mere fact a child witnessed domestic violence is not a presumptive or sufficient basis for removal. The Court specifically rejected the use of the doctrine of "safer course" where there is a "dearth of evidence" of actual harm to the child or as a "watered-down, impermissible presumption" that if a child has witnessed domestic violence they are harmed. The "safer course" doctrine has been used as the justification for a determination to keep a child in care pending the full factfinding hearing on the alleged abuse or neglect when there is any question whether the child will be safe if he or she remains at home.

The Court clearly stated that where the circumstances are not so exigent, such as where it is alleged that the child has been emotionally harmed, the agency should "bring a petition and seek a hearing prior to removal of the child" under FCA §1027 (emphasis in the original). If the agency believes there is insufficient time to file a petition and hold a preliminary hearing, an *ex parte* application may be made to the family court under FCA §1022 only if the parent is absent or the parent has been asked and has refused to consent to removal and was told that an *ex parte* order would be sought. In addition, such an application should be made then only if the child appears to suffer from abuse or neglect of a parent to the extent that immediate removal is necessary to avoid imminent danger to the child's life or health. Finally, the Court emphasized that emergency removal without a court order under FCA §1024 may only be used in the most urgent circumstances of very grave danger to the life or health of the child. The Court established a stringent standard. Emergency approval is appropriate where the danger is so immediate and so urgent that the child's life or safety will be at risk before an *ex parte* order can be obtained. To further illustrate this standard, the Court cited with approval the holding in Gottlieb v. County of Orange, which required that there must be persuasive evidence of serious ongoing abuse based upon the best investigation reasonably possible under the circumstances, and that the agency has reason to fear imminent recurrence. Gottlieb v. County of Orange, 871 F.Supp 625 (S.D.N.Y., 1994). The Court further held that it would be a rare circumstance where emergency removal would be justified where the injury at issue is emotional injury or, even more remotely, the risk of such injury caused by witnessing domestic violence.

Third Certified Question

Does the fact that the child witnessed such abuse suffice to demonstrate that “removal is necessary” FCA §§1022, 1024, or 1027 or that “removal was in the child’s best interests” FCA §§1028, 1052(b)(i)(A), or must the child protective agency offer additional, particularized evidence to justify removal?

The Court determined that there must be separate, case specific evidence to support the determination of removal, including, where appropriate, evidence of efforts made to prevent or eliminate the need for removal and the impact of the removal on the child. Although competent expert testimony regarding a child’s emotional condition may be submitted to show that “any impairment of emotional health is clearly attributable to the unwillingness or inability of the respondent to exercise a minimum degree of care toward the child”, expert testimony is not required to establish emotional harm to a child.

IV. Additional Information

Social services districts must provide child protective services in accordance with the Court of Appeals decision. OCFS anticipates providing additional information pertaining to the practice implications of the decision at a later date.

V. Contact Information

BRO - Linda Brown (716) 847-3145
User ID: Linda.Brown@dfa.state.ny.us
RRO - Linda Kurtz (585) 238-8201
User ID: Linda.Kurtz@dfa.state.ny.us
SRO - Jack Klump (315) 423-1200
User ID: Jack.Klump@dfa.state.ny.us
ARO – Glenn Humphreys (518) 486-7078
User ID: Glenn.Humphreys@dfa.state.ny.us
YRO - Pat Sheehy (914) 377-2080
User ID: Patricia.Sheehy@dfa.state.ny.us
NYCRO - Fred Levitan (212) 383-1788
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Nancy W. Martinez s/s

Issued By:

Name: Nancy W. Martinez

Title: Director

Division/Office: Strategic Planning and Policy Development

Appendix 2

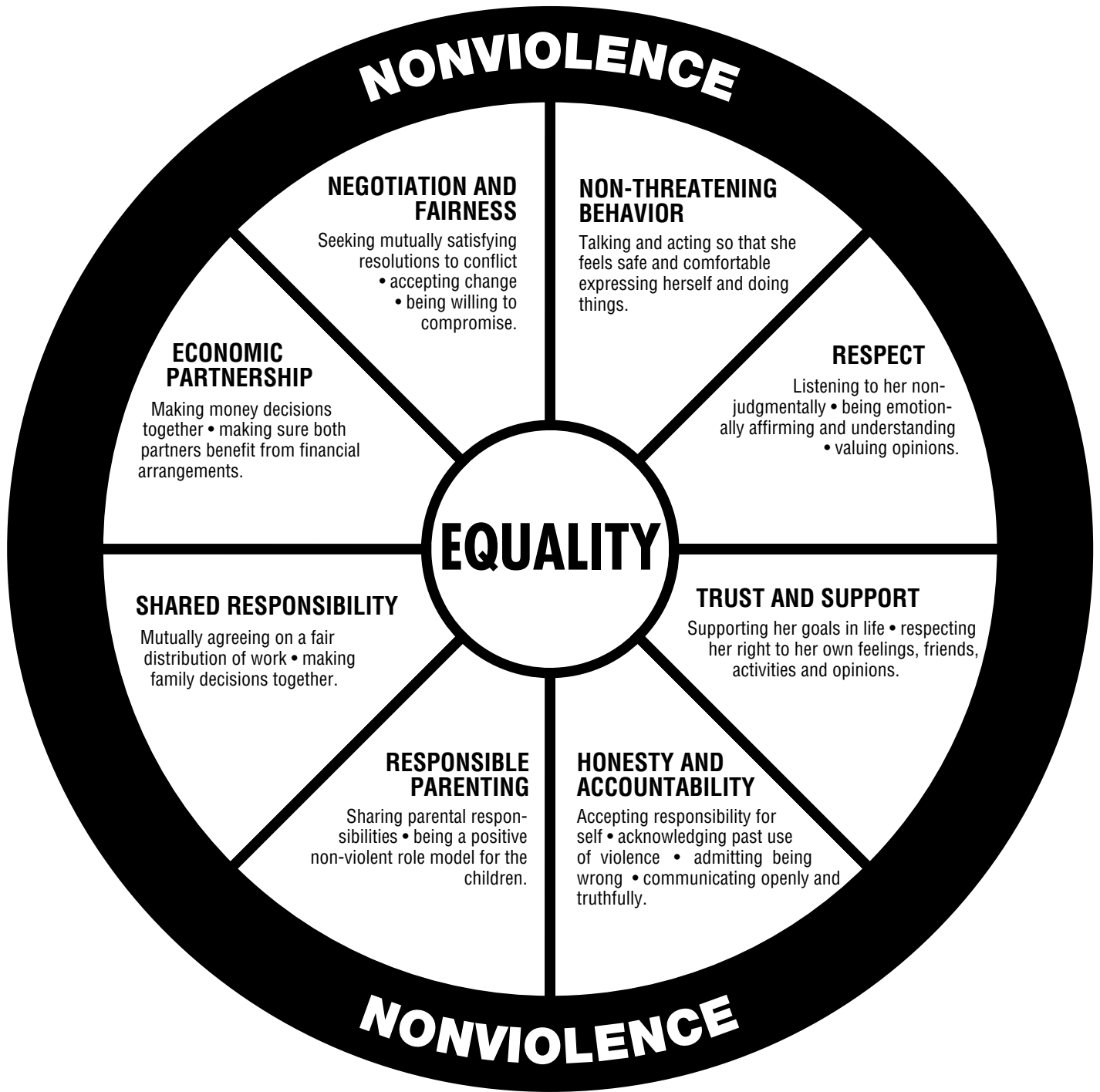
Wheels of Power and Control



DOMESTIC ABUSE INTERVENTION PROJECT

202 East Superior Street
Duluth, Minnesota 55802

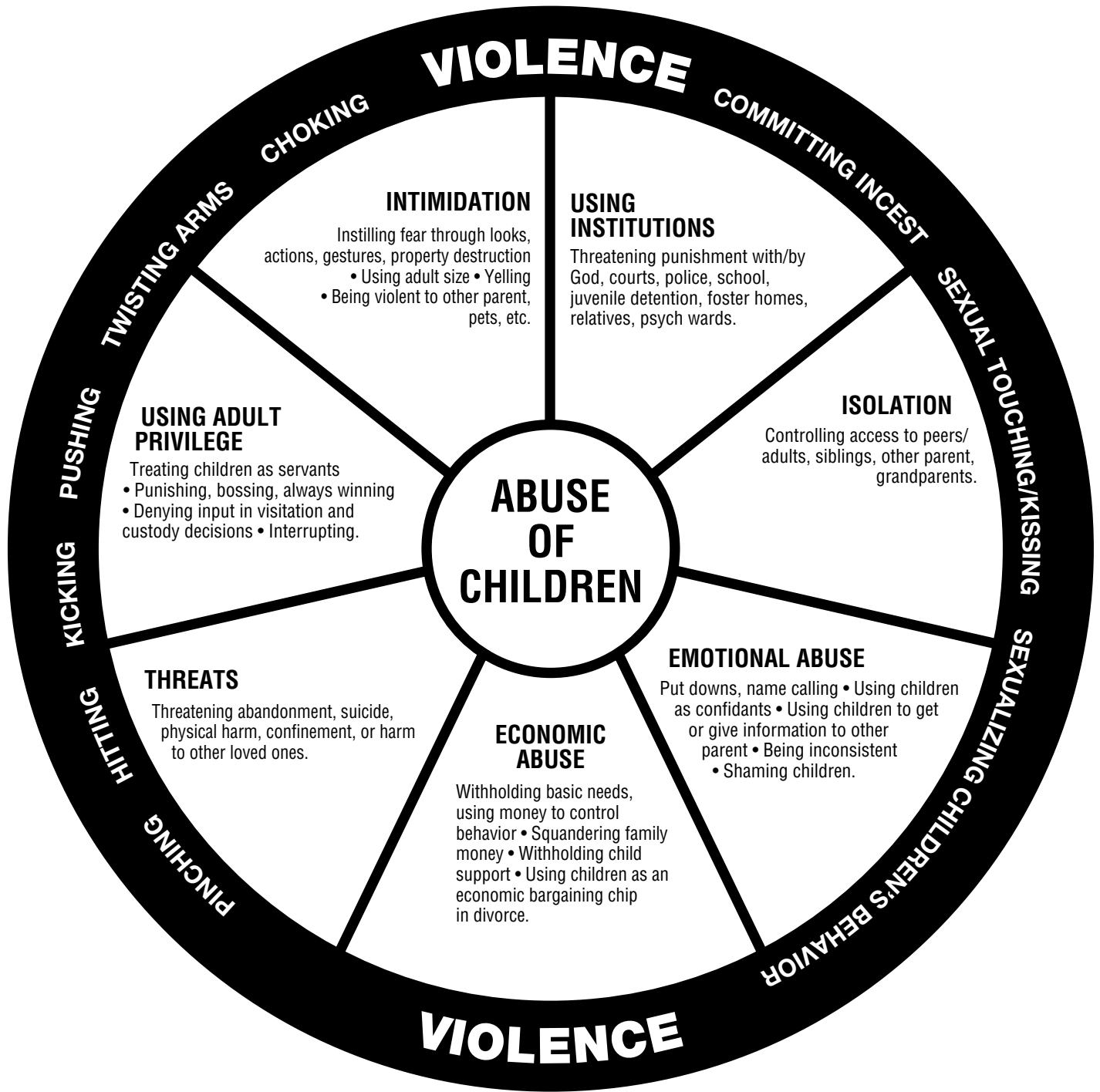
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DOMESTIC ABUSE INTERVENTION PROJECT

202 East Superior Street
 Duluth, Minnesota 55802

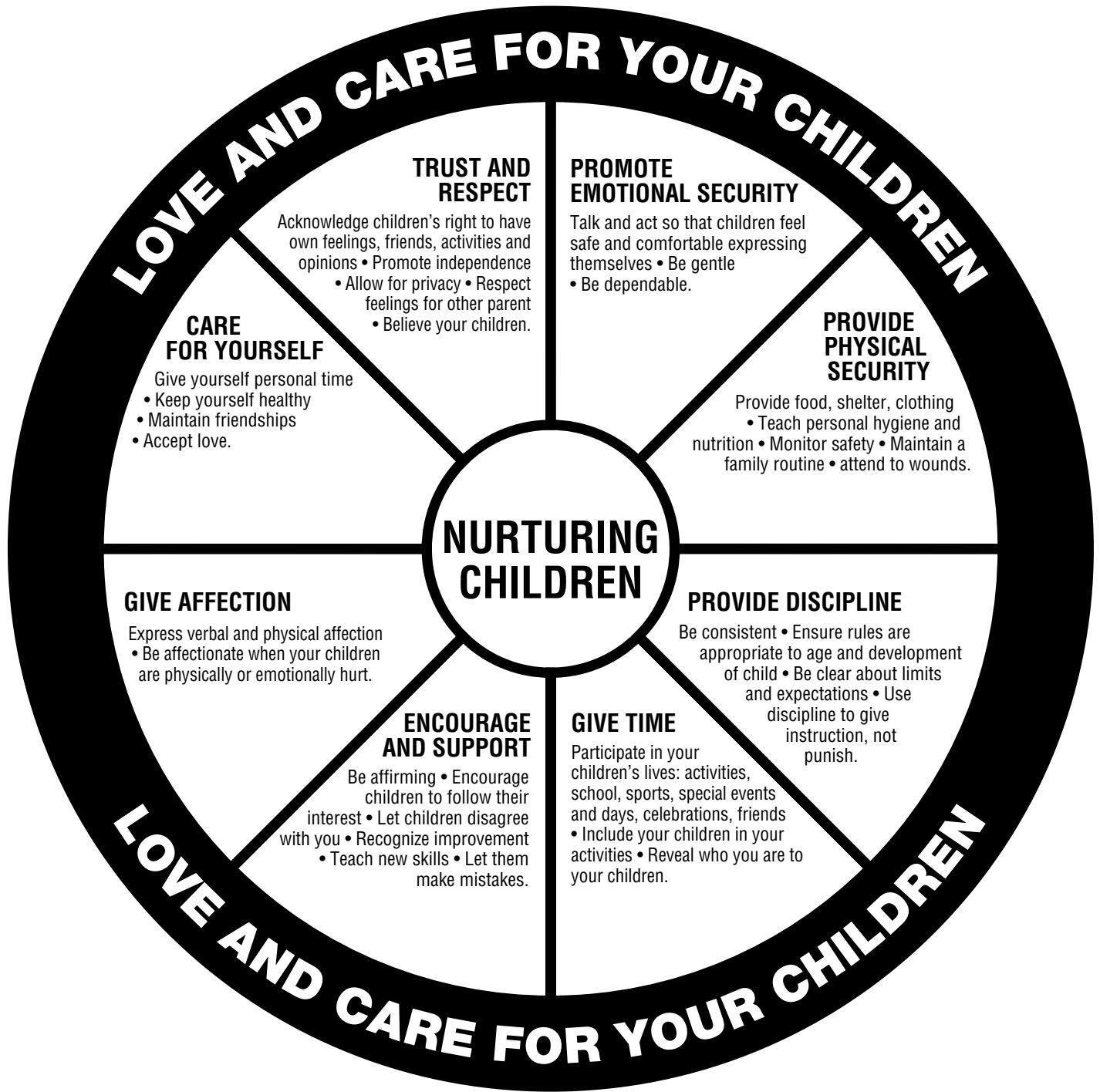
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218-722-2781



DOMESTIC ABUSE INTERVENTION PROJECT

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218-722-2781

Appendix 3

Domestic Violence Hotlines by County

List of OCFS-Approved DV Agencies

Domestic Violence Hotlines by County

Your community may offer a variety of services. Your local hotline can provide you information. The Office for the Prevention of Domestic Violence (OPDV) makes no representation, expressed or implied, as to the accuracy of local service provider telephone numbers. Reasonable efforts were made at the time of this publication to verify service provider telephone numbers.

Albany

- Equinox Domestic Violence Program (518) 432-7865
- Homeless and Travelers Aid Society of the Capital District (518) 463-2124

Allegany

- Accord Family Violence Task Force (800) 593-5322

Broome

- SOS Shelter, Inc. (607) 754-4340

Cattaraugus

- Cattaraugus Community Action Domestic Violence Program (888) 945-3970
Toll-free

Cayuga

- Domestic Violence Intervention Program (800) 253-3358

Chautauqua

- Salvation Army Domestic Violence/Rape Crisis Program (800) 252-8748

Chemung

- Salvation Army Safehouse (607) 732-1979

Chenango

- Catholic Charities Domestic Violence Program (607) 336-1101

Clinton

- STOP Domestic Violence (518) 563-6904

Columbia

- Columbia-Greene Domestic Violence Program (518) 943-9211

Cortland

- YWCA's Aid to Women Victims of Violence (800) 336-9622

Delaware

- Delaware Opportunities/Safe Against Violence (866) 457-7233

Dutchess

- Grace Smith House (845) 471-3033
- YWCA of Dutchess County Battered Women's Services (845) 485-5550

Erie

- Haven House (716) 884-6000
- Community Services for the Developmentally Disabled (716) 877-1111
- Hispanos Unidos de Buffalo (716) 856-7110 or (716) 481-8867

Essex

- STOP Domestic Violence/CCMHA (888) 563-6904 Toll-free

Franklin

- ComLinks (800) 834-9474

Fulton

- Family Violence Project of the Family Counseling Center of Fulton County (518) 725-5300

Genesee

- YWCA Domestic Violence Project (585) 343-7513

Greene

- Columbia-Greene Domestic Violence Program (518) 943-9211

Hamilton

- Hamilton County Department of Social Services Domestic Violence Program (800) 721-8534

Herkimer

- Domestic Violence Program of Herkimer County (315) 866-0458

Jefferson

- Victims Assistance Center. - Jefferson County., Inc. (866) 782-1855

Lewis

- Lewis County Opportunities Domestic Violence and Rape Crisis (315) 376-4357

Livingston

- Chances & Changes (888) 252-9360 Toll-free

Madison

- Victims of Violence (315) 366-5000

Monroe

- Alternatives for Battered Women (585) 232-7353

Montgomery

- Catholic Charities of Montgomery County (800) 721-2173 or (518) 842-3384

Nassau

- Nassau County Coalition Against Domestic Violence (516) 542-0404
- Circulo de la Hispanidad (516) 889-3869, after 5:00 p.m. (516) 889-2849

Niagara

- YWCA of Niagara Alternatives to Domestic Violence Program (716) 433-6716
- Passages Program Family & Children's Service (716) 285-6984
- YWCA of the Tonawandas Domestic Violence Program (716) 692-5643

Oneida

- YWCA Rape Crisis and Domestic Violence Services (315) 797-7740

Onondaga

- Vera House (315) 468-3260

Ontario

- Family Counseling Service of the Finger Lakes (800) 695-0390

Orange

- Orange County Safe Homes Project (888) 503-4673

Orleans

- County Department of Social Services/Domestic Violence Program
(24 hours) (866) 314-7233
- Rural Opportunities, Inc.(24 hours) (866) 314-7233

Oswego

- Services to Aid Families (315) 342-1600

Otsego

- Violence Intervention Program (607) 432-4855

Putnam

- Putnam-Northern Westchester Women's Resource Center (845) 628-2166

Rensselaer

- Unity House Families in Crisis Program (518) 272-2370

Rockland

- Rockland Family Shelter (845) 634-3344

Saratoga

- Domestic Violence Services (518) 584-8188
- Mechanicville Area Community Services Center/Domestic Violence Advocacy Program (518) 664-4008

Schenectady

- YWCA of Schenectady Services to Families in Violence (518) 374-3386

Schoharie

- Family and Community Services of Schoharie County
- Safe Haven Domestic Violence Program (518) 234-2231

Schuyler

- Catholic Charities First Step (607) 742-9629

Seneca

- Family Counseling Service of the Finger Lakes (800) 695-0390

St. Lawrence

- St. Lawrence Valley Renewal House (315) 379-9845

Steuben

- The Net Domestic Abuse Program (800) 286-3407

Suffolk

- Suffolk County Coalition Against Domestic Violence (631) 666-8833
- Victims Information Bureau of Suffolk (631) 360-3606
- The Retreat (631) 329-2200
- Brighter Tomorrows (631) 395-1800

Sullivan

- Safe Passage Domestic Violence Program (845) 292-5700

Tioga

- A New Hope Center (800) 696-7600 or (607) 687-6866

Tompkins

- Advocacy Center of Tompkins County (607) 277-5000

Ulster

- Family Domestic Violence Services (845) 338-2370

Warren & Washington

- Domestic Violence Project of Catholic Charities (518) 793-9496

Wayne

- Victim Resource Center (800) 456-1172

Westchester

- My Sister's Place (800) 298-SAFE (7233)
- Northern Westchester Shelter (888) 438-8700 Toll-free

Wyoming

- Wyoming County Victim Services (585) 786-8909

Yates

- Family Counseling Service of the Finger Lakes (800) 695-0390

New York City Resources

24-Hour Hotlines

- New York City Domestic Violence Bilingual Hotline 1-800-621-HOPE
- Hearing Impaired 1-800-810-7444
- Victim Services Agency (212) 577-7777
- Violence Intervention Program Bilingual Hotline 1-800-664-5880

Legal Services - free advice and services for victims of domestic violence:

City-Wide

- Sanctuary for Families Center for Battered Women's Legal Services (212) 349-6009
- Main Street Legal Services, Battered Women's Rights Clinic, CUNY Law School 1-800-621-HOPE
- Victim Services West Side Legal Project 1-800-621-HOPE
- InMotion (formerly Network for Women's Services) - Legal assistance for battered women seeking divorces. (212) 695-3800

Brooklyn

- Brooklyn Legal Services, Corporation B (718) 237-5500

Appendix 4

DOMESTIC VIOLENCE RESOURCES

WEBSITES

American Bar Association Commission on Domestic Violence,

<http://www.abanet.org/domviol/home.html>. The mission of the American Bar Association Commission on Domestic Violence is to mobilize the legal profession to provide access to justice and safety for victims of domestic violence. Founded in 1984, the American Bar Association Commission is the only national organization that focuses exclusively on improving the legal responses to domestic violence, sexual assault, and stalking.

An Abuse, Rape, and Domestic Violence Aid and Resource Collection,

<http://aardvarc.org/dv/states/nydv.shtml>, a project supported by the Office for Victims of Crime, U.S. Department of Justice, lists resource materials needed for both victims and advocates in New York State. Materials include information on indicators of abuse, batterers, police responses, court, safety planning, child custody, divorce, NYS statistics, NYS Statutes, and more.

Asian and Pacific Islander Institute on Domestic Violence,

<http://www.apiahf.org/apidvinstitute/default.htm>, is a national network of advocates, community members, professionals from the health, mental health, law, education, and social services, survivors, scholars, researchers, activists from public policy, community organizations, youth programs, immigrants' rights networks, communities of color, women's groups, lesbian, gay, bisexual, and transgender communities, and other social justice organizations. This network serves as a clearinghouse on information, research, resources, and critical issues about violence against women in Asian and Pacific Islander communities.

Battered Women's Justice Project, <http://www.bwjp.org/>. This project is a collaborative effort of three national organizations that have pioneered innovative civil and criminal justice responses to domestic violence. It promotes systemic change within community organizations and governmental agencies engaged in the civil and criminal justice responses to domestic violence that create true institutional accountability to the goal of ensuring safety for battered women and their families. It undertakes projects on the local, state, and national levels.

Domestic Violence Awareness Handbook, U.S. Department of Agriculture – Safety, Health, and Employee Welfare Division, <http://www.usda.gov/da/shmd/aware.htm>. Former President Bill Clinton, called on all departments of the federal government to develop employee awareness campaigns to help combat domestic violence. The Department of Justice, Violence Against Women Office, prepared this handbook as a resource guide for anyone seeking assistance on Domestic Violence issues.

Family Violence Prevention Fund, <http://www.endabuse.org>. The mission of the Family Violence Prevention Fund is to improve community and system responses to children and their families affected by violence. Key objectives of the Fund's children's program are working with domestic violence programs, batterers intervention programs, child welfare agencies, and community organizations to influence and form effective collaborations and build partnerships to promote safe and healthy families.

Institute on Domestic Violence in the African American Community,

<http://www.dvinstitute.org>. The Institute is focused on setting an agenda to reduce/eliminate

domestic violence in the African American community. It also focuses on the concerns regarding the plight of African American women and that “one size does not fit all.” They promote creating communities of African American scholars and practitioners working in area of violence, raising community awareness, and identifying community needs and best practices.

Lundy Bancroft, <http://www.lundybancroft.com>. Lundy Bancroft is an author, trainer, counselor, and activist on issues of abuse and recovery. His current work focuses particularly on men who abuse women and the impact those men have on the lives of both women and children.

Medline Plus, <http://www.nlm.nih.gov/medlineplus/domesticviolence.html>. Health information from the world’s largest medical library, the National Library of Medicine. Articles on domestic violence, information on diseases/conditions, information on prescriptions, other health information.

Minnesota Center Against Violence and Abuse, <http://www.mincava.umn.edu/>. The mission of the Minnesota Center Against Violence and Abuse (MINCAVA) is to support research, education, and access to violence related resources. The Link Project examines the experiences of families in which both children and their mothers have been maltreated. The project reports systematically collected information on children and domestic violence and builds collaborative relationships between child protection, domestic violence, and court services.

National CASA Association, <http://www.casenet.org/library/domestic-abuse/index.htm>. This website is dedicated to providing articles on the effects of domestic violence on children, the link between domestic violence and child abuse, the cycle of violence, the risks and remedies for children of domestic violence, and domestic violence statistics for women and children, along with other resources.

National Coalition Against Domestic Violence, <http://www.ncadv.org>. The National Coalition Against Domestic Violence is a grassroots non-profit membership organization, working since 1978 to end violence in the lives of women and children. Their mission is to organize for collective power by advancing transformative work, thinking and leadership of communities and individuals to end violence in our lives.

National Council on Juvenile and Family Court Judges, <http://www.ncjfcj.org> or (800) 527-3223, Resource Center on Domestic Violence, Child Protection and Custody, offers a free packet of information for abused women in custody and visitation litigation. It also offers a copy of the book *Managing Your Divorce* that helps women prepare for the process of resolving child custody, visitation, and child support. However, it does not offer legal advice or involvement in an individual case. In addition, <http://www.ncjfcj.org/content/view/20/94/> offers information from their Family Violence Department. The department’s goal is to improve the lives of domestic violence victims and their children, through developing influential publications, hosting major conferences and symposiums, conducting judicial trainings, and providing family violence resources.

National Domestic Violence Hotline, <http://www.ndvh.org>. Since February 1996, victims of domestic violence across the nation, have had a resource available to them toll-free, 24 hours a day, 365 days a year. Calling the hotline may be the first step in finding safety from violence in their lives. The hotline provides callers with information regarding shelters and service providers in and out of their area.

National Latino Alliance for the Elimination of Domestic Violence, <http://www.dvalianza.org>. The mission of the National Latino Alliance is to promote understanding, sustain dialogue, and generate solutions that move toward the elimination of domestic violence affecting Latino communities, with an understanding of the sacredness of all relationships and communities.

National Network to End Domestic Violence, <http://www.nnedv.org/>. This network, a social change organization representing state domestic violence coalitions, is dedicated to creating a social, political, and economic environment in which violence against women no longer exists. Through various projects, it provides a network of initiatives and services to both domestic violence victims and advocates.

National Resource Center on Domestic Violence, <http://www.nrcdv.org>. This center provides support to all organizations and individuals working to end violence in the lives of victims and their children through technical assistance, training, and information on responses to and the prevention of domestic violence.

Violence Against Women Network, <http://www.vawnet.org/>. The National Online Resource Center on Violence Against Women's mission is to harness and use electronic communication technology to end violence against women. The online resources at <http://www.vaw.umn.edu/> develop and disseminate state of the art resource material for criminal justice professionals, state coalitions, tribal coalitions, and victim advocacy groups about effective interventions, services, and coordinated community responses to violence against women.

Washington State Coalition Against Domestic Violence, www.wscadv.org. Founded in 1990 by domestic violence survivors and their allies, the Coalition is a non-profit, statewide network of 64 member programs that serve victims of domestic violence in rural, urban and Indian Country communities of Washington, plus 119 individual and organizational associates.

BOOKS

Bancroft, L. (2004). *When Dad Hurts Mom: Helping Your Children Heal the Wounds of Witnessing Abuse*. New York, NY: G.P. Putman. This book offers comfort, understanding, and a concrete plan of action to any woman concerned about the distress being caused to her children by her angry, controlling, and abusive partner. Written for mothers, this book aims to enlighten women about the effects of abuse on children, how an abusive partner distorts familial relationships, and what can be done about it. This book also covers the effects of separation, divorce, dealing with child protection services, and the Family Court system.

Bancroft, L. (2002). *Why Does He Do That? Inside the Minds of Angry and Controlling Men*. New York, NY: G.P. Putnam. This book identifies nine types of abusive men, from physical batterer to verbal abuser. Lundy Bancroft dispels pervasive societal myths and answers 20 questions women commonly ask about relationship partners who are controlling. Questions include: Why is he so nice to everyone else except me? How can I get him to change? The book gets to the heart of abusive men's thoughts and behaviors and makes recommendations for victims and professionals and gives women tools they need to get back in control of their own lives.

Bancroft, L., Silverman, J. (2002). *The Batterer as Parent: Addressing the Impact of Domestic Violence on Family Dynamics*. Thousand Oaks, CA: Sage Publications. This book looks in detail at men who batter as they appear through the eyes of children in the home, and explains how domestic violence affects mother-child and sibling relationships.

Cantrelli, L. (2002). *Into the Light: A Guide for Battered Women*. 3rd edition, Indianapolis, IN: JIST Life Editors. A good resource for women who do not have time for longer books, but seek quick inspiration, accurate information, and good advice.

Dugan, Kennedy M, Hock, R. (2000). *It's My Life Now: Starting Over after an Abusive Relationship of Domestic Violence*. New York, NY: Routledge. This book is valuable for women who are still involved with an angry or controlling partner and for those who have left. A warm, compassionate book by authors who deeply understand both emotional and physical abuse.

Jones, A., Schechter, S. (1992). *When Love Goes Wrong: What To Do When You Can't Do Anything Right*. New York, NY: Harper Collins Publishers. For women who are seeking guidance on how to cope with a controlling partner and how to move toward freedom and recovery. It is practical, down to earth, accurate, and covers in detail a wide range of issues that women face.

Leventhal, B., Lundy, S. (2000). *Same-Sex Domestic Violence: Strategies for Change*. Thousand Oaks, CA: Sage Publications. This book offers guidance to community members who want to address the needs of abused lesbians and gay men, explaining the structuring of service provision and the overcoming of institutional barriers.

Mullender, A., Hague, G., Iman, U., Kelly, L., Malos, E., Regan, L. (2002). *Children's Perspective on Domestic Violence*. Thousand Oaks, CA: Sage Publications. Drawing on the newest research both in the United States and internationally, the authors bring together current policy and practice in relation to children living with abuse and offer a critique from the perspective of children's voices. The book offers a detailed explanation of the impact on children living with domestic violence, how children make sense of and cope with their experiences, the response they receive from various agencies, and the fit between what children feel they need and what in reality they receive.

National Council of Juvenile and Family Court Judges, Family Violence Department. (1995). *The Greenbook: Effective Interventions in Cases Involving the Co-Occurrence of Domestic Violence and Child Maltreatment*. Reno, NV: National Council of Juvenile and Family Court Judges. This manual offers communities a guiding framework to develop interventions, and measures progress as they seek to improve responses to families experiencing domestic violence and child maltreatment. The manual establishes that adult and child maltreatment often occur together and that new responses are required at primary points of intervention to ensure safety of the battered parent and their children. The manual consists of 5 chapters that include: 1) safety and need to hold batterers accountable, 2) Several principles to guide communities in structuring their responses, and 3, 4, 5) specific recommendations for Child Protection, domestic violence providers, and other juvenile and family courts.

Weitzman, S. (2000). *Not to People Like Us: Hidden Abuse in Upscale Marriages*. New York, NY: Basic Books. The book is an expose of abuse among the wealthy, with important guidance

for abused women. Dr. Weitzman draws on her in-depth study of battered women to unveil the unique path taken by the upscale wife, the early warning signs, the internal dilemmas and decisions, and the dangerous desire to cover-up abuse and maintain appearances. Delving into stories of wives and girlfriends of CEOs and attorneys, of physicians and professors, many of them professional themselves, Dr. Weitzman offers crucial information to help all women find their way out of abusive relationships and toward safety and independence.

White, E.C. (1995). *Chain Chain Change: For Black Women in Abusive Relationships*. Emeryville, CA: Seal Press. The book offers supportive, practical information for African-American women who are or have been in a physically or emotionally abusive relationship. This book also provides information on identifying the different aspects of abuse, the effects of domestic violence on the family, the impact of racism and sexism, and suggestions on how to reach out for help and get positive support from emergency agencies, shelters, the legal system, counselors, the church, family, and friends. A new chapter addressing the experiences of black lesbians who are battered by their partners is included in this expanded edition.

Zambrano, M. (1985). *Mejor Sola Que Mal Acompañada: For The Latina in an Abusive Relationship*. Emeryville, CA: Seal Press. This book, available in a Bi-lingual edition, is for women who use Spanish or English as their primary language, speaks to the cultural context in which Latinas live, and offers specific validation and recommendations.

ARTICLES AVAILABLE THROUGH THE JUDGE'S PAGE OF NATIONAL CASA'S WEBSITE

www.casenet.org (Newsletter archive October 2004)

Binard, J. On line resources for family violence research and reference. *Juvenile and Family Court Journal* (National Council of Juvenile and Family Court Judges). **Abstract:** Joey Binard of the National Council of Juvenile and Family Court judges highlights web resources for readers who seek national and international research on the co-occurrence of family violence and child abuse.

Hulbert, S. N. Safe start: How children exposed to violence can be provided services in the juvenile and family courts. *Juvenile and Family Court Journal* (National Council on Juvenile and Family Court Judges). **Abstract:** Safe programs in the community can provide judges and other professionals with innovative information to assist them in meeting the challenge of addressing the needs of children exposed to violence. Safe Start researches and evaluates local programs and policies affecting children exposed to domestic violence at different entry points in the court system. There is a high need for coordination, collaboration, community-based approaches involving women's shelters, domestic violence agencies, child advocacy centers, domestic violence, family, dependency, juvenile and drug courts, child care, child development, Head Start programs, law enforcement, mental health providers, schools, social services, child protection, and substance abuse and treatment services. Children exposed to violence may develop a wide range of social, emotional, and academic problems. Referrals are often made for the adult victim and not the child. Safe Start programs also focus their efforts on the children and their needs.

Lewis, J.D. Judge. The Family Violence Issue. *Juvenile and Family Court Journal* (National Council of Juvenile and Family Court Judges) *Abstract:* This issue of the *Judges' Page* describes what Judges can do to make court intervention more successful in cases involving domestic violence. In 1999, the National Council of Juvenile and Family Court Judges approved the recommendations of the *Greenbook's Effective Intervention in Domestic Violence and Child Maltreatment Cases: Guidelines for Policy and Practice*. Research showed that in 30% – 60% of cases involving domestic violence, there was also child maltreatment. Adopting the Greenbook principles and learning about CASA and GAL roles are tools for the judges to use for successful intervention. Identifying the co-occurrence problem and collaborating among systems is not enough. Appropriate rehabilitative services must be in place and matched to the needs of the children and families.

Mentaberry, M.V. Juvenile and family court journal highlights multi-faceted family violence issues. *Juvenile and Family Court Judges* (National Council of Juvenile and Family Court Judges) *Abstract:* The National Council for Juvenile and Family Court Judges' *Journal* provides insight into issues of disproportionate representation and "reasonable efforts." In the Fall 2003 edition, the Family Violence Department assembled a group of authors to discuss the multifaceted problem of domestic violence and the impact it has on children and families. Two important articles include: "Disproportionate Representation: Communities of Color in the Domestic Violence, Juvenile Justice, and Child Welfare Systems" by Richard Wright and Judge Wadie Thomas Jr. and "Using Reasonable Efforts Determinations to Improve Systems and Case Practice in Cases Involving Family Violence and Child Maltreatment" by Judge Richard Fitzgerald, Christine Bailey, and Lauren J. Litton. Both articles can be accessed at <http://www.ncjfcj.org/content/blogcategory/256/302/>.

Rubin, S.M. Termination of parental rights: When the parent is a victim of violence. *Juvenile and Family Court Journal* (National Council of Juvenile and Family Court Judges) *Abstract:* The article addresses when the court should be able to terminate parental rights if the parent is also the victim of domestic violence. The case cited was *In re Termination of Parental Rights to Zachary B*, 662 N.W.2nd, 360 (WI 2003) and *In re Termination of Parental Rights of Zachary*, 678 N. E. 2nd, 856 (WI 2004) where state moved to terminate the rights of a mother who had three children fathered by the mother's father. It was reversed on appeal.

Susser, K. Nicholson revisited: New York lawyers seek protections for battered mothers and children. *Juvenile and Family Court Journal* (National Council of Juvenile and Family Court Judges) *Abstract:* This article details the appeals case of battered mothers who lost custody of their children for "exposing" them to domestic violence. New York State's highest court ruled that women should not lose custody of their children solely because the children see them battered by abusive spouses.

OTHER ARTICLES

Bancroft, L. (Winter 2002). The Batterer as a Parent, *Synergy*, 6(1), pages 6- 8, (Newsletter of the National Council of Juvenile and Family Court Judges). Abstract: This article describes various approaches to protecting children exposed to men who batter and fostering their healing. The author looks at post separation because he believes there is a high rate of survivor assaults by the batterer post separation. He states there is a the great need for effective tools for assessing risk to children from contact with the batterer post separation and offers 13 different points in assessing that risk.

Edleson, J. L. (1995). Mothers and children: Understanding the links between woman battering and child abuse. *Minnesota Center Against Violence and Abuse*. Abstract: Edleson reviews studies where, in cases women are abused, there is also a high percentage of child abuse by the same perpetrator. He states that children who witness domestic violence also suffer many social and mental health problems. They may exhibit more aggressive and antisocial behavior, and there may be a link between prior victimization and youth violence. Controlled studies are needed on the effects on children witnessing violence. Projects for the integration of services that provide for the safety to both women and children are needed.

Edleson, J. L., Schechter, S. (1998). Effective intervention in domestic violence and child maltreatment cases: Guidelines for policy and practice. *Family Violence Journal*. Reno, NV: National Council of Juvenile and Family Court Judges. Abstract: This article describes the principles and recommendations for improving the policies and practices of child protection services, domestic violence services, and juvenile courts which were adopted as the official policy of the National Council of Juvenile and Family Court judges. The five chapters of effective intervention described here include the guiding framework, foundation principles and recommendations, the child protection system, domestic violence services for families, and the courts. This article aims to offer a more comprehensive set of responses to eliminate or decrease the enormous risks that individual battered mothers, caseworkers, and judges must take on behalf of children.

Fleck-Henderson, A. (2000). Domestic Violence in the Child Protective System: Seeing Double. *Children and Youth Services Review*, Vol. 22 (No. 5) pp. 333-354. Abstract: This article draws on experience with the domestic violence unit of the Massachusetts Department of Social Services to illustrate issues that arose as they worked toward child protection practices that attend to the rights and safety of children and the non-abusive parent. It describes the on-going collaborative relationship with domestic violence workers and agencies.

New York State Office of Children and Family Services. (2003). Domestic violence in child protective services cases in New York State. (A report to the governor and legislature). Albany, NY Abstract: This article describes the need for child protective and domestic violence collaborative projects throughout the state. The goal is to develop collaborative responses between domestic violence service providers and local district child protective caseworkers through developing a protocol for joint case and planning casework. Currently, OCFS has funded twelve projects for CPS/DV collaborations in New York State. The collaborative projects in these counties are named here.

Schechter, S., Edleson, J.L. (1994). In the best interests of women and children: A call for collaboration between child welfare and domestic violence constituencies. (briefing paper prepared for the conference titled “Domestic Violence and Child Welfare: Integrating Policy and Practice for Families”) Abstract: This paper describes the overlap between those protecting children and those advocating the end of violence against women. Research indicates domestic violence and child abuse frequently occur in the same family. Children who witness abuse also may be at risk to develop many problems. Often, men abusing children are also abusing women. The child welfare programs and domestic violence programs must work together to improve safety and self-sufficiency plans for families experiencing both child abuse and domestic violence.

SELECTED VIDEOS

City of Shelter <http://www.cityofshelter.org>. The City of Shelter video is a comprehensive view of what it takes to develop a coordinated community response to domestic violence. It offers concrete examples of the barriers that agencies must overcome to effectively coordinate their responses to domestic violence. The City of Shelter video is an 8 ½ hour, 11 part video-based training for professionals produced by Global Village Communications. A 2-hour version has also been produced.

Facing diversity: Responding to violence against women from diverse cultures www.intermedia-inc.com (under violence prevention/domestic violence). This video helps raise awareness of issues and barriers faced by women from diverse cultures. It illustrates specific culturally sensitive practices for police, prosecutors, and victim advocates. It is an ideal training tool for staff and volunteers who work with a diverse population of victims. A 25-page study guide is included.

Breaking peaces: Babies have their own say about domestic violence <http://www.infant-parent.com> (under training video). This 17-minute video describes what babies would say if they had a voice about experiencing domestic violence. The video assumes that domestic violence is an intensely up-close and personal phenomenon for babies and teaches that babies have little choice but to respond in some way. Suggestions are made about action steps for grown ups.

Music Video on domestic violence awareness (1999) <http://www.ideal.com>. This 5-minute video begins as a music video, but turns into a flashback for a woman who experienced domestic violence as a child.

Safety First <http://www.intermedia-inc.com>. (under violence prevention/domestic violence) This 15-minute video is an overview of steps domestic violence survivors can take to keep themselves and their children safe. It discusses protective orders and planning. A study guide is included.

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