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Sub-Category A-v: Courts & the Civil Justice System

COMPENDIUM OF RESEARCH ON VIOLENCE AGAINST WOMEN

1993-2016

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Category A: JUSTICE & RELATED SYSTEMS

v. Courts & the Civil Justice System

1998-IJ-CX-0021:	Estimating the Population at Risk for Violence During Child Visitation
Amount:	\$44,797
PI:	Chris O' Sullivan
Program Officer:	Leora Rosen
Status:	Completed

The project will examine family court records to determine the extent to which women attempting to separate from a violent partner face risk of violence when fathers exercise child visitation rights. Three sources of data will be used. First, approximately 4,500 visitation and custody cases will be reviewed and cross-checked with records of protection orders to determine the proportion of women involved in custody or visitation disputes that have protection orders against the non-custodial parent. Secondly, the researchers will interview lawyers who provide legal services to battered women in Family Court to conduct a qualitative assessment of: the context in which violence occurs; the risks or benefits of visitation by a father who has been an abusive partner in the perception of the attorneys and of their clients; and the lawyers' experiences raising these issues in court. The third source of data will be a sample of 500 cases in special domestic felony courts. These cases will be reviewed to determine constitution of the family, the status of the relationship between the abuser and victim, and the context in which violence is occurring. Particular attention will be paid to violations of orders of protection.

Product: NCJ# 195792/195793

Domestic Violence, Visitation and Custody Decisions in New York Family Courts (2002) – C. O'Sullivan

The study was conducted in New York City and Westchester County using a random sample of custody and visitation cases in New York City Family Courts, a full sample of visitation cases in the White Plains Family Court (Westchester County), and interviews with attorneys who represented victims of DV in Family Courts in New York City and Westchester. The findings in New York City indicate that half the visitation petitions and a third of the custody petitions were granted. Though fathers were more often the petitioners, there was no difference between mothers and fathers in rate of success in securing court orders. Fathers who successfully petitioned the court for a protection order against the mother were significantly more likely to be granted custody than fathers that did not. In White Plains, results showed that visitation was granted in 47% of the cases, and there was no difference between the dispositions of mothers' and fathers' petitions. Lawyers practicing in family court reported a number of problems with the courts handling of visitation in domestic violence cases. There was considerable violence against their clients in the course of visitation. In these cases, the attorney was unable to secure a suspension of visitation or supervised visitation from the court. Most attorneys reported threats rather than actual violence, or non-cooperation, such as keeping the children longer than specified in the visitation order.

Additional NCJ Citations: 186261, 210899

1999-WT-VX-0013:	Child Custody and Visitation When Father Batters Mother
Amount:	\$249,963
PI:	Allison Morrill
Program Officer:	Leora Rosen
Status:	Completed

The goal of this research is to assess the impact of two aspects of the Model Code provisions regarding child custody and visitation, and provisions regarding judicial knowledge of domestic violence issues on custody and visitation order in cases of domestic violence. The research will be conducted at (1) one jurisdiction with both aspects of the Model Code in place, namely, the presumption against custody or primary residence being awarded to a perpetrator of domestic violence, and safety accorded to the child and battered parent; (2) one jurisdiction with neither of these provisions; (3) two jurisdictions each with only one of the provisions. After a further selection of cases of disputed custody/visitation in which there was a contested hearing and final order entered, research staff will determine whether the mother has been subjected to violence perpetrated by the father. Outcomes will include (1) the extent of parental rights granted to the batterer and (2) conditions designed to protect the safety of the child or battered women.

Product: NCJ# 210900

Child Custody and Visitation Decisions When the Father Has Perpetrated Violence Against the Mother (2005) – A. Morrill, J. Dai, S. Dunn, I. Sung, K. Smith

Using hundreds of custody and/or visitation orders where the father perpetrated domestic violence (DV) against the mother, this study evaluated the effectiveness of statutes (the Model Code on Domestic and Family Violence) mandating a presumption against custody to a perpetrator of domestic violence and judicial education about DV. The goal of this study was to assess the direct and indirect impact of two aspects of the Model Code: (1) provisions regarding child custody and (2) provisions on judicial education, specifically on custody and visitation order cases where the mother had been subjected to violence by the father. Over many years of research, the adverse effects of domestic violence on children have been well-documented. However, research indicates that judges are resistant to considering DV as a factor in custody adjudications. In 1994, the Model Code on Domestic and Family Violence was developed by the National Council of Juvenile and Family Court Judges and intended to represent the best current expertise concerning legal approaches to DV containing guidelines on custody and visitation and judicial education. Across 6 States, 393 custody and/or visitation orders were examined where the father perpetrated DV against the mother. In addition, 60 judges who entered those orders were surveyed. More orders gave legal and physical custody to the mother and imposed a structured schedule and restrictive conditions on fathers' visits, except where there was a presumption for joint custody. The statutory presumption against custody to a perpetrator does appear to be effective in reducing orders that give legal custody to a father who has battered the mother. However, even with the presumption, 40 percent of the fathers were given joint custody. In all six States, the vast majority of judges (86 percent) received DV education, irrespective of legislative mandate. However, they scored no better in knowledge or attitudes. It was suggested that efforts should concentrate on improving the quality and usefulness of judicial education.

1999-WT-VX-0015:	Mandatory Custody Mediation
Amount:	\$249,841
PI:	Dennis Saccuzzo
Program Officer:	Leora Rosen
Status:	Completed

The goals of the project are to: (1) compare violent and nonviolent families on factors that affect child adjustment in order to determine whether group differences are reflected in the custody and visitation plans, thus bringing empirical data to bear on the issue of equity of outcomes; (2) study custody decisions from mandatory custody mediation, including visitation plans and other variables for violent nonviolent families; and (3) evaluate custody decisions in terms of the safety dimension, that is, the extent to which battered women are exposed to such dangers as unsupervised child exchanges. The study will analyze 400 randomly selected mediation reports in San Diego Family Court (200 with formal allegations of domestic violence and a comparable 200 without allegations). Groups will be compared in terms of custody/visitation outcomes and factors affecting child adjustment, including spousal adjustment, co-parent relationship, parent-child relationship, and child characteristics. Content analysis will be accomplished by trained raters evaluating specifiable indicators for each of the aforementioned factors. Variables will include the father's adjustment, co-parent relationship conflicts, mother's adjustment, network support, father-child relationship, mother-child relationship, and child characteristics.

Product: NCJ# 195422

Mandatory Custody Mediation: Empirical Evidence of Increased Risk for Domestic Violence Victims and Their Children (2003) – D. Saccuzzo, N. Johnson, W. Koen

In this study, the authors sought to evaluate the mediation process and outcomes when it is used in cases where there has been past record of domestic violence. Content analysis was conducted on a sample of 200 mediations in San Diego County, CA, in which there were indicators of DV in the case file that was available to the mediator. These cases were compared to a control group of 200 mediations from the same county, in which no indicators of DV were in the file available to the mediator. Results revealed that, the court screening form that was used prior to mediation often failed to screen for DV or abuse. Secondly, even when DV was noted as a problem in the case file, during mediation the DV was not addressed in many of the cases. Most alarmingly, the results revealed that when DV is brought up as an issue during mediation, the victim of DV and her children received no more protections, and sometimes even fewer, than cases in which the violence was neither noted nor discussed. This leads to the conclusion that victims of violence who are mandated to child custody mediation would be better served to remain silent about their victimization.

Additional NCJ Citations: 210898

2000-WT-VX-0016:	History of Intimate Partner Violence and the Determination of Custody and Visitation Among Couples Petitioning for Dissolution of Marriage
Amount:	\$280,460
PI:	Victoria Holt
Program Officer:	Leora Rosen
Status:	Completed

The goal of the study is to examine the relationship between a history of intimate partner violence (IPV) and determination of child custody and visitation agreements among couples undergoing dissolution of marriage. The objectives are to determine the percentage of couples in which: (1) the mother is designated primary residential parent; (2) visitation is denied to the non-residential parent; (3) restrictions are placed on the non-residential parent's visitation with the children; (4) the court orders supervised visitation for the non-residential parent; and (5) the court orders restrictions on the nonresidential parent's decision-making regarding the children. The project will compare the frequency of occurrence of each of the five outcomes mentioned above among couples with a known history of IPV to that among couples with no known history of IPV. Subjects will comprise Seattle couples with minor children who filed for divorce in the King County Superior Court between January 1, 1998, and December 31, 1999. The presence of any eligible police or court-reported incident of IPV prior to filing will identify the exposed group (a sample of 2,500 couples). The unexposed group will have no known history of IPV (a sample of 784 divorcing couples).

Product: NCJ# 210897

Children in the Crossfire: Child Custody Determinations Among Couples With a History of Intimate Partner Violence (2005) – M. Kernic, D. Monary-Ernsdorff, J. Koepsell, V. Holt

Although most states mandate consideration of intimate partner violence in child custody proceedings, little is known about how often a preexisting history of IPV is effectively presented to the courts in dissolution cases and, when it is, what effect it has on child custody and visitation outcomes. This retrospective cohort study examined the effects of a history of IPV, further categorized by whether substantiation of that history existed and whether the court handling the custody proceedings knew of that history, on issues of concern regarding the reality of child custody among families with a history of IPV. These include two primary concerns: (1) a lack of identification of IPV even among cases with a document, substantiated history, and (2) a lack of strong protections being ordered even among cases in which a history of substantiated IPV is known to exist. The researchers found that 11.4% of Seattle marriage dissolutions involving children had a history of substantiated, male-perpetrated, police- or court-reported IPV.

2007-WG-BX-0001:	Custody Evaluation Where There Are Allegations of Domestic Violence: Practices; Beliefs, and Recommendations of Professional Evaluators
Amount:	\$113,951
PI:	Michael Davis, Chris O'Sullivan
Program Officer:	Bethany Backes
Status:	Completed

This study will explore the methods used and theories applied by mental health professionals appointed by family law judges to provide expert evaluations in child custody and visitation disputes between parents in cases in which there are allegations or evidence of domestic violence, threats of violence, or acts of intimidation. The applicants proposed to conduct case reviews and in-depth interviews with custody evaluators in a sample of 200 recent Family Court and Supreme Court custody evaluations. Case reviews will include legal filings, custody evaluator's reports and court orders (whether as a result of settlement or trial.) The cases will be drawn from the files of three nonprofit organizations that provide legal assistance in cases involving allegations of domestic violence. Interviews will be conducted with 20 of the evaluation authors. The research will explore the impact of evaluator's theoretical orientations, views of the significance of domestic violence for custody and access management, and use of collateral sources on their reports to the court.

Product: NCJ# 234465

Custody Evaluations When There Are Allegations of Domestic Violence: Practices, Beliefs, and Recommendations of Professional Evaluators (2011) – Michael S. Davis, Chris S. O'Sullivan, Kim Susser, Marjory D. Fields

The term "domestic violence" is used throughout this report to refer to intimate partner violence: violence between adult intimate partners who are or were married to each other and are or were previously "boyfriend and girlfriend."

In this study, all the intimate partners have a minor child or children in common. The primary outcome of interest was the “parenting plan” recommended by the custody evaluator and in the final court order or settlement. The parenting plan refers to residential (physical) and legal custody, visitation time and conditions, and arrangements for transferring the children for visits. A sample of 69 cases was drawn from the case files of four New York City legal services organizations that specialize in representing domestic violence victims in civil legal proceedings, including custody and visitation litigation. Because of limited resources of the free and specialized legal services, the cases the organizations take are assessed and must meet certain criteria: There had to be serious need for legal representation (not necessarily the most physical violence), the case had to involve intimate partner violence, and child abuse or substance abuse could not be obvious confounding issues. To be included in the study, the court must have appointed a custody evaluator, and the court must have issued a final order for custody and/or visitation. Given the influence of custody evaluators’ conclusions on the court outcome, there should be greater consistency across evaluators: A family’s fate should not depend on which evaluator is appointed. Recommendations include screening of court-appointed evaluators for knowledge of domestic violence, and training of evaluators on risk factors for ongoing and potentially lethal violence. It is also recommended that courts conduct fact-finding regarding the domestic violence rather than relying on the custody evaluators to conduct investigations.

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