

Effective Intervention in Domestic Violence & Child Maltreatment Cases

A Summary of Recommendations for Judges

I. Introduction

In recent years, juvenile and family court judges and others have searched for better approaches to cases in which maltreatment of children overlaps with the abuse of a spouse or partner. Extensive research over the past few decades has demonstrated that the two are often closely related, and yet conventional remedies often address the problems separately. Indeed, in some cases, one problem is addressed in ways that exacerbate the other.

The breadth and severity of the problem demands new and coordinated responses from child welfare agencies, domestic violence organizations, and juvenile and family judges. Over the years, however, these three communities so critical to the health and survival of abused family members have disagreed on how best to accomplish their shared goals.

As a result, judges are often faced with agonizing, even impractical choices – whether, for example, to separate children from their mothers in order to protect them from abusive fathers or boyfriends. Inevitably, it is in the courts that these competing approaches come into sharpest conflict, and that is why the National Council of Juvenile and Family Court Judges (NCJFCJ) has taken a lead role in developing better solutions to these complex problems.

II. The Collaborative Process

NCJFCJ initiated efforts to develop new approaches to families with multiple forms of abuse and to narrow the gaps between the three relevant communities in 1995. The initiative brought together a diverse group of professionals from the courts, child welfare and domestic violence services, federal agencies, and the academic community. Participating judicial leaders included Judge Richard J. FitzGerald, Judge Ernestine S. Gray, Judge William G. Jones, Judge Leonard Edwards and Judge Dale R. Koch. A major product of that effort is *Effective Intervention in Domestic Violence and Child Maltreatment Cases: Guidelines for Policy and Practice*. Published in 1999, it offers a comprehensive set of responses to the overlap of domestic abuse and child maltreatment, and is intended to help eliminate or decrease the enormous risks that judges, caseworkers and individual battered mothers must take on behalf of children.

This document is abstracted from *Effective Intervention*, and while it touches on each of the major subject areas of the full document, it focuses particular attention on the issues relevant to juvenile and family court judges. Separate documents highlighting recommendations for the child welfare and domestic violence communities are also available. None of these documents are intended as substitutes for the comprehensive work, however, and judges and other court professionals are encouraged to examine the complete document, available from the NCJFCJ.

Effective Intervention is the product of a collaborative process. At three meetings over a period of seven months, an advisory committee comprising representatives of the various communities discussed draft recommendations developed by authors Susan Schechter and Jeffrey L. Edleson.

These deliberations guided and informed the authors in the development of the principles and recommendations.

Effective Intervention focuses on three primary systems: the child protection system, the network of community-based domestic violence programs, and the juvenile or other trial courts that have jurisdiction over child maltreatment cases. Many other systems and institutions – including law enforcement, child welfare agencies, faith institutions, schools, health care systems, extended families, and community-based agencies – contribute in important ways to the solutions outlined below, and many of the recommendations in *Effective Intervention* are relevant to these systems as well.

III. Core Principles and Recommendations

The first and overriding principle underlying the full range of conclusions and recommendations in *Effective Intervention* is that community leaders should join together to establish responses to domestic violence and child maltreatment that provide meaningful help, supports, and services for families. Simultaneously, communities should hold violent perpetrators responsible for their behavior and provide legal interventions and services to stop violence.

Safety, well-being and stability. To implement this guiding principle, interventions should be designed to create safety, enhance well-being, and provide stability for children and families. Collaboration between various community institutions must be improved, most notably to include domestic violence advocates and child protection workers. Resources must be expanded to meet the needs of every victim of domestic violence or child maltreatment who needs or requests them.

Children in the care of their non-offending parents. To ensure stability and permanence, children should remain in the care of their non-offending parent (or parents), whenever possible. Making adult victims safer and stopping batterers' assaults are two important ways to do this.

Community service system with many points of entry. To provide safety and stability for families, a community service system with many points of entry should be created. This service system should be characterized by the provision of services in appropriate settings as soon as problems are identified; service providers trained to respond meaningfully and respectfully; services designed to minimize the need for victims to respond to multiple and changing service providers; and adequate resources to allow service providers to meet family needs and avoid out-of-home placements.

Differential response. Community leaders should design interventions and responses that are appropriate to the diverse range of families experiencing domestic violence and child maltreatment. Families with less serious cases of child maltreatment and domestic violence should be able to gain access to help without the initiation of a child protection investigation.

Fact-finding and confidentiality. Agencies and courts should develop memos delineating the mandates of each system, their confidentiality requirements, and agreements for sharing information. Child protection services and the juvenile courts should support the principle and policy goal of privileged communication protections for battered women.

IV. Juvenile and Family Court Judges

Only in the last 40 years, beginning with the publication of Dr. C. Henry Kempe's "The Battered Child Syndrome," have the courts begun to address problems of child maltreatment seriously. In that time, however, growing awareness has led to a variety of legal reforms, including laws designed to detect and report maltreatment to child protection service agencies, as well as requirements that government agencies make reasonable efforts to provide services to enable children to remain safely in their homes before they are placed in foster care.

In all, some 500,000 children are today under the jurisdiction of juvenile courts, and twice that number come to the attention of the courts each year. The work of the courts brings together a complex assortment of service providers, child advocates, attorneys and community-based organizations, all of whom focus on the needs of children and their parents. Of course, the courts remain the principal forum in which the decisions about America's most vulnerable children are made.

Cases involving overlapping maltreatment of children and domestic violence have come to be an increasing part of the courts' workload. Indeed, concerns that children's exposure to domestic violence is harmful to them have prompted some states to enact laws making such exposure a crime or a form of child abuse.

As the effects of domestic violence become the focus of more juvenile court cases, all participants in the court system must understand the complex dynamics of this violence. Judges, attorneys, guardians *ad litem*, child advocacy centers, court staff, Court Appointed Special Advocates, and other social service providers need to understand the relationship between a batterer and a victim, and what dangers exist for battered women and their children. In addition, the juvenile court must be prepared to require child protection and social service agencies to provide carefully designed and culturally relevant services to protect domestic violence victims, to rehabilitate batterers and to require that service providers work together on behalf of these victims.

Effective Intervention offers 24 specific recommendations for the courts, grouped in three areas: 1) improvements to the foundations of juvenile courts, 2) the leadership role that judges must play in initiating and institutionalizing changes, and 3) the specific changes needed in daily court and agency practice. Highlights of these recommendations follow:

Foundational Changes

- ❑ Juvenile courts must have sufficient judicial and staff resources, and must treat each case with the highest priority to ensure that safe placements and needed services are identified immediately and that safety-enhancing orders are made for children and other family members.
- ❑ Judges and court systems should adopt and follow recognized best practices, and should ensure that all participants in the court system are trained in the dynamics of domestic violence, and the most effective and culturally appropriate responses.
- ❑ Proposed caretakers for children should be assessed for child maltreatment, criminal history, domestic violence, substance abuse and their willingness to work with the court, social service agencies and the battered woman.
- ❑ Juvenile courts must collaborate with other courts, as appropriate.

- ❑ When courts and agencies exchange information concerning family members, the safety and privacy concerns of all parties must be balanced carefully with the need for access to information.

The Courts' Leadership Role

- ❑ Juvenile courts should take a leadership role within the court system and with court-serving agencies, ensuring cooperation in identifying and obtaining needed resources.
- ❑ Judges should collaborate with state and local agencies and programs to determine what resources must be made available in the community.
- ❑ Judges should use their judicial powers to see that social services provide adequate efforts to ensure safety for child and adult victims of domestic violence.
- ❑ Where there is domestic violence in child protection cases, judges should issue orders that keep the child and parent victim safe; keep the non-abusive parent and child together where possible; hold the perpetrator accountable; identify the service needs of all family members; and create clear visitation guidelines focused on safety.

Improving Court Practice

- ❑ The petitioner in child protection proceedings should allege in petitions or pleadings any domestic violence that has caused harm to a child.
- ❑ Court jurisdiction on the sole basis that a child has witnessed domestic violence should be established only if evidence demonstrates that the child suffered significant emotional harm and that the caretaking or non-abusing parent is unable to protect the child from that emotional abuse even with the assistance of social and child protection.
- ❑ The juvenile court should prioritize removing any abuser before removing a child from a battered mother.
- ❑ The court should work with child welfare and social service agencies to ensure the development of separate service plans for the perpetrator and victim.
- ❑ Courts should know what batterer intervention services are available and the quality of those services, and should be able to track the progress of any parent ordered to participate.
- ❑ The courts should work with service providers to identify extended family members and resources as early as possible.
- ❑ Generally, judges should not order couples counseling when domestic violence has occurred.
- ❑ Judges should appoint separate attorneys for each parent in dependency cases involving domestic violence.

V. The Child Protection System and Domestic Violence Services

With respect to child-protection agencies, *Effective Intervention* recommends the following:

- Child protection services and community-based child welfare agencies should collaborate with others to assess the availability of resources in the community, develop new responses, and monitor the effectiveness of community programs. They should develop screening and assessment procedures, information systems, case monitoring protocols, and train staff to identify and respond to domestic violence and promote family safety.
- Agency policy should state clearly when children can remain safely with non-abusing parents; the assessment required to determine safety; and the safety planning, services, support, and monitoring that will be required in these cases. Child protection services should

develop *separate* service plans for victims and perpetrators, and assess thoroughly the possible harm to a child resulting from being maltreated or witnessing domestic violence and develop service plans to address this harm.

- Community agencies providing services to families in the child protection services caseload should screen every family member privately and confidentially for domestic violence and provide help to them, including safety planning and meeting basic human needs. By policy, they should allow workers adequate time to assist domestic violence victims.
- Domestic violence programs should collaborate with others to develop new joint service models for families, enhance family safety and well-being, improve access to services and foster community dialogue about the prevention of family violence.
- Domestic violence organizations should create supportive interventions for battered women who maltreat their children, and provide child-friendly environments for the families they serve. All domestic violence organizations, especially shelters and safe homes, should have well-trained, full-time children's advocates on staff to provide services or develop referral linkages.
- Interventions with perpetrators of domestic violence should be part of larger, coordinated networks of criminal justice responses and community services, address the safety and well-being of both child and adult victims, and hold perpetrators accountable for stopping violent and threatening behavior.