Introduction to the Special Issue on Domestic Violence Issues in Child Custody
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The groundbreaking Wingspread Conference on Domestic Violence and Family Courts, convened two years ago, gathered a diverse and distinguished group of professionals—judges, mediators and other family court personnel, psychologists and other mental health practitioners, advocates for victims of abuse, and researchers from the law and social sciences—to specifically address the problems that arise when the family court deals with family violence. One finding of this highly productive forum was that there is a continuing need for dialogue among practitioners and researchers from the fields of law, mental health, social science, and victim advocacy. In the spirit of the Wingspread Conference, the Journal of Child Custody (JCC) has provided a forum for just such professionals over the last several years, providing divergent perspectives and lively debate on crucial issues for professionals engaged in providing services to families in divorce and custody proceedings and for the advocates for litigants in such proceedings. In particular, issues regarding violence and abuse, such as the merits of gender theories of family violence versus the more recent gender neutral models; whether the phenomenon called parental alienation exists as a measurable and useful concept in the evaluation of families in custody disputes; and the relationship between victimization and estrangement or allegations of alienation of children, have sparked heated discussions.

In two double issues on domestic violence, JCC continues the indepth exploration of these topics. This issue presents models for assessing abuse in custody proceedings that are sensitive to child safety issues and consistent with the most recent empirical research. Three internationally recognized mental health practitioners and authors, Peter Jaffe, Robert Geffner, and Alyce LaViolette—all with many years of forensic experience in family violence and child custody—present their detailed models for evaluating family violence.

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In the article “A Framework for Addressing Allegations of Domestic Violence in Child Custody Disputes,” Peter Jaffe (with coauthors Claire Crooks and Nicholas Bala) discusses the paradigm shift that family courts must make in order to protect children in violent families, not an easy change in an environment where cooperative solutions can come at the expense of safety of the child. This assessment strategy addresses the failure of “one size fits all models” of domestic violence to meet the varying needs of high conflict families. The model promotes a flexible adaptation to the individual circumstances of each family by creatively depicting off-ramps on a freeway as a way to conceptualize the process.

In the article by Robert Geffner (with coauthors Lisa Conradi, Kari Geis and M. Brenda Aranda), “Conducting Child Custody Evaluations in the Context of Family Violence Allegations: Practical Techniques and Suggestions for Ethical Practice,” a comprehensive, step-by-step model is presented. This model is designed to provide the tools for evaluators to conduct “bias-free child custody evaluations,” avoid the pitfalls and gaps that often plague reports based on a cursory knowledge of the complex dynamics of partner and child abuse, and incorporate the most current research on domestic violence and best practices for evaluating violence in families and developing custody recommendations.

Finally, in “Assessing Intimate Partner Violence: A Context Sensitive Aggression Scale,” Alyce LaViolette presents a scale that measures the continuum of aggression, which can be used in custody evaluations as well as a wide spectrum of other forensic cases. She opines that the issue of gender equivalence in the area of intimate partner violence, which underlies the gender neutral model of assessment in custody cases, has been developed with the false premise at its heart—an assumption that isolated acts of aggression and patterns of abuse are synonymous concepts. LaViolette introduces a Likert-like scale of five points. Two points are devoted to non-violent relationships, and the remaining three points (with shades of gray between them) are descriptive of violent relationships ranging from isolated acts of aggression, which may be gender neutral, to the escalating patterns of systematic abuse that are characteristically gendered.

In addition to providing models of clinical evaluation, this issue examines family violence from the perspective of the courts. The first article is an analysis of practical and ethical issues in child custody decisions from a law professor’s perspective, which includes a historical overview of the development of the parental alienation syndrome (PAS), a theory that continues to be a contentious part of custody litigation in the United States and internationally. In “A Historical Perspective on Parental Alienation Syndrome and Parental Alienation,” lawyer and legal scholar, Joan Meier, richly documents the history of parental alienation syndrome (PAS) and, more recently, parental alienation (PA) in the courts. She also observes the changes these theories have wrought in the performance of the court in meeting the mandate to protect the safety and promote the best interest of children.
Also addressing the court’s response to family violence in child custody litigations, Joan Zorza, a nationally recognized advocate for battered women, reviews the most recent updated edition of the National Council of Juvenile and Family Court Judge’s widely used publication, *Navigating Custody & Visitation Evaluations in Cases With Domestic Violence: A Judge’s Guide* (2004). Zorza, who wrote an influential critique of the earlier edition of *The Navigator*, praises the updated edition as a “new improved” version, but she also makes some detailed suggestions for consideration of the problems engendered by gender neutral language and approaches to family violence.

Finally, this issue includes responses to earlier *JCC* articles on the topics of child custody and family violence. Evan Stark, venerable domestic violence researcher, author, and practitioner, comments on the custody evaluation model proposed by Jonathan Gould, David Martindale, and Melissa Eidman in “Assessing Allegations of Domestic Violence” (2008). In a thought-provoking response to the article, Stark finds much that is laudable in the authors’ approach, but he opines that they, “lose their way when they turn from the general responsibilities of evaluators to the specific challenges posed by partner abuse, advancing unsupported factual claims about the dynamics of abuse in custody cases and exhibiting a political bias that is better understood as a defensive response to the problems the article takes up than as a way to help evaluators solve it.”

Finally, Amy Neustein and Michael Lesher, authors of *From Madness to Mutiny: Why Mothers are Running From Family Courts—And What Can Be Done About It*. (2005), provide specific, point-by-point rebuttals to Elizabeth Ellis’s past *JCC* article (“A Stepwise Approach to Evaluating Children For Parental Alienation Syndrome,” 2007) which posits PAS as a credible, if limited, tool that can be usefully employed in contentious custody cases. Neustein and Lesher rely, in part, on the vast research encompassed in their own work to provide a lively and engaging argument in the on-going and contentious debate.

This special domestic violence issue concludes with Geraldine Butts Stahly’s review of *From Madness to Mutiny: Why Mothers are Running From Family Courts—And What Can Be Done About It*. This work by sociologist Amy Neustein and lawyer Michael Lesher is an extensive case history examination of the impact of the theory of parental alienation on family court decisions and provides both an analysis of the resulting system failures that have endangered abused children and thoughtful suggestions for systems improvement.

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REFERENCES


