



Discussing Relevant Research

Written and Developed by Katrina Johnson,
Government Affairs Coordinator, Jane Doe Inc.

Silverman, Jay G, PhD., Mesh, Cynthia M., Cuthbert, Carrie V, JD., Slote, Kim, JD., and Bancroft, Lundy, B.A. Child Custody Determinations in Cases Involving Intimate Partner Violence: a Human Rights Analysis.

American Journal of Public Health, Vol 94, No. 6 (June 2004)

Purpose: This article reviews the research done in The Battered Mothers' Testimony Project and describes the human rights violations in cases of intimate partner violence and child abuse before the Massachusetts Court System. Human rights laws require governments to prevent violations of rights by state actors such as judges and child protective service providers, as well as non-state actors. These laws focus on the responsibility and accountability of the government as compared to individuals.

Study Sample & Method: The Battered Mothers' Testimony Project interviewed 39 women representing 10 of the 13 Massachusetts family court districts. They were recruited through social and legal service agencies. All participants possessed some form of documentation of abuse. Those conducting the interviews were trained by the authors in human rights in the context of violence against women and in interview techniques.

Results: The analysis found several themes consistent with human rights violations by the Massachusetts family courts against battered women and their children. Those findings include: granting or recommending physical custody of children to men who had used violence against the mother and or children, granting or recommending unsupervised visitation of children to men who had used violence against the mother and or children, failing to accept or consider documentation of intimate partner violence as relevant to custody determinations, and failing to investigate allegations or consider documentation of child abuse as relevant to custody determinations. In summary, the authors concluded "family courts across Massachusetts may be failing to protect battered women and their children, and in many cases may actively endanger them."

Limitations of Research:

-recognize that this is a documentation of a set of issues based on reports by those affected, rather than definitive research into the prevalence or nature of intimate partner violence or child abuse.

-small sample size, making it difficult to generalize out to a larger population; though recognizing that participants experiences took place in ¾ of the family district courts in Massachusetts.

Relevant Related Research:

“Battered Mothers vs. U.S. Family Courts” (Fall 2003) with C. Cuthbert, K. Slote, J. Silverman, M.G. Driggers, & C. Mesh. **Human Rights Dialogue**, Series 2, No. 10

Lundy Bancroft, Gender Bias Study of the Supreme Judicial Court, 1989

Frequently Asked Questions

Q: How helpful is this analysis when using such a small sample?

JDI: While the scope of the research limits generalization to include all battered women involved in custody determinations, it does raise the need for more research into the public health and human rights issues of battered women and their children

JDI: What about interviewing the men and those who argue the court system is already biased toward women in child custody determinations in the context of intimate partner violence?

A: The Battered Mothers’ Testimony Project was intended to highlight the need for inclusion of all relevant information in determining custody and visitation when fathers have used violence against the mother and children and found that among the women interviewed, many men were being granted custody and unsupervised visitation without adequate regard or attention to past history of abuse. This contradicts the claim that men and fathers are being discriminated against as hypothesized by research by Basile, 2004.

JDI: Does the analysis by Silverman support the claims of the BWTP that the safety of battered women and their children has been jeopardized by custody decisions?

A: Yes, Silverman’s analysis concludes that the experiences of the women interviewed were sufficiently similar across the various district courts in Massachusetts to support the claims of the BWTP.