



# DOMESTIC VIOLENCE IN CHILD CUSTODY AND PARENTING TIME DISPUTES – PART III: ASSESSING RISK TO CHILDREN FROM MEN WHO BATTER

BY LUNDY BANCROFT\*

*This article is the third of a 4-part series designed to promote readers' understanding of the impact of domestic violence in child custody and parenting time cases. Its content has been adapted from the book *The Batterer as Parent* by Lundy Bancroft and Jay Silverman, Sage Publications, 2002. The first article in this series described how commonly-observed attitudes and behaviors of domestic violence perpetrators affect victims and the litigation process. The second article described the parenting of men who batter the mother of their children. This article discusses how practitioners can assess the risk that exposure to a domestic violence perpetrator presents to children. The fourth and final article will address domestic violence and the Michigan best interest factors.*

The mounting social and professional awareness of the negative effects on children of exposure to the behavior of batterers has drawn attention to the need for effective tools for assessing risk to children from batterers as parents or guardians.<sup>1</sup> The model presented here is particularly suited to assessment of post-separation risk to children from batterers. I commonly encounter the mistaken assumption among professionals that children are in less danger from a batterer once a couple is no longer living together, when the reality is often the opposite.<sup>2</sup> Assessment of risk to children post-separation should be carried out with as much caution as would be called for in intervening with an intact family, because batterers often increase their levels of intimidation and manipulation after separation in an effort to punish or regain control over their former partners and children. Moreover, while couples are still living together, a batterer's danger to children can be mediated to some extent by their mother's protective presence; separation from the batterer may diminish a mother's ability to shield her children from exposure to battering behavior.

Before describing the elements of a proper risk assessment, this article reviews the most serious physical, sexual, and psychological risks that batterers can pose to children, and describes the elements necessary for children's emotional recovery from exposure to battering behavior. Many of the errors currently made by professionals in assessing

children's safety with a batterer are a product of the lack of clear delineation of what the central risks are, including the important possibility that a batterer's conduct with children may interfere with their emotional healing from traumatic experiences they have already undergone. This article concludes with assessment guidelines that professionals can apply in cases where a batterer admits to a history of abusiveness but asserts that he has changed. I include this section because batterers sometimes succeed in using unfounded claims of change to circumvent proper evaluation of risk.

## **Risks Posed to Children by Exposure to Batterers**

Some of the potential sources of physical and psychological injury to children from contact with men who batter emanates from common characteristics of their parenting, which were described in the second article of this series, "The Batterer as Parent." Additional sources of risk are as follows:

*Exposure to threats or acts of violence towards their mother or towards a new partner.* Children of battered women witness a large percentage of the batterer's physical assaults<sup>3</sup> and sexual assaults,<sup>4</sup> and the potential traumatic effects of these events are well-established.<sup>5</sup> Children also may be physically injured during such assaults, either by accident or because they attempt to intervene.<sup>6</sup>

A high rate of serious assaults by batterers occur post-separation,<sup>7</sup> and children are likely to witness these incidents.<sup>8</sup> The risk that the batterer will assault the mother sexually also increases during and after separation.<sup>9</sup> When a batterer kills his former partner, children commonly witness the homicide or its aftermath, or are murdered themselves.<sup>10</sup> Many perpetrators of domestic violence homicides have little or no criminal record involving violence,<sup>11</sup> complicating the assessment process.

Post-separation, children run the risk that their father will abuse a new partner, as it is common for batterers to abuse women serially.<sup>12</sup>

*Physical or sexual abuse.* Multiple studies have demonstrated the dramatically elevated rate of child physical abuse<sup>13</sup> and child sexual abuse<sup>14</sup> by batterers. This risk may increase post-separation from the mother's inability to monitor the batterer's parenting and from the retaliatory tendencies of many batterers.

*Abduction.* A majority of parental abductions take place in the context of domestic violence, and are mostly carried out by batterers or their agents.<sup>15</sup> Post-separation parental abductions happen most commonly two or more years subsequent to the separation, and about half occur during an authorized visit.<sup>16</sup>

### **Promoting Children's Healing and Recovery After Exposure to Battering Behavior**

As noted in the second article in this series, the effects of exposure to battering on individual children vary depending on a range of personal characteristics, family dynamics, and community resources that may moderate or exacerbate the harm they suffer. Post-separation efforts to promote healing and resiliency must account for these variables, which will be unique for each child. Generally, however, when a batterer is no longer present in a home, the possibility exists that healing and recovery can begin, as has been demonstrated by many studies on children's resilience.<sup>17</sup> Child custody and parenting time arrangements must be thoughtfully crafted to create an environment that promotes recovery; care must be taken that children's continued contact with the batterer does not interfere with the creation of a healing context, the critical elements of which include:

*A sense of physical and emotional safety in their current surroundings.* The establishment of safety, and of the feeling of safety, is a first and indispensable step towards any process of emotional healing from trauma,<sup>18</sup> and in particular for children whose experience has included fear, danger, and insecurity at home as children of battered women.<sup>19</sup> Where children are aware of the batterer's capacity for violence, unsupervised contact with him may cause them to feel insecure or anxious. An important component of safety is a constructive, coordinated justice system response that holds batterers fully accountable for their actions and offers support to help mothers and children safely stay close to each other.

*Structure, limits and predictability.* Domestic violence can create a sense of chaos and lack of predictability in children's environment. The parenting patterns that accompany battering can aggravate this problem, as batterers tend to alternate between harshness and leniency with children<sup>20</sup> and battered mothers often experience erosion of their authority.<sup>21</sup> Children's healing therefore depends on the development of structure, limits, and predictability in their home life to counteract the previous experiences of fear

and turmoil. Good support from friends, relatives, religious organizations, and other community resources can help to foster an ordered, predictable environment and so contribute to the maintenance of healthier family dynamics.

*A strong bond to the non-battering parent.* Children who have experienced profound emotional distress or trauma are largely dependent for their recovery on the quality of their relationship with their caretaking parent.<sup>22</sup> Assisting battered mothers and their children to heal their relationships is one of the most important aspects of promoting recovery.<sup>23</sup> Progress towards this goal may be eroded if the batterer uses visitation as a time to encourage the children to disrespect their mother, to feel ashamed of being close to her, or to defy her authority.

*Not to feel responsible to take care of adults.* Children who are exposed to battering behavior may believe that they must protect their mother, father, or siblings. To relieve this stress, adults need to avoid burdening the children with adult concerns. The self-centeredness common in batterers leads to a substantial risk that the father may demand emotional caretaking from his children, particularly in the painful aftermath of parental separation.

*A strong bond to their siblings.* Overall level of family support is important in fostering resilience.<sup>24</sup> Children exposed to batterers often have unusually high levels of tension in their sibling relationships,<sup>25</sup> and so may need assistance to address the divisions that have occurred. Batterers often foment tensions between siblings through favoritism and other tactics,<sup>26</sup> undercutting their recovery.

*Contact with the battering parent with strong protection for children's physical and emotional safety.* Except in those cases involving the most terrifying batterers or those who have abused the children physically or sexually, children's recovery may be furthered by having an ongoing opportunity to express their love for their father, to have a sense that he knows them, and to be able to tell him about key events in their lives. They may also crave reassurance that he is not in overwhelming distress. However, such contact is counterproductive when it interferes with the creation of a healing context.

It should be noted that a large proportion of batterers are unable to create or support most of the critical healing elements just listed, so that placing children in a batterer's custody or in unsupervised visitation with him will often impede their recovery.

### **Assessing Risk to Children from Contact with Batterers**

Given the range of sources of psychological and physical injury to children from batterers and the many elements



necessary for children's recovery, assessing risk to children from batterers is a complex process. Information about a batterer's history of behavior and attitudes has to be gathered from multiple sources, as his own reporting is not likely to be reliable.<sup>27</sup> Sources should include the mother, the children, past partners of the batterer, court and police records, child protective records, medical records, school personnel, and anyone who has witnessed relevant events. The facts gathered should then be applied to evaluate each of the following 13 points:

*Level of physical danger to the mother.* The higher the severity or frequency of a batterer's level of violence, the greater the risk that he will physically abuse children.<sup>28</sup> Level of violence is also an indicator of a batterer's likelihood to attempt to kill the mother,<sup>29</sup> or to carry out other continued assaults against her.<sup>30</sup> His history of sexually assaulting the mother is correlated to overall level of physical danger<sup>31</sup> and specifically to his likelihood of physically abusing children.<sup>32</sup> Threats of abuse are highly correlated with future physical violence<sup>33</sup> including post-separation violence.<sup>34</sup> Any history of violence to the mother during her pregnancies also indicates an increased risk to commit frequent or severe violence.<sup>35</sup> Both threatened and actual homicide attempts may take place in cases where the batterer's previous history of violence had not been severe<sup>36</sup>; since a batterer's former partner will know him best, her own assessment of the likelihood of future violence may be more accurate than any other predictor.<sup>37</sup>

Additional relevant questions include: Has the batterer ever choked the mother? What types of injuries has he caused? Has he ever violated a restraining order? Has he made lethal threats against her or the children? Has he killed or attacked pets? Is he extremely jealous or possessive? Does he have access to weapons? Is he depressed, despondent, or paranoid? Does he stalk her? Is he escalating? What is his criminal record? Does he chronically abuse substances? Has he been violent towards the children, or towards non-family members? Does he use pornography?<sup>38</sup>

*History of physical abuse towards the children.* As discussed above, batterers are more likely than non-battering men to physically abuse children and this risk may increase post-separation. It thus is important to evaluate a man's historical approach to discipline, including his reactions when angry at the children. Additional relevant questions include: Does he spank the children? Has he ever left marks? Does he ever grab the children roughly? Has he been involved in fights (including any that appeared mutual) with his older children? Does he minimize or justify physically abusive behaviors he has used in the past?

*History of sexual abuse or boundary violations towards the children.* As discussed above, there is a substantial overlap between battering and incest perpetration. Evidence of sexual abuse should therefore be treated with particular care

in domestic violence cases. Subtler boundary violations can also be psychologically destructive, and can create a context for future sexual abuse or be signs of current undisclosed sexual abuse.<sup>39</sup> Questions to explore include: Does the batterer respect his children's right to privacy, and maintain proper privacy himself? Does he expose the children to pornography? Does he pressure the children for unwanted physical affection or engage them in inappropriate sexual conversation? Does he make inappropriate comments about the children's bodies or physical development? Are there indications of secret-keeping?

*Level of psychological cruelty to the mother or the children.* Our clinical experience indicates that a batterer's history of mental cruelty towards the mother or the children is an important indicator of how his conscience operates, and in turn of how safe children will be in his care. We also observe that the most psychologically abusive batterers may be especially determined to gain revenge against the mother, using the children as weapons if necessary. Research indicates that the degree of emotional abuse in the home is an important determinant of the severity of difficulties developed by children exposed to domestic violence.<sup>40</sup> A history of cruelty is overlooked in many evaluations, despite the fact that a majority of battered women report that the batterer's psychological abuse is even more destructive than his physical violence.<sup>41</sup> Questions to explore include: What have been his most emotionally hurtful acts towards the mother? What behaviors of his have caused the greatest distress to the children? Has he ever deliberately harmed the children emotionally?

*Level of coercive or manipulative control exercised during the relationship.* We find that the more severely controlling our clients are towards their partners the more likely they are to draw the children in as weapons of the abuse, and the more likely they are to be authoritarian fathers. Additionally, a dictatorial level of control over children has been associated with increased risk of both physical abuse<sup>42</sup> and sexual abuse.<sup>43</sup> Relevant questions include: Has he interfered with her social or professional contacts? Is he economically coercive? Does he dictate major decisions, showing contempt or disregard for her opinions? Does he monitor her movements? Is he dictatorial or minutely controlling towards the children?

Manipulation as a form of control can be examined through such questions as: Does he play the role of victim in the relationship? Does he abruptly switch to kind and loving behavior when he wishes to achieve certain goals? Has he sown divisions within the family? Is there evidence that he is frequently dishonest? Is he described by his partner, children, or other witnesses as "crazy-making"?

In cases where the batterer has a severe or chronic problem with lying, children's safety can be compromised by his ability to cover up the realities of his parenting behavior.

Such a batterer may also lie directly to the children about their mothers, which can create confusion for them or foster tensions in their relationships with their mothers. Evaluators should thus always examine evidence of a batterer's credibility.

*Level of entitlement and self-centeredness.* "Entitlement" refers to a batterer's perception of himself as deserving of special rights and privileges within the family.<sup>44</sup> It can be manifested through a selfish focus on his own needs, the enforcement of double standards, a view of family members as personal possessions, or self-centered grandiosity regarding his qualities as a partner or as a parent that contrasts with evidence of his abusiveness.

Self-centeredness has been shown to increase the chance of violent reoffending in batterers.<sup>45</sup> Furthermore, our clinical experience is that the batterer who is particularly high in entitlement tends to chronically exercise poor parenting judgment and to expect children to take care of his needs. These observations are also consistent with indications that propensity to perpetrate incest is linked to self-centeredness,<sup>46</sup> a view of the children as owned objects,<sup>47</sup> and attitudes of paternal entitlement.<sup>48</sup>

Relevant questions in this area include: Is the batterer frequently and unreasonably demanding, becoming enraged or retaliatory when he is not catered to? Does he define the victim's attempts to defend herself as abuse of him? Does he have double standards regarding his conduct and that of other family members? Does he appear to view the children as owned objects?

*History of using the children as weapons, and of undermining the mother's parenting.* We have observed that batterers who have histories of chronically using children as weapons against their mother, or of deliberately undermining her parenting, usually continue or intensify those behaviors after the relationship breaks up; post-separation improvement in this regard is rare. Change is more common in the other direction, unfortunately, where some batterers who did not use the children as weapons while the couple was together may begin to do so post-separation in response to losing other avenues to control or harass the mother.

Questions to pursue include: Has the batterer mistreated the children out of anger at the mother? Has he taught them negative beliefs about her? Has he ever prevented her from caring for a child? Has he ever threatened to harm, kidnap, or take custody of the children? Has he used the children to frighten her, such as by driving recklessly with them in the car? Has he threatened to quit his job in order to avoid paying child support? Does he involve the children in activities that he knows the mother does not permit, or undermine her authority in other ways?

*History of placing children at physical or emotional risk while abusing their mother.* We find that a batterer's behaviors

that have the effect of harming or endangering children during partner abuse, even if the children were not intended targets, can demonstrate that his determination to abuse the mother sometimes overrides his use of safe parenting judgment. This type of reckless insistence on gaining retribution against the mother increases post-separation in some cases, with attendant augmented risk to children. Batterers who are violent in the presence of children have also been found to be more physically dangerous.<sup>49</sup>

Relevant questions include: Has the batterer been violent or mentally cruel during any of the mother's pregnancies? Has he been violent in the presence of the children, assaulted her while a child was in her arms, or pushed a child out of his way to get at her? Has he ever thrown objects in a way that has risked hitting the children? Has he verbally abused or humiliated the mother in the children's presence? Has he neglected the children when angry at her?

*History of neglectful or severely underinvolved parenting.* A batterer's history of lack of proper attention to his children's needs is particularly relevant in the post-separation context. In our clinical experience and current research, we observe that a batterer who has shown little interest in his children may do poorly at protecting their health and safety during parenting time, and may fail to meet even their basic emotional needs. In addition, studies indicate that fathers' very low involvement in parenting during their children's early years increases the statistical risk of perpetrating incest.<sup>50</sup>

Relevant questions include: Does the batterer have a history of disappearing for hours, days or weeks at a time? Has he ever refused to attend to children's medical needs? Has his lack of attentiveness ever put the children in danger? Has he shown an abrupt interest in the children, perhaps including seeking custody, in response to the dissolution of the parental relationship?

The batterer's own knowledge and compassion regarding children should be tested with such questions as: Can you tell me the names of your children's current and past teachers? Could you describe each child's infancy? What are each child's particular interests, likes, and dislikes? What struggles is each child currently encountering? What kind of involvement do you maintain with any children you have from past relationships?

*Refusal to accept the end of the relationship, or to accept the mother's decision to begin a new relationship.* A batterer's refusal to accept his partner's decision to leave him, which often is accompanied by severe jealousy and possessiveness, has been linked to increased dangerousness in batterers,<sup>51</sup> including danger of homicide,<sup>52</sup> putting children at increased risk. We have observed clinically that those batterers who have high levels of these tendencies often also show increased use of children as tools of abuse



or control post-separation. They may perceive the children as owned objects and therefore become intimidating if they learn that there is a new man in their children's lives. Finally, even those batterers who welcome the end of a relationship should be evaluated for their level of desire to punish the mother for perceived transgressions from the past, or to establish paternal dominion over the children.

Relevant questions include: Is the batterer depressed or panicked about the break-up, or insisting that the relationship is not over? Is he stalking her? Did he abruptly demand custody or expanded parenting time upon learning that the mother had decided definitively not to go back to him, or when she began a new romantic involvement? Has he ever threatened or assaulted a new partner of hers, or warned her not to let any man other than him be around the children? Has he attempted to frighten the children about the mother's new partner, or to induce guilt in them for developing an attachment to him?

*Level of risk to abduct the children.* The elevated risk of abduction by a batterer, particularly in cases where he has made related threats, is described earlier. Even in the absence of threats, evaluators should investigate indications such as abrupt passport renewals or efforts to get the children's passports away from the mother, surprise appearances at the children's schools, job-seeking in other states or countries, or unexplained travel plans.

*Substance abuse history.* Batterers who abuse substances are at increased risk to physically abuse children,<sup>53</sup> to reoffend violently against the mother,<sup>54</sup> and to commit homicide.<sup>55</sup> Substance abuse has also been linked to increased risk to perpetrate sexual abuse.<sup>56</sup> Even in cases where the batterer states that he has overcome substance abuse, evaluators need to carefully examine the length and depth of the batterer's recovery, including his level of insight regarding the addiction, and should make sure that proper ongoing treatment and self-help are in place. Additionally, any tendency on the batterer's part to blame his violence on the addiction should be treated as a sign of risk for the future even if he is in recovery.

*Mental health history.* Although mental illness is found in only a minority of batterers,<sup>57</sup> even among those who kill,<sup>58</sup> such problems when present can increase a batterer's dangerousness<sup>59</sup> and resistance to change.<sup>60</sup> Certain diagnoses, such as anti-social personality disorder, obsessive/compulsive disorder, major depression, and borderline personality disorder have been important contributors to danger in some of our cases. A mentally ill batterer needs proper separate interventions for his abusiveness and for his psychological difficulties.

The absence of mental illness or personality disorder, however, reveals little about a batterer's likelihood to be a safe or responsible parent. Psychological tests and

evaluations do not predict parenting capacity well even in the absence of domestic violence.<sup>61</sup> Furthermore, mental health testing cannot distinguish a batterer from a non-batterer,<sup>62</sup> assess dangerousness in batterers,<sup>63</sup> or measure propensity to perpetrate incest.<sup>64</sup> Psychological evaluation with batterers is therefore useful only for ruling out psychiatric concerns.

In collecting and evaluating evidence regarding these indicators of risk, it is important to pay particularly close attention to the knowledge and perceptions of the battered mother; I find that failure to do so is one of the most common weaknesses in risk assessments in domestic violence cases, particularly in custody and parenting time evaluations. Additionally, care must be taken to avoid making assumptions about level of risk to children based on the economic class, race, or level of education of the batterer. I repeatedly encounter cases where courts and child protective services have underestimated the physical, sexual, or psychological danger to children from batterers who are well-educated and professionally successful. I also observe cases where risk from minority batterers has been exaggerated, particularly if they are also low-income.

The complexity involved in assessing the range of relevant issues does not lend itself to a formulaic approach to categorizing level of risk to children from batterers. Thus, each batterer's parenting should be conceptualized as falling on a continuum, and multiple sources of information should be used to evaluate where on that continuum he appears to fall. It can be helpful to think of three separate dimensions of risk, as a batterer may be found to have one level of physical danger to his children, another level of sexual danger, and yet another of psychological danger.

The physical and emotional safety of both mothers and children needs to be paramount in plans for custody and parenting time, along with the need to create a healing context that can support children's resilience (as discussed earlier). Where children's experiences during parenting time cause harm to the strength and security of their relationships with their mothers or with each other, or cause setbacks to their emotional healing from the trauma of exposure to domestic violence, the costs of supporting their relationships with their battering father can outweigh the benefits.

### Assessing Change in Batterers

Batterers' claims to have overcome problems with abusiveness cannot be assessed without a clear understanding of the nature of the battering problem. Domestic violence perpetration has its roots in a definable set of attitudes, beliefs, and behavioral patterns. These characteristics include among others the man's belief in his right to use violence against a partner to impose his will,<sup>65</sup> his sense of entitlement within the family,<sup>66</sup> his patterns of controlling and manipulative behaviors,<sup>67</sup> disrespect for

his partner and lack of empathy for her feelings,<sup>68</sup> and his externalizing of responsibility for his actions.<sup>69</sup> Assessment of change in a batterer should draw on multiple sources of information (not just the batterer's self-report), and include attention to the following issues at a minimum:

*Has he made full disclosure of his history of physical and psychological abuse?* A batterer must overcome denial and minimization in order to confront his abusive behavior meaningfully.<sup>70</sup> It is common for abusers to claim to have changed while simultaneously denying most of the history of violence, and a skeptical view should be taken of such assertions.

*Has he recognized that abusive behavior is unacceptable?* We find that some batterers who claim to have changed continue to justify their past violent or abusive behavior, usually through blaming the victim, thereby leaving an opening for using such justifications for future abuse. One indication of an abuser who may be making serious progress is his unqualified statements that his behavior was wrong.

*Has he recognized that abusive behavior is a choice?* Some batterers may acknowledge that abuse is wrong but make the excuse that they lost control, were intoxicated, or were in emotional distress. Acceptance of full responsibility is indispensable for change,<sup>71</sup> and needs to include recognition that abuse is intentional and instrumental.<sup>72</sup>

*Does he show empathy for the effects of his actions on his partner and children?* As evidence of change, a batterer should be able to identify in detail the destructive impact his abuse has had<sup>73</sup> and demonstrate that he feels empathy for his victims,<sup>74</sup> without shifting attention back to his own emotional injuries, grievances, or excuses.

*Can he identify what his pattern of controlling behaviors and entitled attitudes has been?* In order to change, a batterer has to see that his violence grows out of a surrounding context of abusive behaviors and attitudes,<sup>75</sup> and be able to name the specific forms of abuse he has relied on<sup>76</sup> and the entitled beliefs that have driven those behaviors.

*Has he replaced abuse with respectful behaviors and attitudes?* A changing batterer responds respectfully to his ex-partner's grievances, meets his responsibilities, and stops focusing exclusively on his own needs. He develops non-abusive attitudes, including accepting his ex-partner's right to be angry<sup>77</sup> and reevaluating his distortedly negative view of her as a person. Attitudinal changes are important predictors of behavioral improvement in batterers.<sup>78</sup>

*Is he willing to make amends in a meaningful way?* I have observed that batterers who are making genuine change develop a sense of long-term indebtedness towards their victims. This sense includes feeling responsible to lay their own grievances aside because of the extent of injury that the abuse has caused.

*Does he accept the consequences of his actions?* My clients who have made substantial progress come to recognize that abusive behavior rightly carries consequences with it, which may include the woman's decision to end the relationship or the placement of restrictions on the abuser's access to his children. On the other hand, continued anger or externalizing of responsibility regarding such consequences tends to portend a return to abusive behavior.

## Summary

Children exposed to battering behavior can benefit tremendously when professionals have knowledge of the range of risks that batterers present to children, and when a systematic risk assessment tool is applied by family courts. It is my hope that the model presented here can serve as a launching point for the development of increasingly sophisticated approaches to promoting healing and protection for children exposed to men who batter.

## Endnotes

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*\*Lundy Bancroft has twenty years of experience specializing in interventions for abusive men and the children that are exposed to them. He has presented to over 300 audiences across the US and Canada, and appears frequently as a trainer for judges, probation officers, attorneys, and other professionals in the legal system. Lundy was featured in the PBS documentary "Breaking the Silence." He has worked as counselor and clinical supervisor on 2000 domestic violence cases. He is the author of two books in the field, including Why Does He Do That?, When Dad Hurts Mom, and co-author with Jay Silverman of the national prize-winner The Batterer as Parent.*