

10 Myths about Custody and Domestic Violence and How to Counter Them

Attorneys who represent victims of domestic violence in custody matters often encounter the following false claims. To assist with overcoming these myths, the ABA Commission on Domestic Violence provides these facts and statistics for use in litigation.

MYTH 1: Domestic violence is rare among custody litigants.

- Studies show that 25-50% of disputed custody cases involve domestic violence.

S.L. Keilitz, National Center for State Courts, Domestic Violence and Child Custody Disputes: A Resource Handbook for Judges and Court Managers (1997); J.R. Johnston, High-Conflict Divorce, 4 Future of Children 165 (1994).

MYTH 2: Any ill effects of domestic violence on children are minimal and short-term.

- "Children who are exposed to domestic violence may show comparable levels of emotional and behavioral problems to children who were the direct victims of physical or sexual abuse."

Jaffe, Wolfe & Wilson, Children of Battered Women (1990).

- Adverse effects to children who witness DV are well-documented, including aggressive behavior, depression, and/or cognitive deficiencies.

Morrill, Dai, Dunn, Sung & Smith, Child Custody and Visitation Decisions When the Father Has Perpetrated Violence Against the Mother, 11(8) Violence Against Women 1076-1107 (2005); Jeffrey L. Edleson, Problems Associated with Children's Witnessing of Domestic Violence, (1999), available at http://www.vawnet.org/DomesticViolence/Research/VAWnetDocs/AR_witness.php

- A continuing study by the CDC has shown a significant relationship between exposure to "adverse childhood experiences" (including witnessing domestic violence) and development of adult health problems, including pulmonary disease, heart disease, hepatitis, fractures, obesity, and diabetes (not to mention IV drug use, alcoholism, sexually transmitted diseases and depression).

<http://www.cestudy.org/>

<http://www.cdc.gov/od/oc/media/pressrel/r980514.htm>

MYTH 3: Mothers frequently invent allegations of child sexual abuse to win custody.

- Child sexual abuse allegations in custody cases are rare (about 6%), and the majority of allegations are substantiated (2/3).

Thoennes & Tjaden, The Extent, Nature, And Validity Of Sexual Abuse Allegations In Custody And Visitation Disputes, 14(2) Child Sexual Abuse & Neglect 151-63 (1990).

- False allegations are no more common in divorce or custody disputes than at any other time.

Brown, Frederico, Hewitt, & Sheehan, Revealing The Existence Of Child Abuse In The Context Of Marital Breakdown And Custody And Access Disputes, 24(6) Child Abuse & Neglect 849-85 (2000).

- Among false allegations, fathers are far more likely than mothers to make intentionally false accusations (21% compared to 1.3%)

Bala & Schuman, Allegations of Sexual Abuse When Parents Have Separated, 17 Canadian Family Law Quarterly 191-241 (2000).

MYTH 4: Domestic violence has nothing to do with child abuse.

- A wide array of studies reveal a significant overlap between domestic violence and child abuse, with most finding that *both* forms of abuse occur in 30-60% of violent families.

Appel & Holden, The Co-Occurrence of Spouse and Physical Child Abuse: A Review and Appraisal, 12(4) Journal of Family Psychology 578-599 (1998).

- Other studies have shown intimate partner violence ("IPV") to be a strong predictor of child abuse, increasing the risk from 5% after one act of IPV to 100% after 50 acts of IPV.

S.M. Ross, Risk of Physical Abuse to Children of Spouse Abusing Parents, 20(7) Child Abuse & Neglect 589-98 (1996).