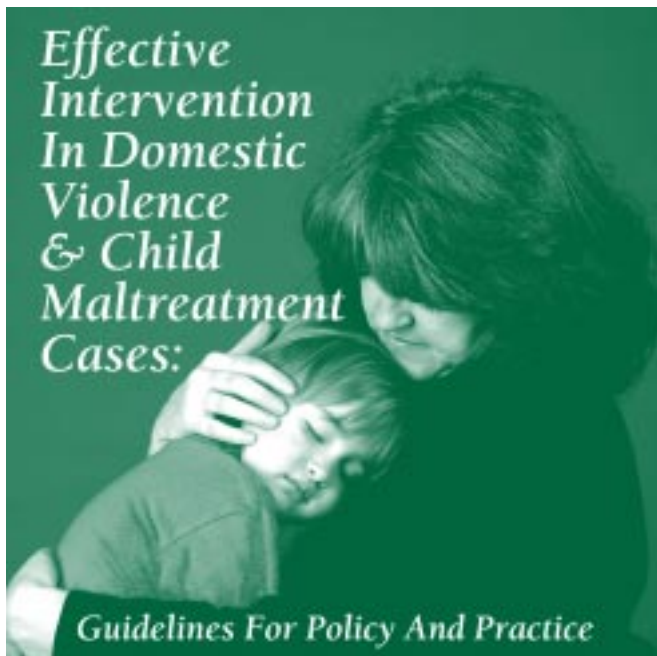




Effective Intervention in Woman Battering & Child Maltreatment Cases: Guidelines for Policy and Practice

Recommendations from the National
Council of Juvenile & Family Court Judges
Family Violence Department



**Recommendations from
The National Council of Juvenile
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Preface

Although researchers have known for years that domestic violence and child maltreatment often coexist in families, only recently have communities and individuals from all professions begun to question the wisdom of responding to these forms of violence as if they were separate, unrelated issues. Across the country, many courts, policymakers, and service providers are struggling to find answers to such questions as: How can child protection services work together with domestic violence service providers to enhance the safety of multiple victims in violent homes? How can juvenile courts protect children when their mothers are being battered without re-victimizing the mother? How can communities protect battered mothers and their children and hold batterers accountable for their violence?

The Project

These and other equally challenging issues led the National Council of Juvenile and Family Court Judges (National Council) to initiate a project to develop guidelines for practice and policy in cases where domestic violence and child maltreatment overlap. The support for this project came from the Office of Child Abuse and Neglect, Children's Bureau, U.S. Department of Health and Human Services, Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice, David and Lucile Packard Foundation, and Johnson Foundation.

Effective Intervention in Domestic Violence and Child Maltreatment Cases: Guidelines for Policy and Practice is one of a series of National Council publications addressing family violence, courts, and communities. In 1990, the publication of *Family Violence: Improving Court Practices* focused upon the ways in which courts could be improved through better policies and practices. Then, in 1992, the release of *Family Violence: State-of-the-Art Court Programs* highlighted model domestic violence programs across the country and enabled communities to learn of best practices in other jurisdictions. The *Model Code on Domestic and Family Violence* was completed in 1994 and represents the state of the art in domestic violence legislation and policy around the country. In 1998, the National Council published *Family Violence: Emerging Programs for Battered Mothers and Their Children*, a companion to this publication focusing on programs offering innovative services to battered women and their children.

Recognizing at the outset that this project would require perspectives from different social and legal systems, the National Council named to its Advisory Committee a diverse group of professionals from the courts, child welfare and domestic violence services, federal agencies, and the academic community. Because court systems can change only when there is strong judicial leadership, judges were key participants in all aspects of this project. Judicial leaders who participated fully in the development of these guidelines included Judge Richard J. FitzGerald, Judge Ernestine S. Gray, Judge William G. Jones, and Judge Dale R. Koch.

The Process

Over a series of three meetings, spanning a period of seven months, the Advisory Committee met to discuss, and sometimes debate, draft recommendations developed by the authors, Susan Schechter and Jeffrey L. Edleson. Before the end of the first meeting, the Advisory Committee called for the formation of Task Forces to develop recommendations on such topics as culturally competent practice, battered mothers who abuse their children, batterer accountability, battered immigrant women, supervised visitation, and the Indian Child Welfare Act. Through two more lengthy meetings and many months of continuous consultations among Advisory Committee members, this book took shape.

The Book

This book is intended to offer communities a guiding framework to develop interventions and measure progress as they seek to improve their responses to families experiencing domestic violence and child maltreatment. It is intended to present leaders of communities and institutions with a context-setting tool to develop public policy aimed at keeping families safe and stable.

The book is broken into five chapters. Chapter 1 articulates an overall principle of safety, well-being, and stability for all victims of family violence and the need to hold batterers accountable for their violence. In Chapter 2, a series of principles are developed to guide communities in structuring their responses to families experiencing dual forms of violence. Chapters 3, 4, and 5 focus on specific recommendations for the child protection system, the network of domestic violence service providers, and the juvenile or other trial courts with jurisdiction over child maltreatment cases.

Although this book often discusses battered mothers, the authors and advisors recognize that men are battered also. National statistics indicate that approximately 5 percent of all domestic violence cases involve men as victims. Because domestic violence or battering is a pattern of behavior primarily carried out by males, and because the overwhelming number of primary caretakers for children are female, the terms battered woman or mother are used frequently in this book to refer to the adult victim of domestic violence.

Our deepest gratitude is extended to everyone involved with this project. The commitment of the authors, Susan Schechter and Jeffrey L. Edleson, the energy and enthusiasm of consultant, Lonnie Weiss, the guidance of the Advisory Committee and Task Force members, the vision and support of the funders, the graphic design of Larry Winkler, and the hard work of the Family Violence Department of the National Council all contributed to the success of this publication.

Judge Leonard P. Edwards, Co-Chair
Carol W. Williams, DSW, Co-Chair

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INTRODUCTION

During the latter part of the twentieth century, communities have begun to establish norms that make violence against women and the maltreatment of children unacceptable. This development of new and, in some cases, reinvigorated norms creates altered visions of responsibilities. Public and private institutions—the police, courts, and social service agencies—and communities are declaring that adults and children have a right to the resources and responses that bring safety and stability to their lives. The National Council of Juvenile and Family Court Judges (National Council) affirms this right to safety and stability for every maltreated child and adult in the United States and calls on communities and institutions to join in creating necessary changes.

Domestic Violence and Child Maltreatment

Although two decades of research have confirmed that adults and children often are victimized in the same family, little was made of this finding until recently. For years, in fact, most communities treated the abuse of a woman and the maltreatment of a child in the same family as separate phenomena having little to do with each other. Only recently have the profound and interacting impacts of multiple forms of violence within a family come to the attention of communities.

Definitions of domestic violence and child maltreatment are wide ranging and often debated. Domestic violence is defined here as a pattern of assaultive and coercive behaviors, often including physical, sexual, and psychological attacks, as well as economic coercion, that adults and adolescents use against their intimate partners. Similarly, definitions of child maltreatment encompass a wide range of behaviors, including physical and sexual assaults, neglect, and emotional injuries inflicted on children.¹ Historically, two distinct intervention systems were created—one to offer domestic violence services and legal protections and another to provide assistance and protections for abused children and their families—each with its own law enforcement and judicial mandates, institutions, and funding.

Now, however, communities are asked to confront a new and compelling set of facts:

- (1) adult domestic violence and child maltreatment often occur together and
- (2) new responses are required of *everyone*, if violence within families is to stop.

Domestic violence perpetrators do not victimize only adults. Recent reviews of more than two decades of studies have revealed that in families where women are abused, many of their children also are maltreated. Varying by samples selected and types of data gathered, the majority of these studies have found that a substantial proportion, ranging from 30 to 60 percent, of battered mothers' children also are maltreated.²

Children who are abused physically or sexually tend to exhibit more developmental, cognitive, emotional, and social behavior problems, including depression and increased aggression, than other children.³ Each year, the reported number of neglected children far exceeds the number of physically or sexually abused children. Those who are neglected physically or emotionally or denied necessary services also may exhibit a host of social and behavioral problems.⁴ Evidence clearly points to the fact that these experiences may influence victims' lives well into their teen and adult years.

Children who are not themselves maltreated often suffer from the effects of observing and hearing their mothers being abused. Peled's study of pre-adolescent children who witnessed violence provides compelling testimony.⁵ One 12-year-old girl recalled the experience in the following way:

*"He picked her up off the bed, they were fighting, and then he picked her up off the bed and threw her against the wall."*⁶

A ten-year-old boy in the same study described hearing but not seeing a violent event:

*"He went downstairs, so did Mom. And on the steps he turned back and said something to Mom but I don't know. And he went downstairs and they, I heard all this banging and the floor, the floor was, just kept on, there's so much, there's like bangs in the floor and on the walls and stuff like that. But, and then there was all this yelling."*⁷

A wide range of studies has shown that some children who witness adult domestic violence suffer considerably. These studies indicate that, on average, children who experience domestic violence exhibit higher levels of childhood behavior, social, and emotional problems than children who have not witnessed such violence.⁸

These documented harmful effects to child development have led many to conclude that if a child resides in a home where domestic violence is occurring, the child is in immediate danger and requires child protection services. Research in this area is still in its infancy, however, and a large percentage of child witnesses in these studies did not show elevated levels of developmental problems. The impact of witnessing violence on children is moderated by a number of factors, with some children showing great resilience in the face of adversity.⁹ Each child's response to domestic violence, therefore, should be assessed carefully, and harm established clearly, before agencies and courts determine which interventions are required.

Like their children, many battered women experience multiple physical and emotional injuries.¹⁰ Men who batter often carry out repeated physical and sexual attacks; they may harass and stalk their partners, following them to work and school. Tjaden and Thoennes' national study of violence against women found that 81 percent of the women who were stalked by a current or former husband or cohabiting partner also were assaulted physically by the same partner.¹¹ Often perpetrators threaten to kill themselves, their wives, or their children, or to kidnap and disappear with the children, if the women ever should leave them. Living with a batterer is described by many victims as an experience that ranges from "walking on eggshells" to "living in a war zone."

These troubles are compounded for battered adults with children. The dilemmas are excruciating. One battered mother, Lucille, explained it this way:

My three-month-old woke up in the middle of the night with an ear infection and temperature. My husband screamed, "Shut the baby up, I'm trying to sleep." I was trying to comfort her, but nothing worked. He got up, took her from my arms, and whacked her. She had a black-and-blue rear end. Now what should I do? I thought, "If I take her to the doctor, they'll take her away from me because I'm the mother and I allowed this." My husband told me, too, "No matter what you say, I'm going to tell them that you did it."¹²

Domestic Violence and Child Maltreatment Introduction

A battered woman with children faces two sets of painful circumstances. First, she has to calculate how to protect herself and her children from physical dangers created by her partner. However, battered mothers also confront a second set of risks, sometimes more frightening than the first. If, for example, a woman considers a separation from her partner to protect herself and her children, where will she find housing and money to feed her family? What will she do if her partner reports her to child protection services? What will happen to her children's health insurance if she leaves? Who will baby-sit for the children when she has to go to work and her partner is no longer there? This second set of factors, or life-generated risks, enters into each battered woman's calculation of her children's safety. Deciding to leave her relationship does not guarantee the elimination of these risks; in fact, it may bring them to the fore.¹³

For women from diverse backgrounds, these life-generated risks may be further complicated: How do they maneuver their way through legal or service systems if their English language skills are limited? Will authorities be less sympathetic to their safety needs or those of their children? Will discrimination or a lack of accessible resources limit their options for safety and support?

Many people frequently ask, "Why do battered women stay when this places them and their children in jeopardy?" This question misses the way battered women calculate their risks and make decisions about their lives. The questions a battered woman may ask herself are more complete, such as: "If I leave, will the violence be worse?" "Should I leave and place myself and my children in poverty?" "If I leave and live on less money, my children will have to live in a more dangerous neighborhood, and should I do this to them?" "Should I leave and risk losing my children in a custody battle with their abusive father?"¹⁴

Most battered women care deeply about their children's safety and want to protect them from physical assaults and from the harms of poverty and isolation.¹⁵ Creating safety for children requires communities to respond to eliminate the two sets of risks that children and their mothers face. A child's safety and well-being are, in fact, often dependent on his mother's safety.

Overlapping domestic violence and child maltreatment in a family raises major challenges. What can be done to stop a batterer from assaulting a woman and harming children? How can victims in a family be protected? What should be done when a battered mother wants to protect her child but is unable to do so? What should child protection workers do when a batterer is back in the house and children are not safe? Can children be protected without re-victimizing and blaming their non-abusive mothers? How will responses change when a mother is battered by her adult partner, and she also is maltreating her children? Can she simultaneously be supported and protected from harm and be held responsible for child maltreatment and for changing her behavior? None of these questions leads to easy or simple answers, yet many communities are searching for solutions that address these complexities.

To date, community institutions and families have been offered few resources and tools to find answers. The task of this document is to offer a more comprehensive set of responses to eliminate or decrease the enormous risks that individual battered mothers, caseworkers, and judges must take on behalf of children.

As communities work to improve their responses to families experiencing domestic violence and child maltreatment, the National Council offers a framework for developing interventions and measuring progress. In the absence of such a guiding framework, it is all too easy to rush to make changes and adopt piecemeal, and potentially harmful, public policies. To avoid this problem, the National Council presents a summary of the guiding framework that emerged through the deliberations on this book. The National Council recommends that the leaders of communities and institutions use the principles and recommendations in this document as a context-setting tool to develop public policy aimed at keeping families safe and stable. Although each of the systems discussed in the later sections of this book—child protection services, domestic violence programs, and the juvenile court system—has unique legal mandates and responsibilities (see Appendices), each also is capable of adopting frameworks and practices to create family safety and well-being.

A host of complex problems must be resolved in each of these systems if communities are to achieve safety for women and children. While all of these issues cannot be addressed comprehensively in this volume, at least they are identified, their impact on families dealing with adult domestic violence and child maltreatment is considered, and a framework for addressing them is provided.

In the following sections of this document, recommendations focus on three primary systems: the child protection system, the network of community-based domestic violence programs, and the juvenile or other trial courts which have jurisdiction over child maltreatment cases.¹⁶ Many other systems, including law enforcement, child welfare, 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 contained in this document are relevant to these systems as well.

This document focuses exclusively on solutions for families in which both domestic violence and child maltreatment are occurring. Many other forms of family violence exist, and they most likely co-exist with abuse of women and children in families. It is, however, the intersection between adult domestic violence and child maltreatment that is highlighted in this document.

Chapter 1 outlines an overarching principle of safety, well-being, and stability for all victims of family violence and of holding perpetrators accountable. This general principle and the recommendations that flow from it are the bedrock on which the rest of this document is built. Chapter 2 then further develops a series of principles to guide communities in structuring responses to families in which both domestic violence and child maltreatment occur. The principles and recommendations outlined in these first two chapters apply to all systems and set the overall foundation for subsequent chapters. Following these foundation chapters, the document is divided into specific sections focused on recommendations regarding child protection services, domestic violence programs, and juvenile courts.

Domestic Violence and Child Maltreatment Introduction

CHAPTER 1: GUIDING FRAMEWORK

Guiding Principle and Recommendations

PRINCIPLE I.

Leaders of the community and its institutions should join together to establish responses to domestic violence and child maltreatment that offer meaningful help to families, including protections for all victims from physical harm; adequate social and economic supports for families; and access to services that are respectful, culturally relevant, and responsive to the unique strengths and concerns of families. Simultaneously, the community should hold violent perpetrators responsible for their abusive behavior and provide a variety of legal interventions and social services to stop this violence.

RECOMMENDATION 1.

Child protection services, domestic violence agencies, juvenile courts, and community-based services should design interventions to achieve three outcomes: to create safety, enhance well-being, and provide stability for children and families.

RECOMMENDATION 2.

As a way to ensure stability and permanency for children, child welfare administrators and juvenile court personnel should try to keep children affected by maltreatment and domestic violence 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 remove risk and thereby create permanency for children.

RECOMMENDATION 3.

The leaders of public child protection services, community-based child welfare agencies, and domestic violence programs need to create a community service system with many points of entry in order to provide safety and stability for families experiencing domestic violence and child maltreatment. This system should have the following major characteristics:

- a. Services are provided as soon as problems are identified and in settings most appropriate for the family.
- b. All service providers are trained to respond meaningfully to the safety of multiple victims within a family.
- c. Services are offered to victims respectfully and without blame.
- d. Services are designed to minimize the family's need to respond to multiple and continually changing service providers.
- e. Service providers are taught how to collaborate with other providers, community groups, and residents on behalf of their clients.
- f. Services are offered in culturally appropriate and effective ways and in settings comfortable to the family.
- g. Community leaders and elected officials provide adequate resources to allow service providers to meet the family's needs and prevent out-of-home placement of children.

RECOMMENDATION 4.

The leaders of public child protection services, community-based child welfare services, and domestic violence agencies should design a differential response to the diverse range of families experiencing domestic violence and child maltreatment.¹⁷ This differential response system should be guided by the following ideas:

- a. Communities should design service systems that entitle any adult or child victim of violence to receive help with or without the opening of a child protection case. 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 or the substantiation of a finding of maltreatment.
- b. Because domestic violence encompasses a wide range of behaviors—from the extremely dangerous to the less serious—families require a range of interventions, some of them voluntary and some mandated. To create safety and stability for families requires careful assessment of risk and the capacity to make differential responses.

Chapter 1: Guiding Framework

PRINCIPLE I.

Leaders of the community and its institutions should join together to establish responses to domestic violence and child maltreatment that offer meaningful help to families, including protections for all victims from physical harm; adequate social and economic supports for families; and access to services that are respectful, culturally relevant, and responsive to the unique strengths and concerns of families. Simultaneously, the community should hold violent perpetrators responsible for their abusive behavior and provide a variety of legal interventions and social services to stop this violence.

This first principle is an overriding one from which flow most other principles and recommendations in this document. It establishes a basic framework for what follows and is essential to the successful implementation of all other principles and recommendations. It focuses on the community institutions' responsibility to collaborate for safety and support of all victims and to hold perpetrators accountable. The following four recommendations focus directly on how to implement this guiding Principle.

To date, the community has relied on child protection services, shelters for battered women, the police, and courts to create safety for abused women and their children. Often these interventions are offered to families after they have experienced years of violence; sometimes the services bring too little, too late, especially for those children who must be removed from their parents' care. To make safety and stability a more meaningful possibility for families requires community institutions and their leaders to take more active responsibility for family safety.

Every community institution has a role. For example, mental health centers, health clinics, and substance abuse agencies have the capacity to screen for and assess violence and develop safety plans with families. Mental health providers can be available to respond to trauma for the many victims who are living with constant fear and anxiety. Housing agencies have the capacity to rehabilitate, or set aside, apartments for families in danger. Administrators of public welfare programs and directors of welfare-to-work agencies can develop programs to create safety and self-sufficiency for battered women.

Safety from physical harm, however, is only one part of family well-being. Well-being and stability additionally require that families have their basic human needs met.¹⁸ Every community working to end family violence should consider an audit of its responses. This audit might be achieved by the community asking itself the broad question, "Do our interventions make it possible to carry out the core goals of safety, well-being, and stability for children and families?"

RECOMMENDATION 1.
Child protection services, domestic violence agencies, juvenile courts, and community-based services should design interventions to achieve three outcomes: to create safety, enhance well-being, and provide stability for children and families.

Community Resource Indicators

Then, the community should rate its progress using some of the following indicators:

- Is there adequate and safe long-term and crisis housing for families in danger?
- Do battered women and men who batter have access to economic supports and services?
- Are adequate, respectful, and culturally appropriate treatment services available, as needed, for adult and child victims and for perpetrators?
- Are there adequate and culturally meaningful support, advocacy, and crisis services for women who are battered?
- Are health services available to all victims who need them?
- Are there support and educational groups and mental health services for child witnesses to violence?
- Are there accessible and culturally appropriate intervention programs for men who batter? Do these programs include content about parenting and responsible fathering?
- Do substance abuse providers assess for and intervene in violence?
- Are substance abuse treatment beds available when they are needed for parents in danger?
- Are services specifically designed for adolescent victims or youth who commit violence against intimate partners or family members?
- Are law enforcement and court practices and policies in place to protect those in danger?
- Are agencies and courts sufficiently protecting family members' privacy while simultaneously allowing for the exchange of information to coordinate interventions for families?

Community Norm Indicators

- Are leaders, including those representing public and private institutions and community groups, involved in establishing norms and practices to eliminate family violence and to support healthy relationships?
- Do community residents know how to respond to friends and family members in danger? Are they comfortable talking about family violence?
- Do clergy, teachers, coaches, elected officials, and other leaders speak out against family violence and on behalf of violence-free families?
- Are diverse individuals and communities—including gay and lesbian residents, disabled people, and ethnic and religious groups—engaged in the community dialogue about eliminating violence?

In this vision, adults are responsible for the safety of children and for the safety of their partners, and the community is responsible for providing the resources and responses to make safety a real possibility.

Although domestic violence and child maltreatment affect families of all races and classes, certain women, including battered immigrants, may be more vulnerable when faced with violence. For example, battered women who live in poverty are particularly vulnerable to losing their children when the community fails to provide basic safety and support services. Because of the lifetime limits on the receipt of welfare, communities soon may encounter more families exposed to violence who are without access to services or economic supports.

Women and children from diverse racial and ethnic backgrounds also may be more vulnerable to involvement in the child protection and juvenile court systems. A lack of culturally relevant prevention and early intervention programs, poverty, and disproportionate reporting and substantiation may be contributing factors. In such instances, the resolution of the situation does not rest solely with child protection agencies, domestic violence programs, or juvenile courts. Rather, communities must consider how their network of programs and policies differentially affect women and children from all communities.

To avoid the creation of a child protection system that simply removes more and more children for their own safety, three core values must guide the development of interventions in the community: creating safety, enhancing well-being for children and adults, and building permanency and stability for children. These goals require communities to offer more basic supports and resources to all needy families in order to remove the risks faced by victims of domestic violence and child maltreatment.

There is general agreement that children function best if they can remain safely in their families. It is particularly shortsighted to remove children from the care of their battered mothers without first trying to remove or change the source of the domestic violence risk, the batterers.

To link the safety of children to the safety of their mothers is the goal, although it may not always work in practice. Some battered mothers, for example, seriously maltreat their children or remain in violent relationships that are dangerous to their children despite repeated efforts to provide safety resources. Some batterers may not stop their violence despite intervention. In these cases, increasing the mother's safety may not enhance the child's. Obviously, when this occurs, the primary and pressing task must be child protection. However, in many cases, trying to make mothers safe does make children safer and offers children their best hope for stability.

To translate this vision into practice requires shifts in traditional practices. Historically, mothers often have been held responsible for a batterer's violence against them and their children. They may lose their children for failing to protect them from a domestic violence perpetrator. As Lucille, the woman quoted in the Introduction, noted when she described the black-and-blue marks that her husband inflicted on her daughter, "If I take her to the doctor, they'll take her away from me *because I'm the mother and I allowed this.*" (Italics added.) Blaming a battered mother for being abused, for not leaving the domestic violence perpetrator, or for not stopping his violence is simply counterproductive. The battered woman cannot change or stop the perpetrator's violence by herself. If she does not have adequate support, resources, and protection, leaving him may simply make it worse for her children. The battered woman and her children need the community's help.

RECOMMENDATION 2.

As a way to ensure stability and permanency for children, child welfare administrators and juvenile court personnel should try to keep children affected by maltreatment and domestic violence 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 remove risk and thereby create permanency for children.

Instead of placing the sole burden on adult victims, workers in community agencies need additional tools and resources to offer meaningful help to families experiencing domestic violence and child maltreatment. There are two types of interventions that help battered adults and remove risk to children exposed to domestic violence. One group of interventions seeks to remove the risk caused by the domestic violence perpetrator. These include arrest of the assailant, batterer intervention groups, protection orders removing the batterer from the home, court monitoring of compliance with service and counseling plans, substance abuse treatment, responsible fatherhood classes, and referrals for jobs and training. The other type of intervention creates safety and stability for the mother and children. These include the provision of housing and support services, transportation, childcare, job training, child support, carefully crafted custody and visitation orders, and help from battered women's advocates and support groups.

Interventions to support and protect battered women and to end batterers' violence can be effective ways to keep children safe and ensure stability. The National Council recently has published a book reviewing many of the country's most successful programs aimed at supporting and protecting battered mothers and their children.¹⁹ These programs are lodged in a variety of settings and have, to varying degrees, documented their successes. For example, Advocacy for Women and Kids in Emergencies (AWAKE) is a project for battered women with abused children at Children's Hospital in Boston.²⁰ According to a follow-up study of a small sample of

mothers who received AWAKE's help, 80 percent reported that they and their children were safe and together as a family after receiving hospital-based domestic violence advocacy services.²¹

RECOMMENDATION 3.

The leaders of public child protection services, community-based child welfare agencies, and domestic violence programs need to create a community service system with many points of entry in order to provide safety and stability for families experiencing domestic violence and child maltreatment. This system should have the following major characteristics:

- a. Services are provided as soon as problems are identified and in settings most appropriate for the family.
- b. All service providers are trained to respond meaningfully to the safety of multiple victims within a family.
- c. Services are offered to victims respectfully and without blame.
- d. Services are designed to minimize the family's need to respond to multiple and continually changing service providers.
- e. Service providers are taught how to collaborate with other providers, community groups, and residents on behalf of their clients.
- f. Services are offered in culturally appropriate and effective ways and in settings comfortable to the family.
- g. Community leaders and elected officials provide adequate resources to allow service providers to meet the family's needs and prevent out-of-home placement of children.

These recommendations echo those recently reaffirmed in publications by the National Association of Public Child Welfare Administrators,²² and by the Child Welfare League of America.²³ Each document calls for a system that ensures child safety, recognizes the importance of family, and asks public child welfare agencies to collaborate with others to create an integrated and coordinated network of prevention, early intervention, and treatment services for families. Unfortunately, families all too often receive few services until after the court has adjudicated children as dependent. This is often too late, especially for families experiencing domestic violence and child maltreatment.

The provision of front-end, community-based services—to protect victims; to help them find safe housing, jobs, and childcare; or to heal from trauma—may eliminate the need to call the child abuse hotline, file dependency petitions, or remove children from the care of their mothers. Additional services for fathers, including batterer intervention programs and social and economic supports, also may help some men reduce or end their violence and allow them to stay with their families or, if they must leave, help them to parent their children in more responsible, less abusive ways.

Often, the child protection system has a “one-size-fits-all” approach. This means in some jurisdictions that domestic violence automatically is considered to pose a serious risk to the child and to warrant the opening of a child protection case. In still other jurisdictions, domestic violence rarely is considered to present a child protection risk. In either circumstance, the actual risk posed by domestic violence is not assessed adequately, thus leading to arbitrary decisions about when and whether intervention is needed. In a more flexible system, assessments of a family’s risks, strengths, and protective factors would be conducted, and those families posing less danger to children could be helped through a system of community care. More dangerous cases would proceed through a child protection system or dependency system. In either scenario, families would receive domestic violence services to remove risk to children.

Some systems appear to be moving in ever more inflexible directions, especially concerning children who have witnessed domestic violence. For example, a few states are considering legislation that makes the witnessing of any domestic violence *per se* a form of child abuse. Although it may be harmful to children to witness assaults against their parents, it is unnecessary to rewrite child protection statutes or to enhance criminal penalties for committing domestic violence in the presence of a child. Current statutes provide communities with adequate mechanisms to intervene to protect children at serious risk of harm from domestic violence perpetrators. Additional statutes would remove the discretion that child protection workers, judges, and domestic violence service providers require if they are to determine risk soundly and best design responses to meet the needs of children and their families. Rather than create additional laws, communities must allocate new resources and build new, collaborative policies and practices to keep battered adults and their children safe and stable.

Many battered women who have not abused their children are terrified to admit that they are victims of violence, or that their children have witnessed it, for fear of losing custody of their children. Offering earlier intervention for women and children in less dangerous cases, without having to file child maltreatment reports or dependency petitions, would make it more likely for women to acknowledge the dangers that they and their children face and to accept help.

RECOMMENDATION 4.

The leaders of public child protection services, community-based child welfare services, and domestic violence agencies should design a differential response to the diverse range of families experiencing domestic violence and child maltreatment.²⁴ This differential response system should be guided by the following ideas:

- a. Communities should design service systems that entitle any adult or child victim of violence to receive help with or without the opening of a child protection case. 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 or the substantiation of a finding of maltreatment.

RECOMMENDATION 4, (continued)

- b. Because domestic violence encompasses a wide range of behaviors—from the extremely dangerous to the less serious—families require a range of interventions, some of them voluntary and some mandated. To create safety and stability for families requires careful assessment of risk and the capacity to make differential responses.

Some battered women face only the problems that violent partners create for them and their children; these include assaults, stalking, threats, and loss of income and housing. These women may have no additional pressing problems that pose risks to their children; for example, they do not maltreat their children or

seriously abuse substances. These women do not necessarily belong in a child protection system. For them, a community services system would be an ideal alternative. In Michigan, for example, many battered women are referred directly from domestic violence shelters to family preservation and support services, bypassing a formal entry into the child protection system, unless the mother actually poses risks to her children. This approach avoids using child abuse findings and dependency proceedings as a way of obtaining help for children.

In other families, women and children are abused by violent partners, but the mothers have additional problems, such as substance abuse. In still other families, women are battered and also maltreating their children. Again, a careful assessment is called for to determine risk to the children. In some cases, the provision of early intervention services or ongoing, non-coercive community interventions could remove risks. Other families will require child protection services case filings and juvenile court intervention. In either scenario, services to remove the risks posed by domestic violence perpetrators should be offered at the earliest moment of intervention.

Finally, there are cases in which battered women refuse help or, after help is offered, decide to stay in relationships with partners who pose serious risks both to the women and to their children. In these cases, children may need to be removed from the family. Domestic violence services for the adult and child victims and for the perpetrators should continue to be offered.

The diversity of cases suggests that there is no “one-size-fits-all” service plan to impose on every adult victim with maltreated children. Rather, each adult victim should have the opportunity to develop safety plans, with an advocate’s help, that take into account her and her children’s needs and strengths and an assessment of risks. Mandating a mother to go to a shelter or obtain a protection order against her will, as a way to try to ensure child safety, will fail in many cases. Some communities lack shelters; others limit the stay to 30 days, which is too brief for some women. Some batterers increase their violence when their partners get protection orders; others refuse to obey court orders to stay away from their homes. Some women will lose their rent money, and therefore their housing, if their partners are forbidden to live in the home under the provisions of a protection order.

Rather than impose one formula on every case, courts and community agencies should provide battered mothers with independent advocacy and support resources to help them develop a set of strategies to reduce or eliminate the particular risks they and their children face. These plans will include strategies to respond to physical danger and meet basic human needs, strategies which are developed in the context of available community supports and services and consider the victims’ strengths and resources. Safety planning should be available for women who are

leaving, returning to, or staying in their relationships. Only then can child protection agencies and the juvenile courts determine whether safety plans adequately protect children.

Fathers or adult partners who batter women and maltreat children also require a differential response from the child welfare system and the juvenile courts. Some men may want to remain involved with their families. The women and children in the family may want the men's continued involvement. In these cases, the risks that the batterers pose to their family members must be assessed. These men may respond positively to the services of a batterer intervention program; they may benefit from involvement in fatherhood or parenting programs, and in job training initiatives. If these men seriously engage in the work of a batterer intervention program, complete it, and change their behavior, they may be able to stay with, or be reunited with, their families.

Other men who batter may desire ongoing involvement with their children, but either they or the children's mothers may want no further contact between the adults. Again, these men may benefit from attending batterer intervention and parenting programs. A careful assessment of the risk they pose to the children and adult victims must be made, along with an assessment of their progress, or lack of it, in changing abusive behavior. Visitation and custody plans must take into account the safety needs of adult and child victims.

In still another scenario, the batterer—either the children's father or a partner of the mother—has been violent, and the mother wants no continuing relationship with him. Child protection services and the courts should monitor carefully the perpetrator's behavior. In cases where the perpetrator has the right to request visitation and child custody, assessment of the extent and impact of the abuse and domestic violence on the children and their mother must be conducted carefully. The ongoing risks posed by the perpetrator and his history of violence must be taken into account in crafting safe custody, visitation, and termination of parental rights decisions. Courts also should consider safe ways of terminating the parental rights of a batterer whose violence continues to place the family at risk, while maintaining the parental rights of a non-offending parent.

Families experiencing domestic violence and child maltreatment require communities to develop a broad panoply of services and legal interventions for a widely diverse group of people. The task is simultaneously complicated and delicate. Service providers will work with families in which there are multiple victims and sometimes multiple perpetrators. A father may both assault his wife and his children and abuse substances. Or, a battered woman may neglect her children and abuse substances. A battered woman may hate the violence her partner commits against her, yet desperately want him to stay in her life—in that way, her children have a father. Family violence always happens in a context in which human beings have complicated feelings for and attachments to each other.

As communities respond to family violence, some of it deadly and all of it serious, they will need to develop far more resources and many new responses. At the same time, they will have to ask the people whom they serve to teach them more about what works to keep families safe.