



TO: Chairman Gardner, Vice Chairman Cooke, and Honorable Members of the Senate Judiciary Committee

FROM: Marci Hamilton, CEO & Legal Director, CHILD USA; Robert A. Fox Professor of Practice, University of Pennsylvania and Kathryn Robb, Executive Director, CHILD USA Advocacy

RE: HB 1228, requiring domestic violence and child abuse training for family court personnel

DATE: May 17, 2021

Dear Chairman Gardner, Vice Chairman Cooke, and Members of the Senate Judiciary Committee,

Thank you for allowing us, Professor Marci Hamilton of CHILD USA and Kathryn Robb of CHILD US Advocacy, to submit testimony regarding HB 1228, which would require domestic violence and child abuse training for court personnel who are regularly involved in cases related to domestic matters in Colorado. If passed, this legislation will better equip Colorado's family courts to protect children from domestic violence.

By way of introduction, Professor Marci Hamilton is the Founder and CEO of CHILD USA, a national, interdisciplinary think tank dedicated to the prevention of child abuse and neglect at the University of Pennsylvania, where she is the Fels Institute of Government Professor of Practice. She is the author of *Justice Denied: What America Must Do to Protect Its Children* (Cambridge University Press 2008, 2012), which makes the case for statute of limitations (SOL) reform in the child sex abuse arena, and the leading expert on the history and constitutionality of SOL reform. Maralee McLean is an ambassador for CHILD USA's Family Court Reform Initiative and serves as the Executive Director for Moms Fight Back.¹

Kathryn Robb is the Executive Director of CHILD USA Advocacy, a 501(c)(4) advocacy organization dedicated to protecting children's civil liberties and keeping children safe from abuse and neglect. CHILD USA Advocacy draws on the combined expertise of the nation's leading experts and child advocates, specifically its sister organization, CHILD USA. Kathryn is also a survivor of child sexual abuse.

We commend you and the Committee for taking up HB 1228, which will require necessary training for family court personnel. If passed, this law would enable judges, investigators, and children's legal representatives to make more informed evaluations and decisions when determining how to best protect Colorado's children in custody litigation.

I. Child Abuse by a Parent/Caregiver Is a National and State Problem

¹ <https://www.momsfightback.org/>



Family violence is alleged in most contested custody cases (75%), and this legislation will better prepare court personnel to protect children at risk of being subject to ongoing family violence.² The goal of custody decisions is to ensure that the best interests of the child are protected, while maintaining safety. Often, contested custody cases focus on parents' rights, which can subjugate the child's rights to the litigating parents' demands.³ Research shows approximately 58,000 children in the US annually are court-ordered into the care of an abusing parent by our family courts.⁴ Family courts strive to award some form of shared or equal custody to both parents often above all else, even when safety risks are present.⁵ One of the reasons for these unfortunate decisions is that family court personnel are often untrained on the most important facts regarding trauma and the indicators of childhood sexual abuse.

Child abuse and neglect occurs more frequently within the family than in any other context, and, therefore, family court personnel need evidence-based training to ensure they can fully understand what is before them. This is particularly true with respect to fatalities: "80% of child fatalities due to abuse or neglect occur within the first 3 years of life and almost always at the hands of an adult responsible for their care."⁶ Family violence is often carried out behind closed doors, and thus without outside witnesses to provide corroboration. Due to the concealed nature of family violence, it is essential that those charged with identifying family dynamics and determining how to best serve a child's interests are extensively trained to identify signs of abuse and domestic violence. HB 1228 would require this training, rendering Colorado's family court system a safer place for children enmeshed in the custody system.

II. Family Violence Is Present in the Majority of Contested Custody Cases

This training is particularly needed for family court personnel, because they see a disproportionate number of divorce cases that implicate family violence. The overwhelming majority of custody agreements (90%) are decided privately between parents with no court intervention or decision making.⁷ Most divorcing/separating families do not have a family violence component; however, the majority of those who do litigate custody involve family

² See generally, Jaffe, Zerwer & Poisson, *Access Denied: The Barriers of Violence & Poverty for Abused Women and their Children After Separation* (citing four studies, all of which found 70-75% of cases in litigation involved allegations of domestic violence).

³ Dickson & Meier, Mapping Gender: Shedding Empirical Light 011 Family Courts' Treatment of Cases Involving Abuse and Alienation, 35 *Law and Inequality: A Journal of Theory and Practice* 311, 313 (2017).

⁴ The Leadership Council on Child Abuse and Interpersonal Violence, *How Many Children Are Court -Ordered Into Unsupervised Contact With an Abusive Parent After Divorce?* (September 2008).

<http://www.leadershipcouncil.org/l/med/PR3.html>

⁵ Dickson & Meier, *supra* note 2. This national study found that fathers accused of abuse who counter-accused the mother of "alienation" took custody from the protective mother at a greater rate (72%) than fathers who were not accused of abuse (67%). **Being accused of child sexual abuse by the mother increased fathers' win rate to 81 %, despite the fact that fabricated child sex abuse (CSA) allegations are empirically confirmed to be very rare (2%-6%).** (Everson & Boat, False A/legations of Sexual Abuse by Children and Adolescents, 28 *Journal of the American Academy of Child & Adolescent Psychiatry* 230-235 (1989)). Mothers accused of alienation lost custody in approximately half of all cases, regardless of whether or not they had accused the father of abuse.

⁶ Report of the Attorney General's National Task Force on Children Exposed to Domestic Violence (2012). <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>

⁷ Ollendick, White & White, *The Oxford Handbook of Clinical Child and Adolescent Psychology*, 499 (2018).

violence. Numerous studies show that 75% of contested custody litigants report a history of domestic violence.⁸ Only 10% of the total number of divorcing/separating parents litigate custody, and those are the families who will be better served by this law.

Training of family court personnel is an important step toward creating a safer future for the children involved in custody disputes, particularly where there is an element of family violence involved. We know that "children exposed to intimate partner violence (IPV) often experience a sense of terror and dread that they will lose an essential caregiver through permanent injury or death,"⁹ and that the individual impact for children abused themselves is disastrous.¹⁰ Passing HB 1228 and arming those tasked with evaluating children's best interests with education regarding domestic violence is an important means to diminish these risks.

Please do not hesitate to reach out if either of us can provide any further helpful information, data, or research on this or other child protection topics.

Sincerely,



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⁸ Jaffe, Zerwer & Poisson, *Access Denied: The Barriers of Violence & Poverty for Abused Women and their Children After Separation*.

⁹ Report of the Attorney General's National Task Force on Children Exposed to Domestic Violence (2012). <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>

¹⁰ Felitti et al., *Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults: The Adverse Childhood Experiences (ACE) Study*, 56 *American Journal of Preventive Medicine* 774-786 (2019) (finding that people abused in childhood are more likely to develop potentially deadly conditions such as heart disease and cancer).

I am submitting written testimony on behalf of my child and Moms Fight Back. I ask you to vote yes in support of HB1228.

My son is 11 years old and I have not seen him since 2016 with only a few brief visits a few years ago. I have been denied all communication for over almost 5 years total. He was six years old when my ex husband took him. I had been his primary caretaker 24/7 for the nearly 7 years of his life. Upon separation when our son was 5 years old, I was granted primary care, Father having weekends, until I lost complete sole physical custody via ex manipulating the family court system. My son went from primary care with me to full custody to a man with a history of abuse and assault.

I was involved with my ex husband since I was 18 years old until our separation 6 years ago. The relationship became dysfunctional and abusive, escalating significantly once I became pregnant with our son. When I knew we needed to leave, I could not due to lack of resources, support, and threats. My ex-husband threatened that if we divorced he would leave me with nothing and take our son. I stayed for another grueling five years. My ex-husband was never strongly attached or interested in our child. He was mostly absent, or cruel, verbally abusive or violent when he was around.

Our child witnessed his father abusing me on numerous occasions, which traumatized him. At two years old, he threw his toys at his father to get him to stop, sometimes breaking down and crying in a way I've never seen a child break down. He was terrified. Eventually, the physical abuse against our child began.

I watched my ex husband suffocate our son to the point our son's face turned deep red, his tiny hands trying to break his father's hands off his face leaving his own fingernail scratches and indentations on his own face to try to get air. He twisted our son's legs so severely he couldn't walk on it for two and a half days. There were multiple incidents, repeatedly, consistently, without apology or remorse.

My ex husband admitted to suffocating our child in testimony, justified his actions, and watered it down. Many attorneys advised me not to speak up about the abuse and there was not space to appropriately address concerns with his abusive and controlling behavior, especially as a pro se litigant, and being put on the defensive first, enduring unnecessarily aggressive legal litigation, rather than settling the divorce peacefully. At one hearing, a witness testified to watching my ex-husband drag our child down to the pavement in public, in anger. This witness was found credible by the judge. In another Court order, the Court acknowledged that my ex-husband admitted to pushing and shoving my son down. In spite of all of this, the Court did not require a full history of domestic violence.

After one of the first temporary hearings, I was awarded primary custody, with my ex husband given weekends and an awkward Wednesday evening to early morning, even after admitting to suffocating our child. My ex husband and his attorney then filed emergency orders a number of times, raising false allegations against me, that because my son and I went camping, in the Summer, he was dirty and that I was not an adequate mother. I provided hard evidence to refute

the allegations. They provided not one shred of evidence at that final hearing resulting in the loss of my little child.

Without finances, I represented myself in Court *pro se*, and had to cross-examine, ill equipped to do so, the man that physical assaulted and abused myself and our child spanning over a decade, defending against a possessive sole custody position, while in deep trauma, terrified of losing my child, not knowing what I was doing, and inefficient to represent my own case comprehensively. I was put on the defensive first, a majority of my concerns left unheard, and despite this did not ask for sole custody. I remained as peaceful, amicable, and cooperative as possible. After the 2 day trial, *pro se*, with most of the time dominated by my ex husband and his attorney, going as far as falsifying photos, unable to clarify against their allegations, it was ordered for me to remain primary provider for our child with new orders forthcoming. Eventually after increased legal aggression, my ex husband, took complete custody without evidence to support his allegations, in spite of the prior trial with the judge stating that there was not safety or endangerment concern in any way with my child in my care, that we would not be having an emergency hearing. Days after this emergency hearing motion rejection they increased their false claims and went to a different judge, who took my child without a hearing. When the hearing was finally scheduled despite my hard evidence and lack of on their part, I still lost my child. These false claims did not reach to safety and endangerment status. The Summer camping was distorted and it was alleged our child was dirty while camping. My child has always felt safe and secure in my care. He has shown a preference to be in my care. I have never been accused of abuse, neglect or child endangerment. I have no history of mental illness or addiction. I have no criminal record and lost complete custody.

In the permanent orders there is not only recognition of my ex spouse's abuse, but also notice he cannot take responsibility. He was ordered a psychological evaluation and treatment. was with the Court not knowing the full extent or history of the abuse and violence. Additionally, when my ex was in therapy two times a week, he was still physically violent with both our child and myself. If Court personnel had been trained, they would have made this a priority before making any custody decisions.

The last day I had my son he climbed in my lap for extra time. Upon that last custody exchange he ran back to me hanging on my legs like a little monkey. "See you tomorrow," he said. Tomorrow never came. Right after my ex put him in the vehicle, I was served papers at that same moment with the false allegations in order to remove my son from my care. Despite my evidence the emergency hearing held about a week later did not result in the return of my son.

After nearly three years of no contact with my child, denying phone calls and even letters, there was a reunification therapy attempt court-ordered to be paid for by my ex spouse. This was an unsuccessful attempt due to manipulation tactics ensued by the alienating parent and lack of appropriate training with this professional. Since the new reunification therapy order obtained in November of 2019 still has not occurred, and it has been another 2 years without my son.

The few professionals involved, hired and paid for by my ex husband have not been sufficiently trained in domestic violence, abuse, coercive control, alienation, trauma, and most importantly adverse effects to children exposed to abuse, subjected to abuse, including the more sophisticated covert forms such as depriving a child the love and nurture of their Mother, utilizing the legal system.

This last professional caused great harm and damage to my child, myself and this case. This same professional has a history of disregarding domestic violence and abuse in other cases. Due to her reports other mothers who used her also lost custody of their children.

While I feared my ex and his threats, I never imagined that I would lose sole custody of my little boy, with no contact, denying phone calls, letters, or therapy sessions together, and to a man with a history of abuse and assault against my son directly.

The very root of an abusive personality is control, and where taking sole custody can occur during a custody dispute, when the abuser is losing control. Control and abuse are predominantly at the root of custody battles.

All forms of abuse, with a consistent pattern, and without change needs to be taken into account in custody decision making. Overt to covert, including emotional, verbal, psychological, financial, legal, and physical abuse has detrimental effects on a child's well-being, development, and ramifications often last lifelong. Depriving a child of a loving parent for no legitimate reasoning is a form of child abuse and causes substantial trauma. A parent with a history of abuse is more likely to seek sole custody than a non-abusive parent according to research conducted by the American Psychological Association.

A Mother should not lose complete custody due to lack of finances, lack of representation, alternative lifestyles that meet the children's needs, functional disabilities, exaggerations or distortions by opposing party, or any other reasoning that does not meet the criteria of abuse, neglect, safety or endangerment to the child.

At the point a Court will be more concerned with safe Summer camping over a man with a history of physical assault, including towards his child, has exhibited strong control compromising the welfare of his child, and denied proper opportunity to fully disclose abuse, is a point there needs to be serious change.

My story is complex and not all abuse, legal terrorism, injustices, and traumas have been conveyed here. I hope this brief summary moves you to be apart of needed positive change.

I have reasonable evidence to support my statements here within this testimony.

I support thousands of Mothers globally in a private online group with similar situations. Lack of finances, gender biases, amongst lack of proper training on domestic violence, control, and abusive personalities seem to negatively influence custody decisions having catastrophic outcomes.

Requiring court professionals to have additional training in coercive control, all various types of abuse, including covert forms, abuse dynamics, and effects to families is one small step forward, in facilitating better informed decision making when it comes to the care, well-being, protection, and appropriate custody placement of our children.

If the judges, therapists and other personnel involved in my case had been trained, my son would not have been placed with an individual who has a long standing history of abuse without change, remorse or ability to take responsibility for his actions. I would be able to be a mother to my child in person. My son has unnecessarily been robbed his sense of safety, security, bearing the loss of his living Mother since the tender age of 6 years old. This is a heavy grief to force a child to have. The grief and suffering is without words. The additional harm and damage

resulting from the abuse (not all fully disclosed) has been substantially compromising. Further required comprehensive training is a miniscule measure to potentially help reduce harm where abuse and control is involved in family court proceedings. Please vote yes on HB21-1228. Thank you. -A.S.

VIEWPOINT

Mother Seeks Courtroom Reform for Sexually Abused Children and Protective Parents

In *Prosecuted but Not Silenced: Courtroom Reform for Sexually Abused Children*, Maralee McLean shares her legal journey to protect her daughter from her ex-husband's alleged sexual abuse. She faced barriers at every turn and her ex-husband ultimately won custody. Her efforts to seek justice produced outcomes that would make many protective mothers question whether to travel her path. Changing the legal landscape motivated her to write her book. *CLP* caught up with Ms. McLean in the following interview.

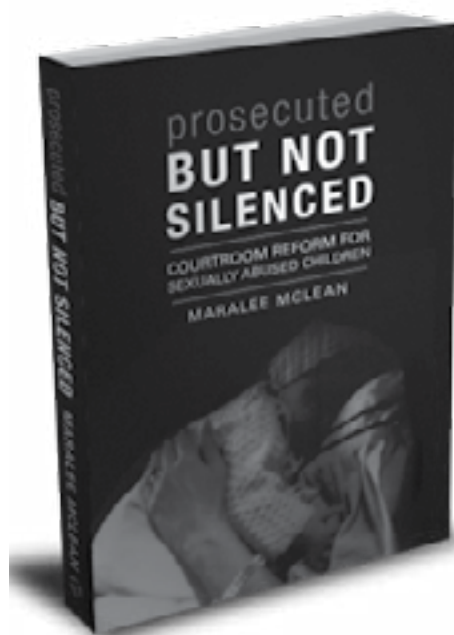
Why did you decide to write your book?

I wanted to make a difference for those working in the fields of domestic violence, child abuse, or child trauma so that such maltreatment would not continue. I wanted to open the eyes of the legal system to mothers "trapped" in similar situations. I also wanted to make the public aware of the tragedy taking place in our courts and to make a difference in saving other children and protective mothers.

After experiencing the system fail time and time again despite evidence of abuse; hearing my daughter's cries for help hearing after hearing; enduring year after year of the abuse not being heard; and finally becoming financially depleted, I began to realize a main problem was lack of education and training among professionals handling these cases.

You faced challenges while seeking justice for your daughter. What did you learn?

I learned that my case is not an isolated one. There are thousands of cases in our courts in every state with the same outcome as mine and my daugh-



ter's. When I testified before Congress with 10 other mothers from different states, it was heart wrenching to hear each mother's experience; they all could have been my case.

The failure of various systems when child sexual abuse is reported and how these cases are turned against the protective parent in family court illustrates a Catch-22 situation. Mothers who report sexual abuse nearly always lose custody. Research shows children are placed in full or partial custody of their identified sexual abuser 90% of the time.¹ Unfortunately many judges, attorneys, and mental health professionals do not understand the overlap of domestic violence and child abuse.

When the child resists going with the abuser and the mother asks for protection from family (divorce) court, the mother is labeled dangerous and considered to be alienating the child from the father. The "Parental Alienation Syndrome" is relied on heavily although it isn't approved by the American Medical Association or the

American Psychological Association, and is considered "junk science" that should not be allowed in courts. In my experience, judges ignore or minimize evidence of sexual abuse and do not allow abuse findings in court.

Research shows that in family courts, false allegations of child sexual abuse remain rare. The allegations occur in approximately two percent of custody and visitation disputes, and most are substantiated.² Family court judges may not understand evidence that is essential to correct decision making. Incorrect family court decisions will have damaging effects, either by subjecting the child to continued abuse and/or by depriving the child of a relationship with the non-abusive parent.

According to another important study³ on child custody and domestic violence by Dr. Daniel G. Saunders, "the attitudes and knowledge of evaluators are critical to making decisions in child custody cases involving domestic abuse."

In my view, cases alleging criminal acts do not belong in family court. They should be investigated by law enforcement and adjudicated in specialized family violence criminal courts using the preponderance of the evidence standard of proof, with evidence brought before highly trained and qualified judges.

Most of these cases involve domestic violence. No child should be placed in unsupervised contact with a domestic violence abuser against the child's will. Children need safe homes and need to have their constitutional rights protected. Giving an abuser control over the mother and the child is the ultimate act of revictimization. The mother is treated as a criminal with the loss of the children she tried to protect. She is often ordered to

receive minimal, supervised visits, sometimes lasting for years (even though she is not the abusive parent), jailed, given gag orders, depleted financially, and ordered to pay child support. Finally she may experience a de facto termination of her parental rights when the court disallows visits.

What can the legal community learn from your story?

My book is a case study. It includes legal documents to educate professionals, along with information on research studies, and my documentation of proof: police reports, doctor reports, hospital reports, judge's orders, etc. My hope is that professionals will seek training and not turn away. Attorney Richard Ducote said it well, "We need to disinfect these trusted institutions." When the system ignores strong proof that the children under its watch are being abused, it punishes those who act responsibly on behalf of child victims.

Many family courts accept and embrace as "infallible" flawed "evidence" and "experts" who would be rejected outright in other courtrooms based on constitutional law, rules of evidence, and judicial procedure. My story tells the breakdown in the judicial system. New measures must be taken. Most important are to: (1) not be so quick to ignore abuse allegations and assume it is a vindictive ex-wife; (2) listen to the children; and (3) educate and understand these cases as domestic violence and child abuse cases, not "high conflict" cases.

Professionals who lack this understanding must remove themselves.

Your book offers advice to mothers trying to protect their children in the court system. What is the most important advice?

Never ever give up. It is crucial to stay in your child's life no matter how you may be prevented from seeing your child. Your child needs to know you are fighting for him or her. If you can't

see your child because of court orders, speak out and seek changes in practice, policies, and legislation. Get help finding a pro bono attorney or educating yourself so you can advocate for yourself in court. It is sad that most mothers are destitute after a few years paying for attorneys, evaluators, litigation, and therapy for themselves and their children.

How can the judicial system better handle these cases?

Many mothers lose custody in ex parte hearings when they are not notified of the court hearing; this practice should be banned. Judges must be trained by child sexual abuse and domestic violence experts, not by other judges. Judges must be trained how to interview the child. There must be effective oversight and accountability for all professionals involved. Court appointees should have no place in these criminal matters; if on the rare occasion they are appointed, there must be a cap placed on the fees charged and paid by the court making the appointment.

What policy and legislative changes are needed to better protect child sexual abuse victims?

- Ensure "safety first" for children who report sexual or physical abuse, or who witness domestic violence.
- Use multidisciplinary teams and a forensic interviewer to interview on videotape all children who report physical or sexual abuse, or witness domestic violence.
- Have the court make specific findings on domestic violence and child abuse or neglect allegations before making further determinations.
- Recognize parents who are acting in good faith to protect their children and do not punish them.
- Discontinue use of alienation theories. Parental Alienation

Syndrome is discredited by the scientific and legal communities.

- Require the court to consider past or present domestic violence and to protect the child from the primary aggressor.
- Reduce unnecessary litigation by implementing custody jury trials in family violence courts
- Build effective oversight, accountability, and transparency for all professionals in these cases, including judges. Consider developing a federal oversight committee.
- Require continuing education for court professionals and judicial officers using a standard online curriculum taught by experts in child sexual abuse and domestic violence. Include an exam.
- Require disclosure of conflicts of interest by statute.
- Develop a system to more easily remove incompetent, poorly trained professionals.

— Interview conducted by Claire Chiamulera, CLP's editor.

For more information and to order the book (\$27.99), visit <http://mmclemm.tateauthor.com/>

Endnotes

1. Neustein, A., and Goetting, A. Judicial Responses to the Protective Parent's Complaint of Child Sexual Abuse. *Journal of Child Sexual Abuse* 8(4), 1999, 103-122; Steubner, Nancy Marie. "Custody Outcomes for Protective Parents in Cases with Child Sexual Abuse," (Master's Thesis), September 2011.
2. Thoennes, N. and Pearson, J. "Summary of Findings from the Sexual Abuse Allegations Project." In E. B. Nicholson (Ed.), *Sexual Abuse Allegations in Custody and Visitation Cases*, 1988, 1-36. Washington, DC: American Bar Association.
3. Daniel G. Saunders, Ph.D. *Child Custody Evaluators' Beliefs about Domestic Abuse Allegations: Their Relationship to Evaluator Demographics, Background, Domestic Violence Knowledge and Custody-Visitation Recommendations. Final Technical Report* Submitted to the National Institute of Justice, U.S. Department of Justice, October 31, 2011.

This bill is being heard in the Senate tomorrow - Wednesday.

This still needs to remain anonymous.

I am putting it in the body of the email because you said you could not open the attached.

Thanks for your help.

HB2-1228

I would like to begin by saying I had no idea that I would ever be testifying about such serious matters. I had no idea that my going through the system for a divorce from an abusive man would put me in some horrific situations. All I wanted was to finally get free from being abused for years. I wanted to receive some justice and safety for my daughter and myself. We NEVER have to this day. Instead we were abused by the court system. I have been to just about every place in the state and I have even gone outside the state. I am still waiting for some help. It is very difficult to write your life down in such a small amount of space.

I would like to remain anonymous, because I am deathly afraid of my ex and will always be. I believe very much that more appropriate updated training and education is very important. It needs to be consistent training. It would have been very helpful in our case. My first attorney did absolutely nothing, because he was NOT trained in domestic violence whatsoever, in fact I had a restraining order against my spouse and he revealed in court where I was living. The first judge in this case also had zero training or she would have stopped the attorney from revealing such information. She did not! Also, after she heard of two separate incidents involving abuse on my toddler daughter by her father and saw photos of bruises on her, she said my daughter was not in imminent danger and beginning that coming weekend she would order that my daughter would have all weekends with her abuser unsupervised until further notice. On the fourth weekend with her abuser my little girl was severely burned.

The second judge on this case was clearly not trained and uneducated in domestic abuse. He heard a lot of evidence, but did not listen to it. I was denied my right to testify, so the judge assumed a lot of things that I have proof of. He did not have control over the courtroom at any of our hearings. He allowed outbursts from the other side, intimidation, and things thrown there. The judge stated that he did not know the family dynamics, because he rarely asked questions. He was back and forth about what to do for my daughter. He saw the medical report about my daughters burns, which clearly states my daughter was in the care of her father when the burns happened. He had evidence of a domestic violence conviction on my spouse had with another woman. He had evidence of some of the abuses on me, but had the audacity to tell us to learn how to get a long with each other. I am supposed to get along with someone who has repeatedly tried to kill me and has repeatedly threatened my life and who is now abusing our daughter. Sounds logical.

My second and third attorneys were also not trained in child abuse and spousal abuse. The second attorney was waiting to reveal more of the abuses I had sustained at a later time in the divorce proceedings. The abuse needed to be talked about consistently so the judge would get it. This attorney was in the dark about the investigations and when I asked if I could be involved in the investigations to find out what was being done I was

threatened that he would drop my case if I did. The third attorney was unprepared with my case and she did not subpoena important witnesses.

The judge ordered a CFI on this case. At the last hearing the judge doted over her and was really listening to this woman. Unbeknownst to the judge the CFI took \$1,600.00 from the state on my behalf and did absolutely nothing on my side. I had one meeting with her while my attorney was present and in the meeting she was not asking questions about the abuses. I had asked her if she had any domestic violence training, her answer was some. Her last training was 25 years ago. She told me she would be talking with people on my side of the family and I told her great, she NEVER did. This is someone the judge really listened to.

After all of this and so much more that I have gone through to seek protection for my daughter and myself. The judge granted full custody to my ex. He does not know that my ex committed perjury numerous times and I have documented proof of this. My daughter and I have been torn apart from each other for 3 years now. My dangerous abusive ex has full custody and I have no contact with my little girl.

Some serious training and education for all court personnel is desperately needed. It is at least a first step.

Chairwoman Michaelson Janet and members of the committee. Thank you for the opportunity write to you. I am here to support House Bill 21-1228

My name is Aydan Metsch (I have chosen to no longer use my father's family name). I am currently a high school senior, and I am one of the lucky ones. I made it through a childhood full of abuse and maltreatment, not just by family members, but by those who were supposed to protect me. They didn't protect me. At no point did I ever feel like investigators had my best interest in mind.

I was a child, too young to understand the situation around me. I was abused by my father and grandfather from an incredibly young age. When my brother and I told my mom about what had happened to us, she was horrified, as any good parent should be. She went to get help, help never came. From that time forward my life was full of social workers and evaluators eating dinner at my house and pulling me out of class during school. They would interview me, and I would tell them the same things every time: I am being abused, I am being molested, and I want it to stop. And nothing would change. It would just happen over and over and over. Not just the social workers, the abuse would continue, and every time I talked to a new person, I had a new story to tell about what my dad did to me.

I was a little kid; I had no idea that those people talking to me were supposed to protect me. In fact, I felt like every time I talked to them, I was trying to prove to them that I was telling the truth. One day during school, I was pulled out of class to talk to a woman. My mom didn't tell us about this, I didn't know she was coming. The woman sat me down in my elementary school, and tried to convince me that the abuse I was enduring was normal. That the cream my father would rub on me, was just him moisturizing me. That the baths my grandfather would watch me take, was just him making sure that his 9-year-old grandson didn't drown. She wasn't there to protect me, she told me to my face that I was a liar, and that nothing bad happened to me.

A few months later, my younger brother and I were taken away from my Mom and forced to live with my abusive grandparents for the summer. They took me away from my Mom, the only person who had been fighting to keep us safe, and they put me in the custody of the very people she was trying to protect me from. I was abused non-stop for months. My grandparents screamed at us, hit us. They forced me to sit on the stairs for hours and if I started to fall asleep they would beat me. I was a kid; I was supposed to be going on playdates and playing with toys. Instead, I spent every waking moment wishing I was dead, every night before I went to bed praying to God that I wouldn't wake up. I was 9. When you have a suicidal 4th grader on your hands, you don't tell them that their life is fine, that nothing bad has ever happened to them. You listen to them and get them the help they need. Children don't have ulterior motives, they don't understand the complexity of the situation they're in, all they know is that they want to be happy.

I am one of the lucky few who made it out of this broken system. I am on the executive board of my High School Student Government; I have won multiple national and international awards for movies that I have made. I am attending film school next fall at a top university. I've succeeded despite the broken system, but do not let yourself think that I have anything to thank the system for. I still think about it every day, I still deal with the consequences every waking moment. No child should have to go through what I went through. We need change and we need it now. Children deserve better, I deserved better.



NATIONAL FAMILY VIOLENCE • LAW CENTER •

THE GEORGE WASHINGTON UNIVERSITY

Testimony in SUPPORT of House Bill 1228 “Julie’s Law”

To: Esteemed Colorado Senate Judiciary Committee Members

Chair Lee, Vice Chair Gonzales, Senator Cook, Senator Gardner, and Senator Rodriguez

From:

Joan Meier, Founding Director and Professor of Clinical Law

Danielle Pollack, Policy Manager

National Family Violence Law Center at GWⁱ

Date: May 18, 2021

*An abused child named Julie was taken by court order from her protective mother, Maralee, and forced by court order to live with her sexual abuser for ten years. On behalf of the many children and youth who have experienced this life-altering trauma, HB1228 has been named **Julie’s Law**.*

HB1228 adopts Congressional guidance for custody courts’ decision-making processes in order to prioritize child safety; increases domestic violence and child abuse training requirements for court personnel who are regularly involved in cases related to domestic matters; and closes a loophole in oversight.

We support HB1228.

Adopting Congressional Guidance for Child Safety

Section 1 of HB1228 would bring Colorado into alignment with guidance from the unanimously adopted [House Concurrent Resolution 72](#), *Expressing the sense of Congress that child safety is the first priority of custody and visitation adjudications, and that State courts should improve adjudications of custody where family violence is alleged*. This critical guidance from Congress responds to problems widely identified in family courts and urges state courts to address them; we are pleased to see Colorado be a leading state to adopt this important language into its statute books. The Congressional Resolution was formally supported by the National Coalition Against Domestic Violence (NCADV); National Domestic Violence Hotline; National Network to End Domestic Violence (NNEDV); Domestic Violence Legal Empowerment and Appeals Project (DV LEAP); National Organization for Men Against Sexism (NOMAS); National Partnership to End Interpersonal Violence (NPEIV); and National Task Force to End Sexual and Domestic Violence

Against Women, and many other leaders in the field. This adoption will provide critical guidance to Colorado courts and will help keep Colorado children safe and with safe parents.

Of particular import for subsequent sections of HB1228, Sections 1 (2)(g) and (3)(d)(e) embody Congress' guidance regarding reliance on third-party professionals: *In cases involving allegations of domestic violence, child abuse, and child sexual abuse, courts should rely on the assistance of third-party professionals only when the professionals possess the proper experience or expertise for assessing domestic violence, child abuse, child sexual abuse, and trauma, and when the professionals apply scientifically sound and evidence-based theories.* This is essential because many third-party professionals lack the necessary understanding of family abuse resulting in unsafe recommendations and outcomes.

Essential Training for Intimate Partner Violence (IPV), Child Custody, and Child Safety

Sections 2 through 5 of HB1228 outline training requirements and clarify the roles and protocols of third-party professionals: child and family investigators, parenting responsibility evaluators, and legal representatives of children. Training for all personnel must include both an initial training requirement as well as an ongoing annual continuing education requirement as follows:

- Six initial hours of training on domestic violence and its traumatic effects on children, adults, and families.
- Six initial hours of training on child abuse, including child sexual abuse, and its traumatic effects; and
- Four subsequent hours of training every 2 years on domestic violence and child abuse, including child sexual abuse, and the traumatic effects on children, adults, and families.

Evidence-Based Training Matters

Many people who are inadequately trained in intimate partner violence (IPV) and child maltreatment - including some who work in family law - view contested custody cases principally as two angry parents fighting for control, not a matter of child safety and risk of abuse. The fact is that in approximately 70% of contested custody cases, of those which come before a judge, there is an abuse component – either IPV or adult on child violence or a combination of these. Multiple studies confirm this.ⁱⁱ

Our laws addressing family violence have historically developed in ways which attempt to address adult domestic violence and child abuse largely as two separate, siloed problems, and this has created a gap in child safety. This gap appears most crucially in private custody litigation.

Insufficient training on the facts of family abuse as well as personal biases of family court investigators, evaluators, and legal representatives of children can contribute to adverse outcomes for at-risk children in custody litigation. Survivors of domestic violence litigating child

custody are often either not believed or are misunderstood as being alienating rather than protective of their children.ⁱⁱⁱ

A national study of family court professionals (465 evaluators, 200 judges, 131 legal aid attorneys, 119 private attorneys) found that family courts and especially evaluators prioritize “fathers’ rights” over children’s need for continued parental attachment, stability and emotional and physical security.^{iv} This study focused on core beliefs of family court professionals in several key areas, including ideas about false abuse allegations, whether exposure of children to domestic violence is relevant to custody decisions, and whether the reluctance or resistance of battered women to co-parent will hurt children. It found in cases where one parent was clearly the perpetrator of abuse, 40% of custody evaluators reported a practice of always or “half of the time” making a recommendation for *joint* legal and physical custody to be awarded to victims and perpetrators. This finding is concerning and reflects a deficiency in evaluators’ understanding of family violence dynamics: Joint custody enables abusers to continue to exert control over their former partners and children, as well as to restrict needed counseling, medical, and other important services.

Another important 2019 National Institute of Justice-funded empirical study which looked at all contested custody cases involving abuse allegations nationwide over a ten-year period found that the presence of a court-appointed evaluator or Guardian ad Litem in contested custody cases *increases* both courts disbelief of mothers’ abuse allegations and their reversals of custody from the mother to the alleged abusers.^v

Custody courts too often miss the mark, with damaging impacts on children. It is worth noting that, conservatively, in the past decade over 100 children in the U.S. have been murdered by a dangerous parent after a custody court awarded access over the safe parent’s pleas to protect the children.^{vi} This figure does not account for the countless children court-ordered every year into the care of an allegedly abusing parent for prolonged periods, sometimes for entire childhoods. One estimate suggests that approximately 58,000 U.S. children may be ordered into partial or full custody of their reported physical or sexual abusers by family courts each year.^{vii}

Investing in Colorado’s Professionals to Protect At-Risk Children

In Colorado there is currently great variance in individual training and preparation of child and family investigators (CFI), parenting responsibility evaluators (PRE), and legal representatives of children on intimate partner violence (IPV) and child abuse (CA), including child sexual abuse (CSA). Furthermore, there are no required safety and risk screening tools for use by these family court professionals who regularly make assessments which impact at-risk children’s and protectors’ lives. Despite inconsistencies in preparation and a dearth of IPV/CA/CSA training for most of these professionals, it was found in 2020 research by a Director at Colorado Department of Human Services in the Child Welfare Division, that approximately 85% percent of the time Colorado judges and magistrates directly adopt evaluator recommendations regarding allocation of parental responsibilities and parenting time.^{viii}

Child and Family Investigators (“CFIs”) are the most common type of evaluator in Colorado child custody cases, including those involving IPV and child abuse allegations. Current law permits anyone to perform this role so long as an individual court believes they have had “acceptable training,” not necessarily even including training on IPV/CA/CSA. Most CFIs are mental health professionals and (sometimes retired) attorneys. They cannot conduct substance use or mental health evaluations. They are court-funded if the parent is indignant, with fees capped at \$2750.

There are at least 164 CFIs in Colorado. While they are required to complete a minimum of 40 hours of training there is no requirement to be trained on family abuse or validated safety and risk screening tools, even though they are assessing IPV in many of these cases. In contrast, Texas requires a minimum of 8 hours training in IPV for their evaluators.

Appropriate evidence-based training is essential for any evaluator’s ability to draw accurate conclusions when family violence is present. Such preparation is especially important when assessing counter-intuitive and often subtle behaviors of a perpetrator or protector, such as coercive control which manifests in numerous daily “minor” ways, or protective measures a parent may take which may not make sense on the surface to an untrained observer. For untrained evaluators, there is also an increased likelihood they may be manipulated by a perpetrator who is adept at using common tactics such as DARVO (Deny, Attack, Reverse Victim and Offender roles)^{ix} or they may inadequately appreciate how some abusers engage in litigation abuse to torment their victims. Without appropriate statewide training and standards, it is challenging to minimize potential for evaluators’ personal biases, unwitting victim-blaming or other dynamics which routinely arise in cases where children’s safety is at stake.

Lastly, a PRE is a Parental Responsibility Evaluator and, unlike a CFI, must be a licensed mental health professional. PREs can also be appointed as CFIs. They can conduct substance use or mental health evaluations and assess IPV. Parents self-pay and both parties have to agree to a PRE being involved in the case. PRE fees are not capped, and costs can range from \$8,000 to \$12,000. No public list is available for who has been qualified to be a PRE. HB1228 clarifies how complaints related to duties of a custody evaluator who is also a licensed medical professional should be addressed in accordance with provisions in Chief Justice directives in Sections 3 and 5.

To better protect Colorado’s children, we urge your support of HB1228, Julie’s Law. Should you have questions, we are happy to answer them. We thank you for your time and thoughtful consideration.

Sincerely,



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ⁱ This testimony is provided in our individual capacity, and not on behalf of George Washington University.

ⁱⁱ See generally, Peter Jaffe, Zerwer & Poisson, *Access Denied: The Barriers of Violence & Poverty for Abused Women and their Children After Separation* (citing four studies, all of which found 70-75% of cases in litigation involved allegations of domestic violence).

ⁱⁱⁱ Joan S. Meier and Sean Dickson, *Mapping Gender: Shedding Empirical Light on Family Courts' Treatment of Cases Involving Abuse and Alienation*, 35 LAW & INEQ. 311, 332 (2017).

^{iv} Daniel G. Saunders, Ph.D., Kathleen C. Faller, Ph.D., Richard M. Tolman, Ph.D. *National Institute of Justice, U.S. Department of Justice Final Technical Report on Child Custody Evaluators' Beliefs About Domestic Abuse Allegations: Their Relationship to Evaluator Demographics, Background, Domestic Violence Knowledge and Custody-Visitation Recommendations*, (2011), available at <http://ssw.umich.edu/about/profiles/saunddan/Custody-Evaluators-Beliefs-About-Domestic-Abuse-Allegations-Final-Tech-Report-to-NIJ-10-31-11.pdf>

^v Joan S. Meier, Sean Dickson, Chris O'Sullivan, Leora Rosen, Jeffrey Hayes, *Child Custody Outcomes in Cases Involving Parental Alienation and Abuse Allegations* (2019). GWU Law School Public Law Research Paper No. 2019-56, GWU Legal Studies Research Paper No. 2019-56, available at SSRN: <https://ssrn.com/abstract=3448062> or <http://dx.doi.org/10.2139/ssrn.3448062>

^{vi} Center for Judicial Excellence, last visited April 2021, available at <https://centerforjudicialexcellence.org/>

^{vii} The Leadership Council on Child Abuse & Interpersonal Violence, *How Many Children are Court-Ordered into Unsupervised Contact with an Abusive Parent After Divorce?*, available at <http://www.leadershipcouncil.org/1/med/PR3.html>. <http://leadershipcouncil.org/1/med/PR3.html#3>

^{viii} Yolanda Arredondo, et al. *Colorado Child Custody Evaluators Professional Background and Practices of Intimate Partner Violence*. Presented as a Brown Bag Webinar for Violence Free Colorado on October 13, 2020, available at <https://www.youtube.com/watch?v=Pzx7N8gPs6s>

^{ix} Alexis A. Adams-Clark, Jennifer J. Freyd. (2020) *Questioning Beliefs About Sexual Violence*. *Journal of Trauma & Dissociation* 21:5, pages 505-512, available at <https://www.tandfonline.com/doi/full/10.1080/10926771.2020.1774695>

Senate Judiciary

HB21-1228 Domestic Violence Training Court Personnel
Typed Text of Testimony Submitted

Name, Position, Representing	Typed Text of Testimony
James Smith For me	<p>This bill is not redundant. The training specified herein is Available but Not Required.</p> <p>Imagine if CPR certification was available but, not required for nurses and EMTs.</p> <p>This bill seeks to correct an egregious shortfall in the education of Family Court personnel, nothing more.</p> <p>Thank you</p>
Jill Iwaskow For Self	<p>In my experience going through a divorce in the Colorado judicial system this year, and also with law enforcement in the past, I have witnessed a lack of understanding for the various kinds of abuse that constitute serious trauma and threats to family members, including children. Abuse is not just limited to direct physical assaults that are clearly against the law. The grey area that exists legally is an enormous problem for assessing very real issues of concern. There is a growing arena of research and understanding of the deeper implications of power, control, emotional/mental/financial abuse. But the overall dynamic in the legal system still sadly remains a system that favors patriarchy, and heavily leans towards father's rights versus taking each situation individually, which has to be done for the best interests and welfare of a child, and everyone.</p> <p>Another great issue is the detriment to stay at home mom's who can't afford the same resources of high end lawyers, PEs etc.</p> <p>Perhaps unrelated, but my personal experience, one shared by many women in local online single moms groups, is that also in the CO court system there was obvious inequality of the role and importance (and respect) of a stay at home mom (even if financially contributed prior and during the marriage).</p> <p>I agree that overall a child needs both parents and advocating that is a good idea, but there are so many issues that can be missed and can cause invisible, lifelong harm to a child, so that</p>

	<p>each individual case needs to be assessed, but also properly. Therapy in many cases should also be mandatory. The Party with more money/power should not be rewarded.</p> <p>Thank you</p>
<p>Rachel Snow For Self</p>	<p>Written Testimony for HB21-1228</p> <p>The passing of this bill could be actual life and death for children involved in family court matters. The proper training for court professionals and those that deal in family court matters is vital to the safety of children. There are far too many ill prepared CFI's submitting reports to the courts that are biased towards the abuser. They are not trained to see abuse in all forms, and are not trained in coercive control. I really hope that with proper training these court professionals can accurately report, and children can be safe from their abusers. Judges and attorneys could benefit from proper training in abuse as well.</p> <p>Rachel Snow Luminary Divorce Coaching Certified High Conflict Divorce & Custody Coach www.luminarydivorcecoaching.com</p>
<p>Rebecca Montoya For Self</p>	<p>I was raped by a police officer and gave birth to a beautiful and healthy baby girl. My rapist said that he knows exactly what he will do with my dead body when he kills me. My rapist was given full custody. Our judge believes that it was a she said, he said issue. He continues to use our child as a weapon and refuses all contact. The courts aid him in his criminal actions. He stalks me. I don't feel safe. Please pass this bill so that judges can take DV a lot more seriously and perhaps there should be consequences for judges who do not follow laws. Thank you.</p>
<p>Andrew Rose For COMBINE for Medicaid mental healthcare</p>	<p>Dear Chairman Lee and Vice Chairwoman Gonzales,</p> <p>As Medicaid mental healthcare providers, we write in support of HB21-1228.</p> <p>The population we serve is by definition poor and lacks access to adequate representation and other professionals in divorce proceedings.</p> <p>We have witnessed how the lack of training in basic dynamics of domestic violence and child</p>

abuse have distorted CFI and PRE reports and share the concerns of the bill sponsors. The requirements for acting as an evaluator, as expressed in this bill, are reasonable.

Of course it is sad that this bill is essential, and it is essential.

In regards,
Andrew Rose
Policy Advocate, COMBINE

I'm submitting testimony today because there's a mom I know, who lived in the south metro suburbs, drove her three girls to dance, to soccer, helped with homework, did all the things we moms do every day. Including believe them, no questions asked. They told her they were being abused by their father. They didn't use the word abuse, they talked of having something forced in their throat, of being awoken in the night and asked to do unspeakable things with their private parts.

Their mom did what any parent would do, she believed them. She asked for help from all the people we would consider the "helpers" in our system.

Instead of help, she was accused of "coaching", of manipulating her daughters of using her girls to get back at her ex-husband.

All THREE girls told her what was happening, she believed them. She alerted the authorities. Now a few years later she is in jail, has had her rights terminated as a parent, forever.

I know, you're thinking – there's more to the story, she did something terrible you're not telling us about.

There is more to the story – there's a family court judge and a couple court advocates who didn't believe the girls, who didn't believe their mother, who bought into this narrative that she did something wrong by standing up for them – at all costs.

I'm not allowed to use her name, even if she is ok with it, as the judge put a gag order on her, and anyone trying to help her. She is penalized with more court time any time we try and help her by a judge who sits on a bench in our beautiful south suburbs.

This case isn't just a tussle over child support or parenting time, the battle is over her unwavering belief in what her children told her and many others, that they were sexually abused by their other parent. Our family court doesn't believe the kids. Or her. The kids and her be damned.

Children rarely fabricate allegations of sexual abuse; studies show about 2% are false. Thousands of abused children each year are ordered into unsupervised visitation or full custody with their alleged abuser because our courts don't

believe what the children say. Our judges and advocates are not trained in the complexity of coercive control, of domestic violence, of incest and child abuse. This has to change, these three young girls lives are ruined because the system wasn't trained on how to deal with their situation.

There are thousands of cases across our country.

We live in Colorado. A place known for its evolved approach to dealing with crime, some of it vile. There's a lot that's vile about this story, it's hard to pick one area to focus on, so I won't, I'll just say that's why we're here today. The judges and advocates need training, education, coaching on what domestic violence, coercion, child abuse does to families. They need to better understand the manipulation that goes on in our courts.

HB21-1228 Bill Protective Mother MFB TESTIMONY for Bill Colorado Rep. Meg Froelich

Colorado Case Advocate Rep MFB.: Maralee Mclean 720-252-5115

leighmcl@hotmail.com <http://www.maraleemclean.com/>

Colorado Multi Judicial **Case: SCHURER Jefferson County Colo. Case # 12DR 1926**

Judge Randal Arp / Magistrates Ryan/ Jason Cathers/ Jefferson/ Judge Mary Hoag Grand County

Case Bio: Protective Mother Dina Schurer of Colorado USA

Dina Schurer/ 2 children are victims of **Croesive Control DV/sexual abuse/ systematic court ordered abuse: Judicial Trafficking through the court orders. 2015/16 DA Denver Senior Criminal Investigator criminally reported Colorado General Attorney DA Grand/ Deputy/ DA Route & DA Jefferson County for Trafficking the sexually abused kid's case.**

Colorado Case covers, Grand County, Jefferson County, Route, Larimer, Arapahoe, and Denver County of Colorado USA. (Mother & children were in Colorado Safe Houses 1 year due to the Domestic Violence problem of the father making the case multi-Judicial case: father was reported doing crimes from the counties. Michael hired a Private Decetive to stock/ hunt down Dina/ Children) Some of the SCHURER case is sealed / has physical paper evidence Law Enforcement/sexual Forensics law Enforcement Dective files/ videos/ audios/ DA/ DA Deputies trafficking the sexually abused kids though the courts. The Colorado General Attorney cover up paper evidence 2015/16. This Colorado Case is turned into US Congress for H. Con. Resolution 150 & H. Con. Resolution 72 Child Safety.

In 2005-2006 Dina, a Jefferson County business owner, met Michael, owner of 4 businesses in Grand County/ Courtship/ marriage 2008.

November 2011, after the birth of their two children. Dina/Children ran away due to domestic violence & sexual assault against her: Protective Mother running away with children from a DV crime scene for safety. Michael alleged Dina had abducted the children in Ex-partay hearings in Grand County. She and her two children, then ages 3 and 5, spent a year in domestic violence safe houses. Then moved into Transitional Housing; Were safe.

The children started acting out sexual abuse at the safe houses. CPS became involved. All safe houses/ therapists reported to CPS. CPS said that if Dina a DV Victim returned to her abusive husband, they would take the children.

Douglas CPS insisted when they were being supinated & sued by the father. CPS ordered Dina to make a police report in Grand County: the origin of the crimes. The Law Enforcement dective forensic investigator for the child sexual abuse is in Route County/ Grand County Sheriff Dective/ DA Route. Dina and her children had a restraining order against the DV father & were in a Federal Protection program during the 3 years of domestic violence and child sexual abuse investigations on the father. The Jefferson County Put a 3-year abduction alert on Dina/ flight risks.

Michael who had collusion relationships with Grand County DA & law enforcements, filed for divorce in Grand County 2012/ custody in Jefferson County. Grand County Judge kicked the divorce case out of Grand County; Ex Partay Hearings court for the mother/ kids was a missing persons but safe in safehouses: Law Enforcement reports show this/ while DV/ sexual assault on children criminal investigations were open in Grand County & multi counties on father. Jefferson County DA was aware of the abuse crimes of Grand County DA/ Deputy as evidence shows. Which is against Co law to have criminal cases open with family court cases opened. Federal Law H. Res. 172 was violated in this case in the State of Colorado. (Placing Children with batter). After 2 P.R.E. custody evaluations With PRE-Dr. Jacquelyn Richman, & later Jacquelyn friend PRE Monte a third evaluation: The kids forced into Reunification with identified abuser the whole time. The son was beaten by his father in the reunification therapy office which was reported by re-unification: not safe. Their son tried to kill himself by poison the day his abusive father took custody. Law Enforcement put out an Amber Alert on Protective mother Dina threatening to put her in jail at custody for her son was in an emergency room. Dad reported false allegations to Police/ CPS reporting Mom as flight risk/ doing a custody scandal Dad said mom was suicidal coaching child PAS & child endangerment. Dina's son was moved from Grand County Emergency room to Grand Junction Mesa County Mental Health institution for 2-3 months Intuitions trying to deprogram the fear of his dad/ & discredit sexual/ beating abuses of dad. Dina's son, age 8, tried to kill himself 3 more times in dad's custody. While Dina's 6-year-old daughter was forced to go alone with the identified abusive father from the emergency room and sleep in his bed. Law Enforcement Records show: The dad: was the children's identified sexual molester with all the Law Enforcement Forensics Grand County Sheriff/ Ralston House Arvada Criminal Cases. The father was never convicted of any of the DV crimes/ sexual abuse crimes in Grand County (County of origin).

April 2015 Jefferson County Judge Randal Arp/ Magistrate Ryan granted sole decision-making power and granted full legal custody of the children to the abusive father. Dina put forward an appeal to Jefferson/ Grand County. Dina was reduced from full custody to visitation and made the PAS child endangerment for Protecting her children refusing to share stating it was not safe. The Father refused visitation stating he had full custody and full decision making. The Father decided he did not want the mother involved in his children's life. Making up fabrications that he won the kids stating: the mother is, mentally ill, suicidal with PAS & dangerous flight risk. Grand County isolated mountain town theme is "SHOP LOCAL SUPPORT LOCAL" even if it is a batter/ molester. Michael has 4 business in Grand County. As well does the security systems/ video's/tv's/ electronics for the jails in Grand County. Michael groomed Grand County & has local community support as well law enforcement support for they need his products/services. Father is friends with DA/Law Enforcements. Father threatened to sue doctors/therapists/ professional witnesses with evidence etc..

Dina on July 4, 2016 was in Granby Co Parade dressed as a missing person's Milk carton passing out **"Children Should, Be Seen Heard Believed and Protected"** buttons & T- shirts. Dina saw & talked to her kids/ then changed into a martial arts outfit. She spent the day with her kids while the dad drank all day watching from afar. Never noticing it was mom. Then that night the kids told their dad they were so happy to be with mom, best day of their life. Michael called the Law Enforcement, and the hunt began. Michael then went to the Grand County Court to get a restraining order on the kids to not see mom. Dina went to Grand County court representing herself the Judge Granted permanent restraining orders on Dina & kids. (October DV awareness month November is Family Violence Prevention Month 2016)

(Dina was in Winter Park CO Awareness Campaign for DVAM/ **Congress H. Con. Res. 72 & 150** Public awareness. Putting out flyers video Mothers Lost Children public awareness campaign.

2 min video <https://www.youtube.com/watch?v=Jr4vFrLctMI>

Dina is a National Advocate/ human rights activist in the Washington DC videos. (Fact for the record.) Dina Was put in jail one week after these videos were released to international Media You Tube look @ dates of 2016 when Michael knew where Dina was doing promotions of campaign DVAM Domestic Violence Awareness Month, since Michael put a restraining order on Dina & her kids. The father used the kids again and had a nanny drop off his kids where Dina was working doing DV awareness month. Michael then called the police and had Dina arrested with the flyer promotions at the Fraser Library,) Michael as well Grand County Advocates did not want this Public Awareness Campaign for it highlights Perpetrator dads as well Highlights how Grand County Advocates is failing in educating battered mothers in Family Violence Awareness. Michael was getting the town of Winter Park Police and shop owners to hunt who is putting out the flyers. Dina's free speech/ human rights violated. The Winter Park Police arrested Dina for flyers but then found out it was Dina Schurer then covered up the flyer incident arrest and said then it was then RO violation/ Human Rights Violations. Protective Mother is in Federal Protection & in hiding.

(1st amendment and 14 amendment US Constitution rights violated in USA Colorado as well Miranda rights violated) Dina put forward an appeal to Grand County.

Video Testimonies of the Protective Mother Dina Schurer Washington DC speaking out.

<https://www.youtube.com/watch?v=LWZBtbELhIY>

<https://www.youtube.com/watch?v=qD6vRjflkbQ>

Congressional Briefing May 2017 Washington DC H. Con. Res. 72 (Video/Documentary)

<https://www.youtube.com/watch?v=TsH3Rb29hoU>

[Mothers of Lost Children Washington D C May 15, 2017 - YouTube](#)

<https://www.youtube.com/watch?v=HcrHgoLLUKs>

Protective Mother Dina Schurer is speaking out in International Documentary "What Doesn't Kill me"

<https://www.whatdoesntkillme.com>

[HOME | whatdoesntkillme](#)

[What Doesn't Kill Me: Domestic Abuse and the Family Courts | Brunel University London - YouTube](#)

Chairwoman Michaelson Janet and members of the committee. Thank you for the opportunity to speak to you today. I am Beth Metsch Goldman in support HB 21-1228.

The 1st time my son disclosed abuse I called the child abuse hotline, he received no help. I called Children's Hospital, who advised me to see the pediatrician, who referred me to the Kempe Center. After the Kempe Doctor interviewed my son, he sent a detailed report to The Colorado Department of Human Services Division (DHS). Again, no help. I went to the police and the police sent me back to DHS. The system designed to protect children was running me in circles. Teachers, doctors and therapists reported abuse, yet DHS chose to investigate me, treat the abuser as victim, and ignore the children.

For 10 painful yrs. I fought to protect my boys from an abusing parent and grandparent.

No 7yr. old should be able to describe how he shut his eyes and pretended to sleep, while his father raped his brother in the next bed, praying that he would not be next. Had the abuser not been a parent, this case would not have been considered a family issue but a **crime**.

DHS told the pediatrician to not accept reports of abuse. DHS categorically rejected the Kempe Center findings. Accepting only defensive excuses of the accused abusers, DHS chose to treat the children and I as the criminals and defend the accused. After doctors reported new disclosures of abuse, the boys were court ordered to live with their abusers. I was charged with Medium/Intra Familial Emotional Abuse because the boys would not stop telling court appointees of their abuse. Only before I was set to go to court did DHS drop the charges due to their insufficient evidence.

Prompted by more reports, I insisted DHS audio tape the 4th forensic interview. The contents of that recording could not be denied. Because of audio evidence, their father was finally ordered to take a psychosexual evaluation, for which he subsequently failed **twice**.

Many years and hundreds of thousands of dollars were spent, as punishment for simply trying to protect my 2 boys from sexual abuse and incest. Parents should not have to risk bankruptcy, humiliation and systematic abuse to simply do what is ethically and constitutionally right. DHS and family court appointees used stereotypes and biases to conduct an incompetent investigation that caused irreparable damage to our family

- Imagine the financial & psychological damage families and children could be spared if judges, magistrates and court appointees had standardized evidence-based training in domestic abuse, child abuse & coercive control.
- Imagine how recorded interviews can ensure the accuracy and integrity of data, necessary to perform fair and reliable investigations.
- Imagine an equitable family court system if they accepted the Rules of Evidence.

Please vote yes for HB 21-1228.

<https://www.maraleemclean.com/audio-book/>

Book store to get my book send it internationally Book store to get my book send it internationally <https://bookshop.org/books/9810487/9781683507802>

7 News Jing tessaro case and my interview w 7news

<https://www.thedenverchannel.com/news/investigations/calls-for-change-dedicated-family-law-courts-after-lone-tree-murder-suicide>

Here is the link to the MJ version: https://www.amazon.co.uk/Prosecuted-But-Not-Silenced-Courtroom/dp/1683507800/ref=olp_product_details?encoding=UTF8&me=&qid=1581606870&sr=8-1

<https://drive.google.com/file/d/1w4FjnyZurpkF39tVkJPBNNbWpQ9qiF9M/view>

<https://drive.google.com/file/d/1w4FjnyZurpkF39tVkJPBNNbWpQ9qiF9M/view>

<https://drive.google.com/file/d/1w4FjnyZurpkF39tVkJPBNNbWpQ9qiF9M/view>

<https://youtu.be/ixXHopWdhvw> England Radio Show The Cabal

Just like court professionals, Lisa Ling got conned by fathers' rights activists and aired a one-sided propaganda piece ignorant of current research. My friend Maralee McLean and I have written an article in the form of a letter to Lisa providing her with the objective information she missed and asking her to rectify the harm she did by providing new programs that this time will be fact based. Please share our article widely and demand CNN correct its error. <https://stopabusecampaign.org/.../lisa-ling-your-one-sided-s.../>

CNN INTERNATIONAL NEWS <https://youtu.be/7oiOGQR46OM>

<http://www.snaptubex.com/video/watch/Prosecuted-but-Not-Silenced-Maralee-McLean/HM0ZsUBkPXA/>

<https://www.indiegogo.com/projects/protect-the-innocent-documentary-kids#/>

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STOPABUSECAMPAIGN.ORG

Lisa Ling Your one-sided show on child custody put children at risk

Lisa Ling your program supported the myth that women are not to be believed and every father is a good father. That's not true; we have the evidence.

<https://onedrive.live.com/?authkey=%21AO2yv%2DgXUwjxUQI&cid=E7FE5D954369F896&id=E7FE5D954369F896%21312&parId=E7FE5D954369F896%21259&o=OneUp>

Teresa Nicassio web page on me important <https://www.theresanicassio.com/.../protect-sexually-abused-.../>

<https://www.facebook.com/1873622386186791/posts/2345458692336489?sfns=mo>

<https://womensenews.org/author/maralee-mclean/>

<http://aplus.com/a/maralee-mclean-child-advocate-protective-parent>

WHAT'S GOING ON IN OUR FAMILY COURTS? | Women's Justice Foundation | Washington, DC | Pro Bono Legal Aid

MM

Maralee Mclean

1. [Family Court and the Catholic Church: Shattering the ...](http://msmagazine.com/blog/2018/08/28/family-court-catholic-church-shattering-last-taboos-institutions-fail-children/)

msmagazine.com/blog/2018/08/28/family-court-catholic-church...

Aug 28, 2018 · Family court is a matter of exceptional public interest—just as the Catholic church is. Many of the abused children in court have disclosed their abuse numerous times to professionals, but the evidence of abuse is not allowed in court, or it is overlooked—just as the Bishops have done in cases of abuse perpetrated by priests.

<http://msmagazine.com/blog/2018/08/28/family-court-catholic-church-shattering-last-taboos-institutions-fail-children/>



Ms. Magazine <http://msmagazine.com/blog/2018/08/28/family-court-catholic-church-shattering-last-taboos-institutions-fail-children/>

Domestic Shelters.org Survivor Story: Maralee Mclean

Reply|

Yesterday, 09:55 PM

You

Important article on Barry and Me

<https://www.women4justice.com/single-post/2017/09/02/WHATS-GOING-ON-IN-OUR-FAMILY-COURTS>

This is great...I am sending you the links and the dates to events. I will be going on I Heart Radio with Marianne Pestanna June 22 for the book launch. PBS on the Contrary is looking for a 30 minute spot will call tomorrow. Sept 5th-9 presenting IVAT International Conference San Diego, on May 3 keynote at the BBMC X111 Conference on video.

This is some of the things I have done..

<http://stgec-ausw->

tmp.uplynk.com/80C078/ausw/slices/ede/0e3a3b3bc3ae4d6eac785fb8a26bdb6b/ede86ca820574cb2bb638dbd9aad96f2/ede86ca820574cb2bb638dbd9aad96f2_g.mp4

Radio Show 710 KNUS Julie Hayden and Chuck Bonnywell

radio show with Julie Hayden and

Chuck <https://www.podbean.com/site/EpisodeDownload/PB7A28D1R4DNX>

(link: <http://bit.ly/2irtEB4>) bit.ly/2irtEB4 In Justice and the Law

[Chuck & Julie - Nov 3rd 2017 - Hr 2 - Podbean](#)

www.podbean.com

Maralee Mclean joins Chuck & Julie to talk about family court and raise awareness to a loophole in the justice system.

<https://www.dropbox.com/s/m3p1nymsh1avpqt/Maralee2.mp4?dl=0>



[Maralee2.mp4](#)

www.dropbox.com

Shared with
Dropbox

<https://www.dropbox.com/s/m3p1nymsh1avpqt/Maralee2.mp4?dl=0>

<https://www.dropbox.com/s/Orqdwmcz6lw8ovz/Families%20Fight%20Back%20Foundation%20Dec%202016.pptx?dl=0> womensenwews.org/2014/01/courts-must-open-eyes-and-ears-abused-children

<http://www.shesource.org/experts/profile/maralee-mclean>



[Maralee Mclean -
SheSource Expert -
Women's Media Center](#)

www.shesource.org

WMC SheSource is an online database of media-experienced women experts who we connect to journalists, bookers and producers.

[Donna M. Hughes, PhD](#)

Professor & Eleanor M. and Oscar M. Carlson Endowed Chair

Editor-in-Chief, *Dignity: A Journal on Sexual Exploitation and Violence*

<http://digitalcommons.uri.edu/dignity>

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digitalcommons.uri.edu

Dignity: A Journal on Sexual Exploitation and Violence is an open access, peer-reviewed, international, interdisciplinary journal dedicated to publishing original scholarly articles on topics related to dignity, sexual exploitation, violence, and slavery.

Donna M. Hughes, PhD

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<https://www.apbspeakers.com/speaker/maralee-mclean/>

[Maralee Mclean | APB Speakers](#)

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Book Maralee Mclean to speak at your next event. Contact APB Speakers for bio, videos, topics, and to inquire about speaking fees and availability.

<http://aplus.com/a/maralee-mclean-child-advocate-protective-parent>

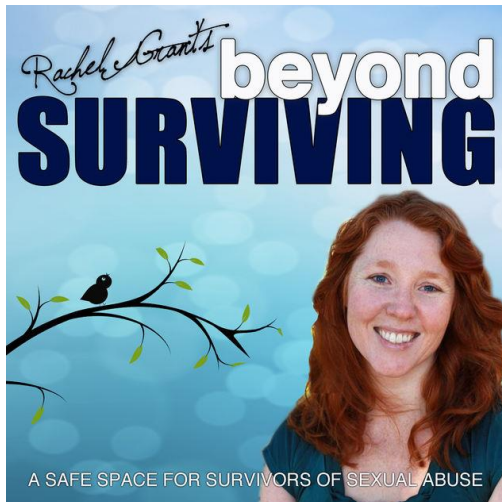


[The Unthinkable Happened To A Mom And Her Daughter. 25 Years Later, She's Still Fighting.](#)

aplus.com

To many, this mother's story is beyond belief.

"Prosecuted But Not Silenced": Courtroom Reform for Sexually Abused Children and Women in Domestic Violence Relationships from Beyond Surviving with Rachel Grant in Podcasts. <https://itunes.apple.com/us/podcast/beyond-surviving-with-rachel-grant/id876092316?mt=2&i=1000384188359>



[Beyond Surviving with Rachel Grant by Rachel Grant on ...](#)

itunes.apple.com

Download past episodes or subscribe to future episodes of Beyond Surviving with Rachel Grant by Rachel Grant for free.

<http://reveal.thepixelproject.net/2016/05/the-survivor-stories-project-2016-maralee-mclean60-usa/>



[THE SURVIVOR STORIES PROJECT 2016: Maralee McLean, 60, USA ...](#)

reveal.thepixelproject.net

The Pixel Project is proud to present our third annual Survivor Stories Blog Interview Project in honour of Mother's Day 2016. The annual campaign runs throughout the month of May 2016 and features an interview per day with a survivor of any form of violence against women (VAW) including domestic violence, rape, sexual assault, female genital ...

<http://www.unprotected.tv/experts.html> T.V.
Experts <http://www.unprotected.tv/experts.html>

EXPERTS

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These experts and organizations have a deep knowledge on the damage the children are going thru due to the lack of proper judicial system and due to the lack of proper protection from abusive...

EXPERTS

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These experts and organizations have a deep knowledge on the damage the children are going thru due to the lack of proper judicial system and due to the lack of proper protection from abusive...

<http://voicemalemagazine.org/hillary-clinton-and-the-quincy-solution-to-prevent-domestic-violence/>

T.V. Experts:

<http://www.unprotected.tv/experts.html> <http://www.unprotected.tv/experts.html>

Battered Mothers Conference me speaking 2018

<https://www.facebook.com/100002426528122/posts/1751609361596598?sfns=mo>

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Facebook: <https://www.facebook.com/Prosecuted.But.Not.Silenced/>

Twitter: <https://twitter.com/MaraleeMcLean>

LinkedIn: <https://www.linkedin.com/in/maralee-mclean-717a0b1/>

Instagram: <https://www.instagram.com/maraleemclean/>

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REYNOLDS

<https://www.facebook.com/1537163639/posts/10218731139379742?sfns=mo>

Prosecuted But Not Silenced with Maralee McLean

Friday, March 9th at 8PM ET/5PM PT

Maralee Mclean is a child advocate, protective parent, domestic violence expert, professional speaker, and author. Maralee has written several articles for the ABA Child Law Journal, Women's E-New and other publications on the problems of family courts not protecting abused children. Maralee is with Women's Media Center (WMC), SheSourceExpert, NPEIV (National Partnership to End Interpersonal Violence) and is with RAINN speaker bureau, APB Speakers. She presents at conferences, law schools and is a spokesperson for protective mothers. www.maraleemclean.com

<http://www.mariannepestana.com/momentswithmarianne/>



[Moments with Marianne | Marianne Pestana](#)

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In a single moment your life can change! "Moments with Marianne" is a transformative hour that covers an endless array of topics with the 'best of the best.' Her guests are leaders in their fields, ranging from inspirational authors, top industry leaders, business and spiritual entrepreneurs.

<https://speakerpedia.com/speakers/maralee-mclean>

<http://reveal.thepixelproject.net/2016/05/the-survivor-stories-project-2016-maralee-mclean60-usa/>

podcast Listen to "Prosecuted But Not Silenced": Courtroom Reform for Sexually Abused Children and Women in Domestic Violence Relationships from Beyond Surviving with Rachel Grant in Podcasts. <https://itunes.apple.com/us/podcast/beyond-surviving-with-rachel-grant/id876092316?mt=2&i=1000384188359>

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Blog 2017 -

Dignity <http://www.proquest.com/blog/mfl/2017/Dignity.html><http://www.proquest.com/blog/mfl/2017/Dignity.htm>

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[Chuck & Julie - Nov 3rd 2017 - Hr 2 - podbean.com](#)

www.podbean.com

Maralee Mclean joins Chuck & Julie to talk about family court and raise awareness to a loophole in the justice system.

<https://www.podbean.com/site/EpisodeDownload/PB7A28D1R4DNX>

<https://phyllis-chesler.com/articles/the-heroic-mothers-of-lost-children>

[Hillary Clinton and the "Quincy Solution" to Prevent ...](#)

voicemalemagazine.org

By Barry Goldstein and Maralee McLean An innovative community antiviolence program that has helped communities, including Quincy, MA., Nashville, TN., and San Diego ...

<http://voicemalemagazine.org/hillary-clinton-and-the-quincy-solution-to-prevent-domestic-violence/>

<http://fightback.foundation/wp-content/uploads/2018/01/JustUS-for-Kids-Pilot.pdf>

<https://www.women4justice.com/single-post/2017/09/02/WHATS-GOING-ON-IN-OUR-FAMILY-COURTS>

[Women's Justice Foundation | Washington, DC | Pro Bono ...](#)

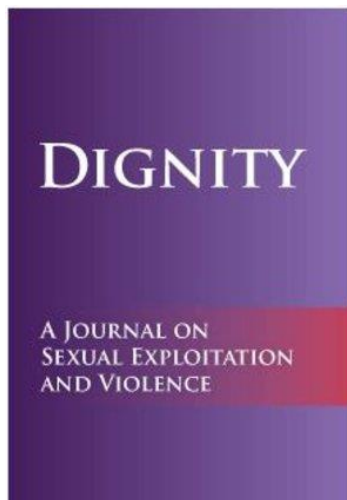
www.women4justice.com

Women's Truth & Justice Foundation provides pro bono legal counsel for women in domestic legal proceedings and custody battles in the Washington DC Metro area.

Under the law of the father (Interview of Maralee McLean) – Révolution Féministe

MM

Maralee McLean



Blog 2017 - Dignity - ProQuest

www.proquest.com

Reviewed by: Cheryl LaGuardia, Research Librarian, Widener Library, Harvard University Beginning in 2016, Dignity: A Journal on Sexual Exploitation and Violence is a ...

<http://www.proquest.com/blog/mfl/2017/Dignity.html>

<https://www.domesticshelters.org/articles/true-survivor-stories/survivor-story-maralee-mclean>

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<https://www.apbspeakers.com/speaker/maralee-mclean/>



[Under the law of the father \(Interview of Maralee McLean ...\)](#)

revolutionfeministe.wordpress.com

Under the law of the father
Interview of Maralee McLean By
Francine Sporenda MARALEE
MCLEAN is a child advocate,
protective parent, domestic
violence expert ...

Sent from my iPhone



Courts Must Open Eyes and Ears to Abused Children | Women ...

womensenews.org

My story is a case study of what is happening in many courtrooms where good mothers are having their children taken from their arms and handed over to their abusers.

Attach article ABA Law Journal good article

Attach NPEIV article

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Family Court and the Catholic Church: Shattering the Last Taboos for Institutions That Fail our Children

August 28, 2018 by [Maralee Mclean](#) | [2 Comments](#)

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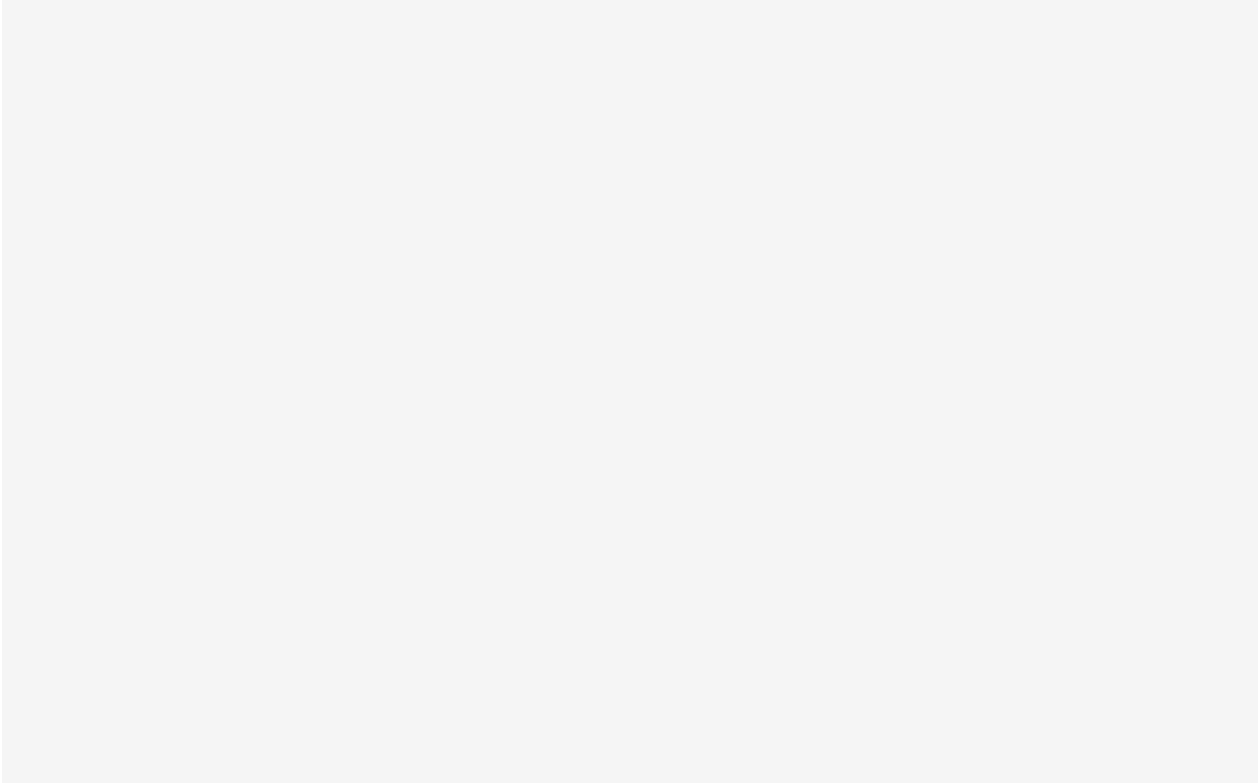
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It is not the boogie man behind the bush or the stranger on the street. Most sexually abused children are abused by someone they know that are close to them—90 percent.

The damage being done due to the sexual abuse of children today and yesterday is overwhelming, and the statistics are off the charts. One in 10 children will be sexually abused before their eighteenth birthday; survivors can attest to the pain and trauma that lasts them a lifetime. The health cost to our society is in the billions of dollars annually—and we know today that drug addiction, PTSD, alcoholism, anxiety, depression, suicide and many other subsequent traumas can be the result of abuse as a child.

Yet the most egregious injustices against child sex abuse survivors happen each day in family courts.

<https://drive.google.com/file/d/1w4FjnyZurpkF39tVkJPBNNbWpQ9qiF9M/view>



The Appellate Division Courthouse of New York State, which hosts appeals from the Family Court in New York and Bronx Counties. (Wally Gobetz / Creative Commons)

According to the Leadership Council, 58,000 children a year are taken from a nurturing parent and forced to live with their abuser. Every day in the U.S., protective parents—the vast majority being women—find themselves on trial for attempting to defend their abused children. They go to court in good faith, then are blindsided by a court system lacking in training and awareness of the depth and breadth of incest. Most states rely on the “Best Interest of the Child Statute,” which means the parent that is able to nurture the relationship with the other parent is the parent, supposedly in the child’s best interest, to take on its care. Too often, this means that a father’s parental rights supersede a child’s right to be free from molestation and a mother’s right to protect them.

In our civilized society, we have laws against molesting children, but there exists a “national double standard” that tolerates a parent who sexually molests their own children. The secrecy and lack of accountability and transparency surrounding the Catholic church is very similar to the secrecy and lack of accountability found in that double standard within family courts.

Joan S. Meier, who has done extensive research, has found that child sexual allegations brought by mothers and children are almost never credited by the courts. “The data confirms that rates of mothers losing custody to allege abusers are at the highest when the mothers allege sexual abuse,” she explained to Ms. “The children do not have a break from their abuser as may have been plausible with the priest. These children are sentenced to a lifetime of abuse by the family courts and silenced. When will they have a grand jury?”

Courts, and the male-dominated church, refuse to believe that a father would abuse his own child; molestation in the church is seen as an individual affair, not a community matter. In both cases, abuse is thusly hidden away—judged to be a topic unfit for public scrutiny. Fox News reported that priests accused of child sex abuse have claimed that their constitutional rights to due process of the law are being violated. They feel accusations of abuse are detrimental to their reputations. But what about the rights of their victims?

Family court is a matter of exceptional public interest—just as the Catholic church is. Many of the abused children in court have disclosed their abuse numerous times to professionals, but the evidence of abuse is not allowed in court, or it is overlooked—just as the Bishops have done in cases of abuse perpetrated by priests. It is up to the judge’s discretion to admit or deny evidence, endangering the welfare of the children and creating an obstruction of justice.

Child abuse is a crime. Yet for too long, in both bodies, robed men in power have denied survivors justice and forced them into silence and isolation.

“With shame and repentance, we acknowledge as an ecclesial community that we were not where we should have been, that we did not act in a timely manner, realizing the magnitude and the gravity of the damage done to so many lives,” Pope Francis wrote recently in the New York Times. “We showed no care for the little ones: we abandoned them.”

His long-delayed acknowledgement of the church’s shortcomings represented a rare ray of hope for the thousands who have suffered child abuse in the church. Where is the hope for those little ones who have no protection in our family courts?

Maralee McLean is a child advocate, protective parent, domestic violence expert witness, professional speaker and author of *Prosecuted But Not Silenced: Courtroom Reform for Sexually Abused Children*. She has written several articles for the *ABA Child Law Journal*, *Women’s eNews* and other

publications and is a SheSourceExpert and member of the RAINN speakers bureau and All American Speakers. Maralee presents at conferences, law schools, legal conferences and women's rights conferences and is a spokesperson for protective mothers.

SENATE JUDICIARY COMMITTEE TESTIMONY OF KIMBERLY PHILLIPS ON HB21-1228

Colorado State Senate Committee of Reference
Senate Judiciary Committee
200 E Colfax Avenue
Denver, CO 80203

May 19, 2021

Committee Chair Sen. Lee,
Committee Vice-Chair, Sen. Gonzales
Committee Members, Sens. Cooke, Gardner, Rodriguez
Bill Sponsors Sen. Winter, Sen. Smallwood,

Good morning and Buenos Dias,

I would like to begin by thanking all of you for your public service representing your communities here today. Achieving public office is not an easy process and the many sacrifices made by you and your families are generally invisible. My thanks extends to your families and friends for sharing you with us.

My name is Kimberly Phillips. I am 52 years old. I live in Garfield County, in Senate District 8, represented by Sen. Bob Rankin. Garfield is an agricultural area, the 3rd largest producer of oil & gas in Colorado and dotted with small mountain communities which offer a wide spectrum of outdoor recreation options.

I come before you today simply as a Mom, with a young daughter, to tell you we are both trapped in Colorado's family court system, a toxic American version of Bleak House. I ask you to vote for HB 1228 today in hope that my daughter will not have to come here next year or in 2 years or 3 years to testify about the abuses she continued to suffer and the court professionals who continued not to listen or help her.

Becoming a Mom at 40 was utterly transformative. I describe my life in 2 epochs, before and after my daughter's birth. She and God turned on things I didn't know I had. I am a work in progress and she is my teacher.

My daughter is now 13. She is my one child, my heart, my joy. When I look into her eyes, I can see to forever, her infinite potential, what's possible. My daughter is a person in her own right, an individual with a mind, body, heart and soul that belong to her. She is the only grandchild and niece, treasured by Nana and Auntie.

It is very hard to speak with you about my daughter's sexual abuse, other abuses she's suffered. Over these 13 years, I've learned that each of you will hear my words through your own filters, and touch on your own experiences with abuse. I cannot overcome these things because they're yours; it is you who must in order to walk in my shoes. Please allow me to help inoculate you from the most toxic beliefs:

“Women lie about abuse”. “Mothers lie about abuse”. “Children lie about abuse”. “He said-she said”. “High conflict”. “Coach”. “Liar”. “She is only parroting her Mother”. “Courts favor Mothers”. “Mother is lying about abuse to gain custody”. “Crazy”. “Psycho”. “Hysterical”. “Why would Father have to take you to court if you’re a good Mom”.

“Coach” is terrible to endure. It is to say that I manipulated my daughter to make up her abuse. It cuts both of us to pieces. I’m painted as someone who would use my daughter in this way and paints her as a liar. My defense is “I’M NOT A COACH”, and a la Richard Nixon, do you not hear the opposite?

At least in here, with you, there is sunshine. Unlike a courtroom, where there is only isolation from transparency to “protect the child”.

In a courtroom, my daughter is “the child”, without a name or a voice. In a courtroom, I am reduced to “Petitioner” or “Respondent”. To paraphrase a philosophical question: If a Mom speaks in a courtroom, does anyone hear her? No.

My daughter has endured her life being determined through her father’s incessant legal actions, consecutive over the past 13 years ostensibly in her “best interests”. She has been separated from me for 18 months now, as we have been consigned to supervised visitation without access to a remedy.

What differentiates my case is the years of sexual abuse my daughter has endured. What differentiates my case is the years of coercive control, violence and isolation my daughter and I continue to endure to this day. Father’s intent and actions have been fully fueled by, enabled by, and perpetuated by the spectrum of family law/family court professionals inserted in our lives, including attorneys, judges, parental evaluators, police officers, human services staff as well as child therapists, pediatricians, school administrators.

However, it is the 3 CFI/PRE evaluations, in 2008, 2010 and 2018, filed for by Father, and the actions of the 2 judges on my case which have had the most profoundly harmful and most toxic effect on my daughter and me.

In 2008, Father filed to have Dr. Dana Cogan appointed CFI, then akin to a PRE. He and Sen. Ken _____crafted the statutory language we use now. Dr. Cogan understood the dangers Father presented and his intent to take my daughter from me. Father was afforded no overnights but increasing parenting time over 3 years. This was as safe as my daughter would ever be again. I became a target as my daughter was his property.

In 2009, Father hired a “Father’s rights” attorney, and filed to have Dr. Wendell Osorno appointed PRE. By 2010, Dr. Osorno was appointed and he began his evaluation by asking me “How many abortions have you had”? Dr. Osorno ignored all concerns about Father, and recommended my 2 yo daughter begin overnights and within 6 months have one week with me and one week with Father. By 2011, my daughter was 3 ½, she was separated from me every other week and I could not reach her. She began to come home with infected rashes all over her red, raw genitalia, which continued for the next two years.

Father filed more actions in 2011 and 2012. At trial in 2013, the judge decided to award Father majority parenting time and joint decision-making because she said I harmed my daughter's education because I took her to preschool late. My attorney would not bring in my daughter's medical records about her genital infections.

In late October 2013, my daughter was 5 when she told me about her being sexually abused. I reported it. She was interviewed by a child psychologist forensically trained in child abuse and sexual abuse. An investigation was opened by HHS, and 6 weeks later ended with "inconclusive". My daughter continued to live with her abuser, about whom she had disclosed sexual abuse.

In 2014, Father filed again to take more parenting time. I filed for a PRE, but a team of 3, a man-woman team of child psychologists who worked with a therapist who had training and experience with the dynamics of coercive control, domestic violence, child abuse and child sexual abuse. The judge denied my motion as "untimely". After my trial, the judge found I harmed my daughter by bringing her to kindergarten late and separated us further, reducing our time to 2 nights a week.

In May 2015, my daughter was 7 when she told me about more sexual abuse, including being photographed naked. I reported it. She was sick all the time, enduring problems with peeing in her pants, a regressive behavior and impacted feces as she did not want to poop. Her father would not take her for medical care. She was interviewed by a child psychologist forensically trained in child abuse and sexual abuse. An investigation was opened by police and HHA. The newly minted detective on the case did not collect evidence, confiscate computers or phones. I was treated with such scrutiny by the detective who thought I had something to gain that I asked for a lie detector test. By September 2015, the detective decided there was no evidence of sexual abuse. HHS was unsure, reporting "inconclusive". Again my daughter had to continue to live with her abuser.

It was so horrifying for my daughter and for me. I began to refuse to turn my daughter over to her father. I would hold onto her until I could get her to her Dr., get her the medication and rest she needed. Then I would have to return her. She did not understand why.

In 2016 Father filed a motion to eliminate my daughter's overnights with me, to have sole decision-making, and contempt of court for taking his parenting time. Father wanted me punished with jail time. At trial, the judge learned about all my daughter's medical issues but not her disclosure as my attorney did not want to bring it in. The judge did not find Father had made a case for endangerment, and he could not take the 4-6 nights a month remaining to me and my daughter. The judge wanted to jail me for disobeying his order and not returning my daughter, 1 night in jail for every night denied Father. Father's attorney had misfiled the contempt of court motion on a technicality, I wasn't jailed.

In 2017, my daughter told me about a horrifying night of abuse. She was very ill by the time I saw her. I took her to her Dr., and it took two weeks for her to get better during which I kept her with me. I filed an emergency motion with the court to restrict Father's parenting time and he filed to eliminate my parenting time, for sole decision-making, that I was endangering my daughter. The judge denied my motion saying I was teaching my daughter to fear her father; he suspended my parenting time pending an investigation for endangerment. The mental health professional appointed to supervise a visit with

my daughter to evaluate me told the court I was a sophisticated parent and did not endanger my daughter. The judge let stand his order, my daughter and I continued to see each other only 4 to 6 times in a month.

Later in 2017, Father filed again for sole decision-making and to further reduce my daughter's time with me to once a week. Another PRE was proposed, I again asked for a man-woman team of psychologists with experts in child abuse, child sexual abuse and experience with the dynamics of coercive control/IPV/DV. The judge chose Father's evaluator as he was cheaper and Father would be paying the lion's share of the evaluation. The PRE diagnosed me as having a personality disorder, that my daughter wasn't abused as I had projected my childhood trauma onto her, and I was a danger to my daughter.

At trial, September 18, 2019, relying solely on the PRE report, without deliberation, the judge accepted all the recommendations by the PRE. The judge stated the PRE was the only expert he had heard at trial. Indeed, I was pro se and did not know how to bring in experts for my defense. The judge believed I had a mental illness because I had not obeyed his order and I was endangering my daughter. That day, he separated my daughter from me and forced us into supervised visitation: 2 hours a day, 2x a week, with no phone/other contact. That was 18 months ago, and we are still without remedy.

My daughter would have been made safe if her disclosures of sexual abuse were heard. Instead, the message to her is clear. She told me, "Mommy, if I tell you about what happens to me, and you try to do something about it, it is so much worse for me" and "You never win in court, Mommy". My daughter is being punished for having the courage to speak up for herself. She told her Mom, and her Mom was taken away.

If I was heard when reporting my daughter's disclosures, I would have been able to make my daughter safe. If those to whom I turned for help had the right combination of training, expertise, experience, they would not have interfered with my making my daughter safe. Instead, I'm a muted witness.

Father is the root of the problem, and he knows all he need do is take me to court. He refuses to bring my daughter to visitation regularly. She and I may see each other for 2 hours in a month, and not again for two months.

HB21-1228 gets at a critical remedy. I implore all of you to pass this bill unanimously today. Please help me help my daughter. This bill could make a difference in her life, NOW. Thousands of other children around Colorado could similarly benefit NOW.

Thank you for your time and attention.

Sincerely,

Kimberly Phillips

Judge Roberto Ramirez

Judge Ramirez continuously bullied me by finding fault with the ambiguous court order that he issued for drug tests, which I submitted according to the order, to continue making me do multiple drug tests. He ordered 3 hair follicle drug tests, 42 hair panels, within a 3-month period, when I have never had any history of alcohol, substance abuse or criminal background. He sided with opposing counsel's false allegations about drug abuse to drag out the case to keep my kids from me. He also violated and deprived me of my ADA rights by misconstruing ADHD diagnosis as substance abuse.

Judge Ramirez also signed off on an illegal document, notarized by ex-husband's girlfriend, Stipulation to Modify Permanent Orders, without holding a hearing, which left me and my children homeless.

Judge Ramirez also refused to address numerous fraudulent financial issues, that I presented, that were committed by my ex-husband, Bobby Jr. and his father, Bobby Sr., during the divorce proceedings. He excused my witness, Custodian of Records for Vectra Bank of Colorado, without any explanation, that would have testified regarding the company finances and ownership. He accepted perjured testimony as true, regarding Company ownership. Judge Ramirez continuously sabotaged my efforts to have a fair hearing by gaslighting my facts. Judge Ramirez chose to engage in the removal of my children without meeting any standards of law, but through the wrongful use of actual and threatened force under Color Of Law.

Judge Ramirez ordered that I seek employment of 40 hrs. a week, without considering the fact I was a stay home mom for 12 years, taking care of the children, specifically, one child with a complexity of disabilities, who required around the clock care.

Judge Caryn Datz

Judge Datz concluded that I had not demonstrated sobriety to the Court, even after three (3) documented negative hair follicle tests. A clear-cut case of abuse of discretion and harassment, and yet, ordered an additional, fourth 12-panel drug test. She stated that based on evidence, mother knew, or reasonably should have known, that her actions and defense were substantially vexatious. The court finds that mother repeatedly failed to comply with procedures and court rules, and that her actions were interposed for delay and harassment. She then ordered me to comply with Abduction Prevention, to include completion of an educational program regarding the harmful effects of abduction on children, even though the abduction allegations were false, as me and the children were at a domestic violence shelter, which she, as well as James Hoysick, CFI, were well aware of. As no such program can be found, it was impossible for me to fulfill that order. I filed a Motion to the Court to grant and appoint an Independent MD; or other Certified Specialist to read both MRO and Raw Test Drug Results. She denied the motion. It is obvious that the Court made it impossible for me to defend myself regarding the false allegations of substance abuse. Judge Datz found by a preponderance of the evidence that Father committed domestic violence against Mother. However, Judge Datz

downplayed all domestic violence by proxy and spousal abuse in her final orders regarding my case. Judge Datz only supported testimony, by so-called credible witnesses, that were friends, or in some way connected with my ex-husband. I provided evidence that clearly showed that the Court's findings were totally inaccurate. Judge Datz overlooked the fact that James Hoysick, CFI, failed to interview or contact any of the witness contacts that I provided him. Judge Datz only based her conclusions on the so-called, credible witnesses that were provided by Defendant Sisneros.

Judge Datz concurred with the CFI that mother's behaviors are suggestive of an underlying and undiagnosed mental health or substance abuse problem. The Court is aware that Defendant Hoysick, CFI, is not qualified to make such a damaging statement, as he does not hold MD or PHD degrees.

Judge Datz found that Mother's unemployment is not the result of legitimate care of a disabled child, as the evidence does not support David is in fact disabled. These findings contradict Judge Quick's findings, who presided over the Permanent Custody hearing, where qualified expert witnesses, testified to validate David's medical condition and disabilities, as well as documented statements from the State of Colorado doctors which I do have.

Judge Datz found, additionally, that given the established concerns for substance abuse and mental illness, the Court is not persuaded that Mother could immediately obtain gainful employment as a dental assistant. Judge Datz is again disparaging me as substance abuser, with mental illness concerns that were never proven or established. Belittling me is another instance abuse of discretion.

James Hoysick, CFI

In his CFI Report, James Hoysick presented extremely biased analysis and recommendations to the Adams County District Court. James Hoysick, CFI, presented some of the facts that were in fact false while he presented other facts in an extremely favorable light to my ex-husband, Bobby Sisneros, in an obviously biased fashion. Some of this conduct includes, but is not limited to the following:

During a hearing in the Adams County District Court regarding the CFI report, James Hoysick appeared as a witness. He falsely asserted to the Adams County District Court that I exhibited indications that I had a substance abuse problem, particularly with Methamphetamine. The evidence that James Hoysick relied upon to make this assertion was an erroneous interpretation of a hair follicle test that neglected to consider my prescriptions. James Hoysick intentionally and/or recklessly made this inaccurate representation to the Adams County District Court.

James Hoysick stated: "In contrast to Mr. Sisneros, Ms. Trujillo completed none of the undersigned's requests and had no documentation prepared." This statement was

patently false. I completed all of the paperwork James Hoysick directed me to complete and I also offered additional documentation.

James Hoysick intentionally and/or recklessly falsely reported that Children had 70 tardies/absences from school while in my physical custody. This fact was false in that the Children's actual missed days totaled 8.

James Hoysick stated that my ex-husband, Bobby Sisneros ceased my son David Sisneros' administration of Adderall and Clonazepam which, according to Bobby Sisneros, created a significant improvement in my son, David Sisneros' mood in behavior. James Hoysick recklessly and improperly made this assertion without contacting David Sisneros' doctor who wrote said prescriptions, which Defendant Hoysick was required to do, but never did.

James Hoysick failed to include a statement of my ex-husband, Bobby Sisneros to my daughter, Leah Sisneros, where Bobby Sisneros told Leah Sisneros "to commit suicide as I didn't raise quitters," or words to that effect. Leah Sisneros subsequently attempted suicide. This omission shows James Hoysick's actual and implied bias against myself.

James Hoysick deliberately downplayed my ex-husband's domestic violence conviction. James Hoysick's failure to address the intoxication aspect of the domestic violence contradicts James Hoysick's reported statement of Defendant Sisneros stating, "Tomorrow I will have six years of sobriety from alcohol." especially in light of the fact that the domestic violence incidents occurred within that six-year time period. James Hoysick failed to include in his report, a charge of child abuse against Bobby Sisneros' Sr., my ex-husband's father, where he ultimately entered a plea bargain on a different charge.

James Hoysick failed to include in his report, my ex-husband's CBI report which included numerous charges including the following: Resisting Arrest, Obstruct Police Interference, Public Peace, Assault Threats, Driving Under the Influence (DWA), and Assault 3rd Degree DV.

James Hoysick also failed to report an Erie Police Report dated January 15, 2019, wherein Defendant Sisneros was stalking Plaintiff. James Hoysick also failed to report an incident where Children's Hospital reported neglect of David Sisneros while David Sisneros was in father's custody.

In his CFI Report, James Hoysick stated during his summary of his observations of myself, "Although inattention is a major feature of ADHD and may present in individuals as difficulty remaining focused during a conversation, Ms. Trujillo demonstrated some behavior far more pervasive than difficulty concentrating and the undersigned as able to identify the pattern of behavior observed from experience working intensive services. Individuals with acute stimulant intoxication may present with rambling speech, transient ideas of reference, and paranoid ideation. Additionally, the undersigned immediately noticed pupillary dilation and psychomotor agitation when Ms. Trujillo entered the office but the undersigned originally attributed these features to anxiety. Furthermore, there was

an element of grandiosity, particularly when discussion of her advocacy in the family court system though it was veiled being some tactic which the undersigned suspects Ms. Trujillo uses to seek validation such as by apologizing when there is no need to apologize. In this statement, James Hoysick is stating expert opinions for which he does not possess the requisite certification. Additionally, this statement shows James Hoysick's actual and implied bias against Plaintiff.

James Hoysick, CFI, states: "All credible sources of information report a significant change in Ms. Trujillo's personality and rapid deterioration of her mental health." In this statement, James Hoysick is stating expert opinions for which he does not possess the requisite certification. Again, this statement shows Defendant Hoysick's actual and implied bias against me.

James Hoysick states: "Severe parental alienation, questionable use of psychiatric medicine, over-stating David's level of dysfunction and seeking more serious diagnoses, and introducing a dangerous third party with a history of imposing his own interests over the well-being of other are among the top concerns in this case that appear to stem from Ms. Trujillo's mental instability and raise the question as to whether Ms. Trujillo is interested in the best interests of the children or if her interest is at least on an unconscious level actively trying to ensure that some terrible tragedy befalls on or both of her children." In this statement, James Hoysick is stating expert opinions for which he does not possess the requisite certification. Additionally, this statement shows James Hoysick's actual and implied bias against me.

James Hoysick stated during his summary of Leah Sisneros' interview: "Although she claimed to overhear her father talk about the case, she used the same language as her mother, even repeating allegations stated in her mother's pleading filed with the Court. She even opines about the judges aligned with her mother's opinions." This statement shows James Hoysick's actual and implied bias against me.

In his CFI Report, James Hoysick stated the following regarding Dr. Markland, my son's doctor, "Mr. Sisneros's resentment towards Dr. Markland is likely misdirected as he is likely just doing his job and trying to be helpful, but Ms. Trujillo is providing false information." In this statement, James Hoysick is providing facts that are not discovered in his investigation and demonstrating actual and implied bias against myself.

James Hoysick, CFI, falsely asserted to the Adams County District Court that I was cohabitating with a convicted sexual offender, which was patently false. James Hoysick also stated to the court that I, was attempting to create a tragedy in my family's lives to gain recognition, a statement that was patently false and/or made with reckless disregard to its falsity. The above-captioned individuals conduct was known by the above-captioned individuals to clearly violate established statutory or Constitutional rights of myself which a reasonable person would have known. All the above-captioned individuals deprived me of my civil right to familial association without due process of law by intentionally and/or deliberately and/or maliciously engaging in conduct that deprived me of my Constitutional right to familial association by depriving Children from my physical custody.

Some of this conduct involved, but is not limited to, all or some of the above-captioned individuals engaging, and/or conspiring to engage, in conduct which involved presenting and/or offering and/or testifying and/or asserting facts that were patently false and were known by the above-captioned individuals to be so false and/or made with reckless disregard to the Adams County District Court of Colorado. As a direct, immediate, and proximate result of the above-captioned individual's conduct, I lost my familial association with my Children. The actions of the above-captioned individuals described herein, while acting under color of state law, conspired to intentionally deprive me of the securities, rights, privileges, liberties, and immunities secured by the Constitution of the United States of America, including, but not limited to, deprivation of familial association without due process of law, as guaranteed by the Fourteenth Amendment of the Constitution of the United States of America. All the above-captioned individuals agreed in some manner with one another to do an act that deprived me of my familial association without due process of law. All or some of the above-captioned individuals deprived me of my civil right to familial association without due process of law by intentionally and/or deliberately and/or maliciously engaging in conduct that deprived me of my Constitutional right to familial association by depriving my Children from my physical custody.

Some of this conduct involved, but is not limited to, all or some of the above-captioned individuals engaging, and/or conspiring to engage, in conduct which involved presenting and/or offering and/or testifying and/or asserting facts that were patently false and were known by the above-captioned individuals to be so false and/or made with reckless disregard to the Adams County District Court of Colorado.

Judge Ramirez & Judge Datz have demonstrated their inability to uphold the law, to the extreme of allowing misrepresenting false statement of facts, fraud, identity theft, tax evasion, and financial crimes committed not only against me, but against multiple government agencies, including Adams County and the IRS.

When you abuse the powers that you are given, in order to offend the very object which affords you your powers, you become an enemy of that object and its wrath is unavoidable. Extortion, fraud, conspiracy, obstruction of justice... are all criminal acts and criminals should not be sitting in judgment of other criminals. If you want to represent the law, you must hold yourself to a higher standard, you cannot break the law to enforce the law.

Due to the lack of competency by the CFI to do the report he is not qualified to do, and judges who ignored evidence of abuse, my children and me have suffered injustice at the highest level and will be living the trauma for a lifetime.

Based on the prolonged cruel and unjust treatment, especially through the exercise of authority, my case for Constitutional Civil Rights violations by multiple government officials is being reviewed by the Federal Court.

To: Public & Behavioral Health & Human Services

From: Shannon Tyson-Poletti, M.D.

April 6, 2021

Chairman Lee and members of the committees,

Thank you for reading my testimony today in favor of HB 21-1228.

I am a mother and a psychiatrist who has personal and professional experience of the problems in Family Court.

In the Colorado Family Court system, I have witnessed science, logic, and constitutional rights being suspended. This has not only been my experience but the experience of dozens of women I have spoken with over the years.

In June 2009, I noticed bruising in the form of fingers on my 11-year-old son's arm. He told me his father had yanked him out of the pool by his arm. I came to learn that while "teaching our son how to swim," my ex-husband yanked him out of the pool by his arm several times, punched him in the stomach multiple times, pushed him against the side of the pool twice and held his head underwater repeatedly, and while holding his head under water, told our son he was going to drown him. Our son later told me he thought he was going to die that day.

As a psychiatrist, I was mandated to report the abuse to Colorado Department of Human Services Division (DHS). DHS founded the case of child abuse.

In my psychiatric training I was never taught about Parental Alienation nor did most of my colleagues know about this theory that apparently only exists in family court. A theory not recognized by the American Psychiatric or American Psychological Associations. I learned that this is the predominant theory in Family Court. The primary factor in making custody determinations is often the promotion of the relationship with the other parent. This is given a higher priority than a child physical safety. In Family Court, a parent alienating a child from the other parent is often considered a worse offense than sexually or physically abusing a child or exposing a child to domestic violence. This notion is nonsensical. And yet, studies have shown that when a protective parent reports child abuse in family court and the other parent counter claims the protective parent is alienating the child, the abusive parent is most often granted unsupervised partial or full custody.

The Family Court personnel I dealt with did not know the literature on the effects of Adverse Childhood Experiences on physical and mental health. They did not know the literature on the neurobiology of childhood trauma and how it can cause permanent changes to a child's brain. They did not know that 1/3 of children involved in the juvenile justice system have been maltreated. They did not know that removing a child from this abusive environment improves a child's resiliency. They were not up to date on the domestic violence literature.

Both the PRE and CFI minimized the child abuse in their reports. Our CFI recommended I have 70% parenting time and our PRE recommended 50/50 parenting time. Our PRE believed she could predict the future and that angels and aliens gave her messages through other people. If someone expressed these

beliefs in my clinical practice, I would consider this to be delusional and assess for psychosis. Our PRE performed psychological tests on my ex-husband and I, even though this was beyond her scope of practice as a Licensed Marriage and Family Therapist. She misrepresented the testing results in her report to pathologize my normal findings and minimized my ex-husband's pathology. There are no studies showing any correlation between the outcome of general psychological testing and parenting skills. Not being properly trained, the CFI and PRE were unable to recognize the significant manipulation of our children by my ex-husband.

Trained Child Forensic Interviewers go through extensive training and supervision to learn to evaluate child abuse. CFI's and PRE's are not trained in child forensic interviewing. PRE's are not required to have any specific training on child abuse and domestic violence, they only are required to have a license to practice in any area of Mental Health in Colorado.

Additionally, my judge did not follow the rules of evidence. The first thing the judge said was he had reviewed all the reports we were not allowed to discuss the child abuse in this hearing on child custody. He later called my ex and I in front of him and stated, "If the two of you don't settle this I will." Then I recalled him looking at me and stating, "and you won't like it." I took this threat seriously thinking that I risked losing full custody if I did not settle and stipulated to 50/50 custody.

My best parenting 50% of the time could not overcome the abuse during the other 50% of their lives. My children became statistics. They have suffered profound consequences of child abuse including depression, anxiety, legal involvement, drug use, and involvement in abusive relationships. At one point or another they have all been suicidal.

Children's safety must be the first priority in Family Court. My children should have been spared these consequences. They could have been spared these outcomes if Family Court personnel had been properly trained, the judge had followed the rules of evidence, and I had a way to report my concerns about the PRE. I urge you to vote to protect children. I urge to vote in favor of HB 21-1228.

Thank you for your careful attention of this matter.

Sincerely,

Shannon Tyson-Poletti, M.D.

My name is Nancy Fingerhood. I work with many women within Colorado to help them navigate the family court system and provide support as they are forced to co-parent with their abusers and perpetrators of child abuse. I am writing to support this bill because the safety of the child must be the primary decision making factor when determining the allocation of parental responsibilities and parenting time.

In the realm of family court, the act of protecting a child is often interpreted as creating conflict. With judges and other powerful people subjecting victims to harsh ramifications if they speak out about abuse, many parents accept 50/50 parenting time rather than lose all custody to the abuser. The agonizing decision of shared parenting or nothing is forced upon countless mothers victimized by the former partners and the family court system. As one woman whose child was being physically abused by her ex husband told me, "I felt I had to settle for the custody plan my ex-husband wanted or risk losing full custody." An estimated 58,000 children a year are ordered into unsupervised contact with physically or sexually abusive parents.

This bill is NOT redundant. We need to MANDATE domestic abuse and child abuse training. It is not mandated in Colorado.

Personally, I endured coercive control, legal and financial abuse in family court and my daughter suffered psychological abuse from her father until his death by suicide recently. Years ago, when we had a CFI, he did not believe me when I told him her father had anger and control issues. I thought the CFI and family court would help our situation. I thought I would be believed. Perhaps if the CFI had been required to take evidence based training in domestic abuse and child abuse I would have been.

According to the American Psychological Association, abusive fathers file for sole custody more often than fathers who have no history of domestic violence. Since 99 percent of domestic violence victims also face some form of financial abuse, abusers tend to have more money and thus more access to legal resources than the women fleeing their abuse. That gives them an advantage in the courts that makes them just as likely, or even more likely, to gain custody.

Shockingly, Colorado requires no minimum amount of education in the area of intimate partner violence for CFIs during their 40 hours of training. In 2019, CFI trainees received 1 hour and 45 minutes on the topic of IPV and the number of hours varies from year to year. Yet, in a research project consisting of self-administered anonymous surveys of child custody evaluators in Colorado, an employee of the Colorado Department of Human Services, found that 93% of the respondents had encountered cases with IPV. She found that prospective CFIs get their information on IPV through literature reviews, podcasts, online training, books or articles - none of which is standardized or with any oversight. One clinician told me during her initial CFI training, "At one point an attendee asked a judge about parental substance abuse and the judge replied that a parent may have done heroin an hour or so before visitation but it didn't matter as long as he or she wasn't high and wasn't doing it in front of the child. I was floored."

With no minimum or standardized education during initial training, CFIs are expected to handle complex issues related to domestic violence and child abuse, and it is up to them to admit to a judge or magistrate if they feel the issues in a case are beyond the scope of their competency. In Ms. Arredondo's survey, almost 75% of CFIs never returned a case back to the court. In fact, without standardized training are they able to recognize when something is outside of their skill set? Even if they are, since both CFIs and PREs are private contractors that often rely on these cases for their income, would they be willing to say to a judge they cannot adequately assess an IPV allegation? They may also be hesitant to risk negatively impacting their reputations.

While the goal of examining parental conflict and how it relates to minor children is worthy, the outcomes from their reports have harmed countless numbers of children. When an abused parent speaks to an evaluator who doesn't understand the impact of the trauma, the parent can come across as unorganized and unreasonably hysterical about the abuse. A mother who had a CFI on her case told me the CFI "actually wrote in the recommendation that it was my fault that I was getting abused because I wasn't being intimate with my ex." Another mother reported her CFI asked her "if you knew he was so bad, why did you keep having more kids with him?" She also put in her report that the mother, who alleges her ex abuses her children, should not be taken seriously if she ever brings up sexual abuse allegations regarding her kids because she has childhood trauma.

Attorneys are aware of the biases and inequities in these reports as well. A mother I spoke to told me, "I feel like she (the CFI) blew some things out of proportion against me." When she asked her lawyer about this, her counsel indicated the evaluator was trying to balance the report. The perception is that if the evaluator finds flaws in both parents, they are less likely to be sued.

If a parent has a complaint about a CFI violating a standard of practice, they can go to the Office of the State Court Administrator. However, there is conflicting information on who has "jurisdiction" over PREs - the courts, the judge appointing the evaluator or the Department of Regulatory Affairs (DORA).

Intensive education on domestic abuse including coercive control should be required for all court personnel involved in making decisions or recommendations for children within the family court. Many court personnel do not understand the impact that domestic violence has on children, even if the abusive acts are directed only at the adult partner. "It is estimated that over 15.5 million children in the U.S. are exposed annually to adult intimate partner violence (IPV) at home, with young children making up the majority of exposed youth among families who seek police involvement for IPV. These can include physical outcomes such as poor physical health and substance use, as well as adverse mental health outcomes like anxiety, depression, and post-traumatic stress symptoms."

Education in the ACE or adverse childhood experience study is crucial for all court personnel.

The ACE study looked at three categories of adverse experience: childhood abuse, which included emotional, physical, and sexual abuse; neglect, including both physical and emotional neglect; and household challenges, which included growing up in a household where there was substance abuse, mental illness, violent treatment of a mother or stepmother, parental separation/divorce or had an incarcerated household member. This is evidence based research that tells court professionals that exposure to domestic violence and child abuse will reduce children's life expectancy and cause them to suffer a lifetime of health and social problems.

It is vital that family court judges and magistrates review ALL evidence admitted in custody hearings if they are following the Colorado Rules of Evidence. Many mothers I have spoken to have told me their evidence of abuse is ignored. Yes, proof of abuse is thrown out. This bill would ensure that pertinent evidence in the case is taken into consideration upon allocation of parental responsibilities and parenting time.

Can we continue to allow those involved in making decisions for our children without an adequate understanding of child abuse to have input on domestic relations cases? Can we continue to allow judges and magistrates to throw out admissible evidence of abuse? I pray you agree with me that we cannot continue to allow this. Please support HB 1228. Thank you.

Understanding the Batterer in Custody and Visitation Disputes

Article Link: <https://lundybancroft.com/articles/understanding-the-batterer-in-custody-and-visitation-disputes/>

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A sophisticated understanding of the mind of the abuser, his style as a parent, and of the tactics that he most commonly employs during separation and divorce, are essential to anyone making custody recommendations or working to design visitation plans that are safe for the children and their mother. Contrary to popular belief, children of batterers can be at just as much risk psychologically, sexually, and even physically after the couple splits up as they were when the family was still together. In fact, many children experience the most damaging victimization from the abuser at this point. A genuine batterer can be convincingly play the part of a man who has been unfairly accused, and batterers who will be a grave risk to their children during unsupervised visitation can be hard to separate from those who can visit safely. The insights and expertise of those service providers who have extensive experience working directly with abusers needs to be drawn from, and the level of contribution from victims themselves to policy design also needs to be greatly increased. Custody and visitation battles amidst allegations of domestic violence require policies and interveners (judges, mediators, and Guardians Ad Litem) based in the most detailed knowledge, experience, sensitivity, and integrity. The stakes for children are very high.

This article is drawn largely from the author's ten years of experience working as a counselor and supervisor in programs for abusive men, involving contact with some 1500 abusers, and hundreds of their victims, over that period. During the first few years of this period I worked almost exclusively with voluntary clients, and during the latter period

worked primarily with court-mandated ones. The characteristics of the clients changed remarkably little during that shift. In the late 1980's, professionals in batterer programs began paying particular attention to the behavior of clients with respect to probate processes, and we began asking victims more questions about the man's conduct with respect to visitation and custody. Since leaving direct work with batterers, I have served with increasing frequency as a custody evaluator (both as Guardian ad Litem and as Care and Protection Investigator), and have worked closely with child protective services.

I also have drawn from numerous published studies, several of which are listed in the back of this article. [I have chosen for reasons of ease to refer to the abuser as "he" and the victim as "she," but I am aware that there is a small percentage of cases of domestic violence to which this language does not apply.]

Profile of the Batterer

Generalizations about batterers have to be made with caution. Batterers come from all socioeconomic backgrounds and levels of education. They have the full range of personality types, from mild and mousy to loud and aggressive. They are difficult to profile psychologically; they frequently fare well in psychological testing, often better than their victims do. People outside of a batterer's immediate family do not generally perceive him as an abusive person, or even as an especially angry one. They are as likely to be very popular as they are to be "losers," and they may be visible in their communities for their professional success and for their civic involvement. Most friends, family, and associates in a batterer's life find it jarring when they hear what he has done, and may deny that he is capable of those acts.

The partner and children of a batterer will, however, experience generalizable characteristics, though he may conceal these aspects of his attitude and behavior when other people are present:

The batterer is controlling: he insists on having the last word in arguments and decision-making, he may control how the family's money is spent, and he may make rules for the victim about her movements and personal contacts, such as forbidding her to use the telephone or to see certain friends.

He is manipulative: he misleads people inside and outside of the family about his abusiveness, he twists arguments around to make other people feel at fault, and he turns into a sweet, sensitive person for extended periods of time when he feels that it is in his best interest to do so. His public image usually contrasts sharply with the private reality.

He is entitled: he considers himself to have special rights and privileges not applicable to other family members. He believes that his needs should be at the center of the family's agenda, and that everyone should focus on keeping him happy. He typically believes that it is his sole prerogative to determine when and how sexual relations will take place, and denies his partner the right to refuse (or to initiate) sex. He usually believes that housework

and childcare should be done for him, and that any contributions he makes to those efforts should earn him special appreciation and deference. He is highly demanding.

He is disrespectful: he considers his partner less competent, sensitive, and intelligent than he is, often treating her as though she were an inanimate object. He communicates his sense of superiority around the house in various ways.

The unifying principle is his attitude of ownership. The batterer believes that once you are in a committed relationship with him, you belong to him. This possessiveness in batterers is the reason why killings of battered women so commonly happen when victims are attempting to leave the relationship; a batterer does not believe that his partner has the right to end a relationship until he is ready to end it.

Most abusers do not express these beliefs explicitly: they are more likely to deny having them, or even to claim to have opposite convictions that are humane and egalitarian. An experienced batterers' counselor may have to spend several hours with the abuser before the underlying attitudes begin to show. These attitudes are generally evident to victims, however, who often feel frustrated at the batterer's ability to present a markedly different face to the outside world. This dual aspect to his personality also helps to keep the victim confused about what he is really like, and can contribute to her blaming herself for his abusive behaviors.

Spectrum of Violence and Other Forms of Abuse

The level of physical violence used by batterers is on a wide spectrum. Some use violence as much as a few times per month, while others do so once or twice a year or less. A significant proportion of batterers required to attend counseling because of a criminal conviction have been violent only one to five times in the history of their relationship, even by the victim's account. Nonetheless, the victims in these cases report that the violence has had serious effects on them and on their children, and that the accompanying pattern of controlling and disrespectful behaviors are serving to deny the rights of family members and are causing trauma.

Thus the nature of the pattern of cruelty, intimidation, and manipulation is the crucial factor in evaluating the level of abuse, not just the intensity and frequency of physical violence. In my decade of working with abusers, involving over a thousand cases, I have almost never encountered a client whose violence was not accompanied by a pattern of psychological abusiveness.

The Perceptual System of Men Who Batter

Because of the distorted perceptions that the abuser has of rights and responsibilities in relationships, he considers himself to be the victim. Acts of self-defense on the part of the battered woman or the children, or efforts they make to stand up for their rights, he defines as aggression against him. He is often highly skilled at twisting his descriptions of events to create the convincing impression that he has been victimized. He thus

accumulates grievances over the course of the relationship to the same extent that the victim does, which can lead professionals to decide that the members of the couple “abuse each other” and that the relationship has been “mutually hurtful.”

Although a percentage of batterers have psychological problems, the majority do not. They are often thought to have low self-esteem, high insecurity, dependent personalities, or other results from childhood wounds, but in fact batterers are a cross-section of the population with respect to their emotional make-up. Certain labels such as “control freak” or “self-centered” have the appearance of accuracy, but even these overlook the fact that the battering problem is very context-specific; in other words, most batterers do not have an inordinate need for control, but rather feel an inordinate right to control under family and partnership circumstances. Thus unlike other problems with violence, battering behavior is mostly driven by culture rather than by individual psychology. Many batterers are “in touch with” their feelings and skilled in the language of therapy and recovery, which throws evaluators off the track. They may use their childhoods and emotions as an excuse, to divert attention from their entitled and possessive attitudes.

Battering is a learned behavior, with its roots in attitudes and belief-systems that are reinforced by the batterer’s social world. The problem is specifically linked to how the abuser formulates the concepts of relationship and family; in other words, within those realms he believes in his right to have his needs come first, and to be in control of the conduct (and often even of the feelings) of others. A recent research study showed that two factors, the belief that battering is justified and the presence of peers who support abusiveness, are the single greatest predictors of which men will batter; these two had a considerably greater impact than whether or not the man was exposed to domestic violence as a child (Silverman and Williamson).

Each batterer has his own mix of controlling and entitlement. Some monitor every move their partners make like a prison guard, but at the same time are somewhat lower in entitlement, contributing more to housework and childcare than other batterers (though still less than non-batterers). Other batterers don’t control their partners freedom as severely, but become irate or violent when they are not fully catered to, or when victims remind them of responsibilities that they are shirking. The levels of manipulateness and overt disrespect also vary, so that each batterer has a particular style.

Because batterers are typically charming and persuasive, and are often kind and attentive early in relationships, he does not necessarily need to seek out a special kind of woman to victimize. Efforts to find common ground among battered women from the point of view of background or personality type have been largely unsuccessful (Hotelling and Sugarman), just as they have been with batterers. Service providers who assume that the victim must have had pre-existing problems of her own can make counterproductive interventions, as pathologizing of the victim can lead to re-injury.

Batterer's Style During Separation and Divorce

An abuser's desire for control often intensifies as he senses the relationship slipping away from him. He tends to focus on the debt he feels his victim owes him, and his outrage at her growing independence. (This dynamic is often misread as evidence that batterers have an inordinate "fear of abandonment.") He is likely to increase his level of intimidation and manipulation at this point; he may, for example, promise to change while simultaneously frightening his victim, including using threats to take custody of the children legally or by kidnapping.

Those abusers who accept the end of the relationship can still be dangerous to their victims and children, because of their determination to maintain control over their children and to punish their victims for perceived transgressions. They are also, as we will see later, much more likely than non-batterers to be abusive physically, sexually, and psychologically to their children.

The propensity of a batterer to see his partner as a personal possession commonly extends to his children, helping to explain the overlap between battering and child abuse. He tends, for example, to have an exaggerated reaction when his ex-partner begins a new relationship, refusing to accept that a new man is going to develop a bond with "his" children; this theme is a common one in batterer groups. He may threaten or attack the new partner, make unfounded accusations that the new partner is abusing the children, cut off child support, or file abruptly for custody in order to protect his sole province over his children.

Batterers' Advantages in Custody Disputes

A batterer who does file for custody will frequently win, as he has numerous advantages over his partner in custody litigation. These include:

- his typical ability to afford better representation (often while simultaneously insisting that he has no money with which to pay child support),
- his marked advantage over his victim in psychological testing, since she is the one who has been traumatized by the abuse,
- his ability to manipulate custody evaluators to be sympathetic to him, and
- his ability to manipulate and intimidate the children regarding their statements to the custody evaluator.

There is also evidence that gender bias in family courts works to the batterer's advantage. (Massachusetts Supreme Judicial Court Gender Bias Study) Even if the batterer does not win custody, his attempt can be among the most intimidating acts possible from the victim's perspective, and can lead to financial ruin for her and her children.

After a break-up, the abuser sometimes becomes quickly involved with a new partner whom he treats relatively well. Abusers are not out of control, and therefore can be on

“good” behavior for extended periods of time – even a year or two – if they consider it in their best interest to do so. The new partner may insist, based on her experience with him, that the man is wonderful to her, and that any problems reported from the previous relationship must have been fabricated, or must result from bad relationship dynamics for which the two parents are mutually responsible. The abuser can thus use his new partner to create the impression that he is not a risk.

Creation of a Positive Public Image

An abuser focuses on being charming and persuasive during a custody dispute, with an effect that can be highly misleading to Guardians ad Litem, court mediators, judges, police officers, therapists, family members, and friends. He can be skilled at discussing his hurt feelings and at characterizing the relationship as mutually destructive. He will often admit to some milder acts of violence, such as shoving or throwing things, in order to increase his own credibility and create the impression that the victim is exaggerating. He may discuss errors he has made in the past and emphasize the efforts he is making to change, in order to make his partner seem vindictive and unwilling to let go of the past.

Harassment and Intimidation Tactics

Where manipulation and charm do not work, the abuser may switch to intimidation, threatening or attacking those whom he perceives as being supportive to his partner. In the most extreme cases the abuser may attempt to kill the woman, her lawyer, or the children, and sometimes will succeed. In some cases custody evaluators have been afraid to release their recommendations because of their fear of the batterer’s retaliation.

Batterers may continue their harassment of the victim for years, through legal channels and other means, causing periodic re-traumatizing of the victim and children and destroying the family’s financial position. Motions by abusers for custody or for increases in visitation are common forms of retaliation for things that he is angry about. (They are also used to confuse the court; for example, lawyers who represent abusers encourage clients who are accused of sexual abuse to file for custody immediately; this move will cause the court to treat the allegation as “occurring in the context of a custody dispute.”) If the abuser meets with periodic success in court, he may continue his pattern of abuse through the legal system until the children reach majority.

Batterer’s Style in Mediation or Custody Evaluation

Batterers naturally strive to turn mediation and GAL processes to their advantage, through the use of various tactics. Perhaps the most common is to adopt the role of a hurt, sensitive man who doesn’t understand how things got so bad and just wants to work it all out “for the good of the children.” He may cry in front of the mediator or GAL and use language that demonstrates considerable insight into his own feelings. He is likely to be skilled at explaining how other people have turned the victim against him, and how she is denying

him access to the children as a form of revenge, “even though she knows full well that I would never do anything to hurt them.” He commonly accuses her of having mental health problems, and may state that her family and friends agree with him. The two most common negative characterizations he will use are that she is hysterical and that she is promiscuous. The abuser tends to be comfortable lying, having years of practice, and so can sound believable when making baseless statements. The abuser benefits to the detriment of his children if the court representative fails to look closely at the evidence – or ignores it – because of his charm. He also benefits when professionals believe that they can “just tell” who is lying and who is telling the truth, and so fail to adequately investigate.

Because of the effects of trauma, the victim of battering will often seem hostile, disjointed, and agitated, while the abuser appears friendly, articulate, and calm. Evaluators are thus tempted to conclude that the victim is the source of the problems in the relationship.

Abusers increasingly use a tactic I call “preemptive strike,” where he accuses the victim of doing all the things that he has done. He will say that she was violent towards him and the children, that she was extremely “controlling” (adopting the language of domestic violence experts), and that she was unfaithful. If he has been denying her phone access to the children during their weekend visits with him, he will likely complain to the court that she is preventing him from calling the children during the week. If he has been highly inflexible about the visitation schedule, he will accuse her of inflexibility. These tactics can succeed in distracting attention from his pattern of abusiveness; in the midst of a cross-fire of accusations, court representatives are tempted to throw up their hands and declare the couple equally abusive and unreasonable.

Mediators and GAL’s tend to have a bias in favor of communication, believing that the more the two parents speak to each other, the better things will go for the children. In domestic violence cases the truth is often the opposite, as the abuser uses communication to intimidate or psychologically abuse, and to keep pressuring the victim for a reunion. Victims who refuse to have any contact with their abusers may be doing the best thing both for themselves and for their children, but the evaluator may then characterize her as being the one who won’t let go of the past or who can’t focus on what is good for the children. This superficial analysis works to the batterers advantage.

Abusers are likely to begin the mediation process with an unreasonable set of demands, and then offer compromises from those positions. This strategy can make the victim look inflexible, as she refuses to “meet him in the middle.” She may relent under these circumstances out of fear that the mediator will describe her negatively to the judge. These compromises may then be used against the victim later. For example, she may agree to unsupervised day visits in order to avoid the risk that the judge will award overnight visitation, and then months later she is asked by a lawyer, mediator, or GAL, “If he is so dangerous, why did you voluntarily allow him unsupervised visitation?” On the other hand, if she is inflexible from the beginning, the abuser will accuse her of being on a campaign to

get revenge by cutting him off from the children. There is, in other words, no path she can take to avoid criticism and suspicion, and the abuser capitalizes on her dilemma.

Finally, mediation sessions and the time spent waiting for them to begin are opportunities for the abuser to re-victimize the battered woman with scary looks, threatening comments muttered in passing, degrading accusations made about her to the mediator, and intimidating or ridiculing comments made to her by his lawyer.

Why Domestic Violence May Be Reported at Separation/Divorce for the First Time

Court personnel and other service providers look skeptically at allegations of abuse that arise during custody and visitation battles. Batterers try to feed these doubts by saying, "She never said I was abusive before; she's just using this accusation to get the upper hand." In fact, there is no evidence that false allegations rise substantially at this time, and there are many reasons why an abused woman may not have made prior reports. Judges, mediators, and court investigators need to take each allegation on its own terms and examine the evidence without assumptions about the timing.

It is not at all uncommon for a battered woman to tell no one about the abuse prior to separation because of her shame, fear, and desire to help the abuser change. Many victims quietly hope that ending the relationship will solve the problem, a myth that most professionals share; when she discovers that his abuse is continuing or even escalating after separation, she finds herself forced to discuss the history of abuse in hopes of protecting herself and her children. It is not uncommon for an abuser to be more frightening after separation than he was before, and to increase his manipulation and psychological abuse of the children, for reasons covered above.

A victim's decision to separate from an abuser is often the last step in a gradual process of realization that she has been undergoing. Because of increased support from friends, a helpful book that she has read, or a series of discussions with a helpful advocate or support group, she may have come to understand that she has options to get free from the abuse. She is taking the leap of openly discussing domestic violence for the first time precisely because she is healing. Some influential psychologists, such as Janet Johnston (see below) interpret the woman's reevaluation of the history of the relationship as evidence of vindictiveness or scapegoating on her part, when it may actually indicate growing health.

The separation itself may have resulted from an escalation in the man's level of violence or verbally degrading behavior. During two years that I handled all the intakes to a batterer program, approximately 30% of the clients had been separated from the victim since the time of their arrest, demonstrating how frequently an escalation in violence leads immediately to a break-up. Unfortunately, these abusers may be labeled less dangerous by evaluators, on the grounds that their violence was a response to the stress of separation and divorce, an analysis that reverses cause and effect.

Finally, because an abuser creates a pervasive atmosphere of crisis in his home, victims and children have difficulty naming or describing what is happening to them until they get respite from the fear and anxiety. A period of separation may be a victim's first opportunity to reflect on what has been happening to her, and to begin to analyze and articulate her experience. Batterers can use any misunderstanding of this process to gain sympathy from evaluators.

Why Child Abuse May Be Reported at Separation/Divorce for the First Time

Allegations of child abuse that arise during custody and visitation conflicts are treated with similar skepticism by court personnel and service providers. A large-scale national study found that the rate of false child sexual abuse allegations does not increase at this time, contrary to popular belief (Thoennes and Tjaden). As with domestic violence allegations, there is no substitute for careful and unbiased examination of the evidence. Batterers who do abuse their children can be convincing at portraying themselves as victims of a deliberate strategy on the part of the victim in order to derail proper investigating.

There are two salient reasons why child abuse reports may first arise at separation or divorce. First, children may disclose abuse at this time that is longstanding. The awareness of the custody battle can make the children afraid of being placed in the abuser's custody, or of being forced to spend increased time with him without the protective presence of the other parent. This fear can lead children to make the frightening leap involved in discussing the abuse. After separation, children may begin spending extended unsupervised time with the abuser for the first time ever, so that the abuse escalates or they fear that it will. Increased visitation may cause panic in a victim of child abuse; a case of mine illustrated this point, with a child disclosing a detailed history of sexual abuse immediately after her visitation with her father was increased from one night every other weekend to two. Finally, children are known to be more likely to disclose abuse in the midst of any disruption or major change in their lives. (See MacFarlane et. al. on the above points.)

Secondly, child abuse may begin or intensify after separation. Once a relationship is over, the children may be the last avenue the abuser has to punish or harass his victim, or to force her into reuniting. Some victims report that they have been forced to get back together with the abuser in order to protect their children, because he was abusing, neglecting, or threatening the children during unsupervised visitation. Many abusers are aware that hurting the children is perhaps the single most painful way in which they can hurt their ex-partner. Even if he does not physically or sexually abuse the children, psychological abuse is present in the unsupervised visitation of most batterers, following predictably from their characteristic entitled attitudes, controlling behaviors, selfishness, and desire to punish. Where there are credible reports of a history of domestic abuse, even one involving relatively low levels of physical violence, allegations of child abuse have to be evaluated with care and without bias, regardless of when they arise.

The Connection Between Battering and Child Abuse

Batterers are several times as likely as non-batterers to abuse children, and this risk appears to increase rather than decrease when the couple separates. Multiple studies have shown that 50% to 70% of men who use violence against their intimate partners are physically abusive to their children as well. A batterer is seven times more likely than a non-batterer to frequently beat his children (Straus). A batterer is at least four times more likely than a non-batterer to be an incest perpetrator. (Herman 1991, McCloskey et. al.)

Psychological abuse to the children is almost always present where there is domestic violence; in fact, the abuse towards their primary caretaker is itself a form of emotional abuse of the children, as numerous studies now document. It is true that battered women are also more likely to abuse children than non-battered women are, but unlike with batterers, those levels decline rapidly once the relationship separates (Edleson and Schecter).

A batterer also tends to involve his children in the abuse of the mother. He may require the children to report on the victim's activities during the day, degrade or humiliate her in front of them, or persuade them that she deserves to be abused. He may even involve them directly in abusing her; for example, a client of mine taught his two-year-old to call the mother "Mommy bitch." He may be cruel to the children as a way of getting at her; one of my clients had cut up his daughter's prom dress with scissors one night while angry at his wife. He may do them special favors after abusing the mother, to get the children on his side. He may tell them that their mother doesn't love them. He may threaten to take the children away from her, legally or illegally.

These types of tactics usually increase at separation and are joined by new ones, such as telling young children "You are going to come live with Daddy now" and other forms of terrorization. If the mother has a new partner to whom the children are developing an attachment, the batterer may try to frighten the children about him or make them feel guilty for their connection to him.

Children of batterers are at particular risk for sexual abuse (Herman 1991; McCloskey et. al.; Paveza; Sirls; Truesdell et. al.). The profile of an incest perpetrator is similar in many respects to that of a batterer. The incest perpetrator typically has a good public image, making it hard for people know him to believe him capable of sexual abuse. He is self-centered and believes that the child is responsible to meet his needs. He is controlling and often harshly disciplinarian as a parent, while at other times giving the children – particularly the incest victim – special attention and privileges. He often prepares the child for months or years in a "grooming" process, akin to the charming and attentive behavior used by batterers early in relationships. He usually will have no diagnosable mental health condition. He will tend to confuse love and abuse; just as a batterer may say, "I hit her because of how much I love her," the incest perpetrator believes that his times of sexually abusing the child have actually been moments of special intimacy. Incest perpetrators

define themselves as having been provoked, just as batterers do; for example, he may say that a four-year old child “came on to” him. He often sees the child as a personal possession, feeling that “no one has any right to tell me what I can do with my child.” This list of similarities continues, making the high statistical overlap between battering and child sexual abuse unsurprising. (See Groth; Herman 1981; Herman 1988; Leberg)

It is important to note that the level of violence used by a batterer is only one measure of his risk to the children. His level of entitlement, his degree of self-centeredness, the extent of his manipulateness, his capacity for cruelty, and other aspects of his profile give important information about his likelihood to abuse the children. We will return to these assessment questions below.

Janet Johnston’s Typology of Batterers and the AFCC Risk Assessment: The Quest for Simple Solutions

Efforts are underway nationally to ease the complexity of assessing risk to children from visitation with batterers by placing batterers into distinct types, based largely on the work of Janet Johnston. For example, a risk assessment distributed nationally by the Association of Family and Conciliation Courts (AFCC) draws heavily from Johnston’s work.

The types Johnston posits are as follows:

Type A:

“Ongoing or Episodic Male Battering”

Type B:

“Female-Initiated Violence”

Type C:

“Male Controlled Interactive Violence”

Type D:

“Separation and Postdivorce Violence”

Type E:

“Psychotic and Paranoid Reactions”

(These types are called by slightly different names in the AFCC risk assessment, but are exactly the same in other respects.)

Type A is considered the real batterer; he is very frequently and severely violent, and he uses violence to control his partner. **Type B** is violence that is initiated by the victim; she gets hurt because she is smaller, but her behavior is the problem. **Type C** is violence caused by “mutual verbal provocations,” and again the woman is the victim only because she is physically smaller; she is considered equally abusive. **Type D** is violence that results from the stress of separation and is completely uncharacteristic for the abuser. **Type E** is violence resulting from a mental health problem.

This typology contains more problems that can be covered here. The types were pre-conceived, with researchers instructed to assign each case to one of the categories. The research has little external validity; her types have no relationship to any patterns observed by domestic violence professionals in the clinical setting. Relying on these categories leads to serious errors in crafting visitation plans. Risk to children can be assessed, as we will see, but not by this approach.

The great majority of batterers do not fit any of Johnston's types, because they exert "chronic pervasive control," but it is not accompanied by the most severe or frequent violence. The most common batterer is one who uses violence two or three times a year, whose partner has never been hospitalized with injuries, and who shows no evidence of sadism. Nevertheless, his partner and children exhibit trauma symptoms due to their fear of the abuser, the repeated denial of their basic rights, and the pattern of psychological attack. Assessing the risk to these children from unsupervised visitation is a complex process, and the danger varies greatly from case to case.

These categories encourage us to assess the victim rather than the abuser. The "A" type of batterer is considered the only real batterer; he is described as having a victim who is severely traumatized, who is passive and withdrawn, and who rarely starts arguments or challenges the batterer. A woman who is stronger, angrier, or generally more unpleasant to interact with, would be likely under Johnston's approach to be seen as mutually abusive and provocative, the "C" type of relationship; she would thus be considered largely responsible for the man's violence. In reality, most abused women, even those who are terrified, do not give up all forms of fighting back, and continue attempting to protect their rights and the rights of their children. The more that the victim refuses to submit to the abuser's control, the more likely he is to escalate his violence. Under Johnston's typology, the more courageously a woman attempts to defend herself and her children, the less responsibility the abuser has for his actions. Using this approach serves the batterer's interests well, but endangers the children. The result of this approach is that some of the most dangerous abusers, those who are the most determined to dominate at all costs, are ironically declared to be the lowest risk to their children.

Studies of trauma survivors also demonstrate that symptoms will vary greatly from person to person. Some battered women may become passive and withdrawn, but others are more likely to show hostility, disjointed thinking, or extreme mistrust, precisely as a response to the severity of the abuse they have endured; the second group is the most likely to be labeled "provocative." Women in this group run the greatest risk of having their abuser win custody or extended unsupervised visitation, which he can then use to continue terrorizing her and the children.

Abusers almost always characterize their relationships as mutually abusive, if they acknowledge any behavior problems of their own at all. Under close investigation, however, most domestic abusers, even those who use relatively low levels of physical violence, are

revealed to involve extensive patterns of verbal degradation, psychological abuse, and other types of cruelty on the abuser's part, and to involve a marked imbalance of power. There is no substitute for careful evaluation to see if this is the case.

The concept of "violence resulting from mutual verbal provocations" is in itself a disturbing one. What kind of arguing is a woman permitted to do before she is defined as provoking violence? A woman who is being abused is likely to have multiple sources of resentment: the unrelieved burden of childcare, the insults and name-calling, the degrading sexual comments, the affairs, the neglect, the violence. If she periodically becomes enraged and confronts her abuser about these things angrily, is she provoking violence? Is there any way in which she can forcefully defend her own interests, or her children's, without being labeled provocative? This characterization can only serve the interests of the abuser. In fact, it appears to be an adopting of the batterer's view, endorsing his way of characterizing his victim as holding responsibility for his actions. Johnston even goes so far as to say that if a woman "tried to leave or refused to communicate with him," the abuser's violent response should be considered part of a mutual provocation (Johnston, pg.196).

In sum, the danger that a domestic abuser represents to his children can only be assessed by examining him (as common sense would dictate), not by examining his victim.

The "stress of separation" category, (type "E") is also a risky one. As discussed above, separation may occur as the result of an escalating pattern of abusiveness, with the physical attack being the last straw. Such an escalation would be likely to continue post-separation, with important implications for the children. The formation of this type also raises an important clinical question; if Johnston suggesting that there is no significant difference between men who use violence in response to the stress of separation and those who do not? In fact, most men do not use violence towards intimate partners, even during an acrimonious divorce; those who do so are likely to have the other characteristics typical of batterers. Their risk to children then has to be properly evaluated.

A few other problems are high priorities to mention:

First, this approach is based on the assumption that the risk to children from visitation comes primarily from exposure to new acts of physical violence. As serious as this risk is, it is not in fact the greatest one; the far greater danger is of physical, sexual, and psychological abuse by the batterer during the visits. Children from domestic violence are particularly vulnerable psychologically because they are already scarred by the violence they have been exposed to. Johnston's typology does nothing to identify those batterers who are most likely to abuse their children post-separation, does not examine what kind of atmosphere assists children to recover from the trauma of divorce and domestic violence, and does not discuss any other indicators of a batterer's risk to children other than his level of physical violence.

Second, this typology does nothing to help assess the risk that an abuser will batter in his next relationship. Although abusers blame their violence on their current victim and on the specific relationship dynamics, both research studies and clinical experience make clear that the problem lies within the abuser. Abusers have a high rate, regardless of their level of physical violence, of battering in their next long-term relationship. Children of batterers are therefore at risk of exposure to domestic violence in their father's new relationship.

Johnston sometimes accepts abusers' explanations of their actions at face value. She writes, for example, about men who she says slap their partners "in a misguided effort to quell her 'hysteria'" (pg. 196). Batterers are known for their violent punishment of partners who attempt to express anger, which Johnston is apparently unaware of. She is actually describing a batterer who is highly intolerant of his victim's efforts to have a voice, which has far-reaching implications for both her and her children.

Johnston appears to have no awareness of the overlap between battering and incest perpetration. In one of her articles (Johnston, July 1993) a striking passage describes the relationship between girls younger than seven or eight years old and their batterer fathers:

"In general, there were poor boundaries between these men and their daughters, especially among the substance-abusing men, with mutual seductiveness and provocation of his aggression. These fathers needed validation of their masculinity and attractiveness; they pulled for this affirmation from their little daughters.."

Johnston shows no sign of recognizing this as incest, although it reads like a description from a training course on sexual abuse. It is also important to note that she is holding these girls equally responsible for the dynamics of their relationships with their fathers, which certainly raises questions about her judgement in assigning responsibility for abuse in adult relationships.

In cases where a batterer does have a mental illness (**Type E**), the disorder cannot be assumed to be the cause of his battering. Most mentally ill batterers also have the typical attitudes and behaviors of batterers, and therefore addressing the mental health problem alone will not necessarily reduce the domestic violence. Johnston appears unaware that a person can simultaneously have a mental health problem and a battering problem, neither of which is reducible to the other.

Type B, where the victim initiates the violence, needs to also be treated with care. The question of which person strikes first is of limited value in assessing domestic violence; the more relevant questions are which party is in fear, which party is being systematically torn down or controlled, and which party is suffering the long-term psychological damage. Careful evaluation sometimes reveals a picture quite different from the initial impression.

Assessment of Risk to Children from Visitation with a Batterer

Assessing the safety of children with batterers during unsupervised visitation requires careful examination of all available evidence, with as few preconceptions as possible about the credibility of either party. Even a highly skilled service provider cannot “just tell” that an alleged abuser is telling the truth or is not dangerous, even after several hours of interviews and even with the assistance of psychological testing. These can be important sources of information, but careful assessment of the alleged victim’s version of events, comparison with outside sources (to assess credibility), examination of court records, and confrontation of the alleged abuser to assess his reactions are all essential to an evaluation.

Where persuasive evidence of a history of domestic abuse is present, risk to the children from unsupervised visitation can be best assessed by examining:

- the abuser’s history of directly abusive or irresponsible behavior towards the children
- his level of psychological cruelty towards the victim
- his level of willingness to hurt the children as a deliberate or incidental aspect of hurting the mother (such as throwing things at her with the children nearby, being mean or deliberately risk-taking to the children when angry at her, failing to pay child support that he has resources for)
- his level of manipulateness towards family members
- his level of selfishness and self-centeredness towards family members, including expectations that the children should meet his needs
- whether he has been violent or physically frightening in front of the children
- whether he has been verbally degrading to his partner in front of the children
- the severity or frequency of his physical violence and threats, including threats to hurt himself
- his history of sexual assaults against the mother, which are linked to increased risk of sexual abuse of the children and increased physical danger
- his history of boundary violations towards the children
- his substance abuse history
- the level of coercive control he exercises over his partner and children
- his level of entitlement (attitude that his violence was justified, expectation that his needs should always be catered to, seeing the children as personal possessions)
- the extent of his past under-involvement with the children (e.g. failing to know basic information such as the child’s birth date, names of pediatricians or school teachers, or basic routines of the children’s daily care)
- his level of refusal to accept the end of the relationship
- his level of refusal to accept mother’s new partner being in the children’s lives
- his level of refusal to accept responsibility for past abusive actions (including continued insistence that relationship was more or less equally and mutually

destructive, continued insistence that his violence was provoked, continued minimization)

- his level of escalation
- his level of inability to put the children's needs ahead of his own and to leave them out of conflicts with his partner
- the ages and genders of the children (younger children may be more vulnerable to physical or psychological abuse, female children are at somewhat higher risk for sexual abuse)

Notice that the level of the abuser's physical violence and the pervasiveness of his control are important factors, but are only two among many that have to be evaluated. Risk of sexual abuse, for example, is better predicted through entitlement and self-centeredness, history of boundary violations, level of manipulateness, and sexual assaults against the partner. Information from psychological evaluations or testing is limited in its ability to assess danger, but can point to additional issues that need to be addressed.

With a list of factors this long and complex to consider, it is evident that formulaic approaches to declaring some batterers safe for visits and others unsafe are impossible. Mediators, Guardians ad Litem, and judges need to be prepared to spend some extra time (which is understandably hard to come by). Extensive training on domestic violence by those with experience with both victims and abusers is essential.

Statements by children about their view of the situation need to be approached with great caution. Children of an abuser may side with him in order to protect themselves, or because he has successfully persuaded them through his words and actions that their mother is not worthy of respect. Young children should not be asked their preferences about custody or visitation, and the wisdom of asking even older children is in dispute.

Because of the complexities involved in assessing risk to children from visitation, a state-certified batterer program is a valuable and underutilized tool in making evaluations. The program has the familiarity with patterns of behavior and thinking common to abusers, and therefore can help sort out the more dangerous clients. batterers' counselors have far more knowledge and experience than others regarding this particular population, regardless of professional degree. The program spends many more hours over a period of weeks or months than any court representative can, and thus gains an important body of information and insight. Using the batterer program as a condition of visitation, whether supervised or unsupervised, could assist mediators, GAL's, and judges in making their longer-term determinations. Uncertified or newer batterer programs should be avoided for these delicate cases, where the potential consequences of errors in judgement are high.

Family courts need to become a stronger link in the community response to domestic violence, as custody and visitation disputes are one of the arenas where the greatest re-victimizing of battered women and their children occurs (and often continues for years). The most careful discussions and painstaking, rigorous research are required in the

months and years ahead, with a greatly elevated participation of specialists in battered women and batterers. Probate court personnel, Guardians Ad Litem, and other service providers also need to participate in community roundtables on domestic violence, so as to become part of the community safety net. Through multidisciplinary task forces, knowledge and perspectives are shared, mutual learning occurs from the accumulated experience and expertise of police officers, prosecutors, battered women's advocates (including formerly battered women), batterers' counselors, domestic violence lawyers, concerned therapists, and others. The potential for healing among children traumatized by domestic violence depends on these types of community efforts, in order to increase the sophistication of our responses.

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Imagine having to give your one-year-old child up to your abuser for a heart wrenching thirty days in Colorado, thirty days in Connecticut, back and forth for practically a year until the trial date. Imagine your child returning home in the mist of the temporary order after visitation with the abuser with various lacerations on their body, an “apparent” cigarette burn on their scrotum, your child being forced to fly with ruptured eardrums, your child being ripped from your arms and placed in the arms of your abuser. Your child under the supervision of drug addicts and being told by your lawyer that you must abide court orders and allow this monstrosity to continue. Having the evidence such as police reports, testimony of experts, photos, videos, etc., stating that this arrangement is not in the best interest of the child yet none of that matters because the orders are what stand. On December 28th, 2018, the “Honorable” John A. Jostad ordered this horrifying temporary order for my son Ryker Jackson Warro with the knowledge of his father’s violent criminal history and the domestic violence that occurred in the home. Magistrate Zehe found my son in imminent danger after parenting time with my abuser after he returned home with several marks all over his body, yet still sent him out to Colorado for the thirty consecutive days of visitation with the perpetrator.

Thankfully, I was awarded full-custody and sole-decision making by the court on November 9, 2018 by Judge Stephen J. Jouard, yet my abuser was still allowed to abuse me with the use of the courts. My son still spent time unsupervised with his father in Colorado multiple times until September 1, 2020 when my abuser, Daniel Warro, was charged with drugging and

raping multiple incapacitated women in the Fort Collins area. I filed an Ex Parte motion on November 4, 2020 to prevent my son visiting his father in Colorado in fear of my son losing his life because his father's emotional instability and recent rape charges. The court indicated that because Warro is "innocent until proven guilty" parenting time would continue. I asked the court to make sure that Warro would be mentally evaluated and since Warro testified that he was "seeing a therapist" that was more than enough. Yet, in the past the court has made me pull my mother's bank statements because Warro accused me of hiding money in her account. Why is his word greater than mine, why does he not have to produce evidence and I do? The judge in Warro's criminal case, Laurie Kazue Dean, was allowing him to travel from Colorado to Connecticut despite the recent sexual assault charges to see a small child. I hired an attorney, and I am still paying my bill well over \$20,000.00 to fight the court to keep my son safe. December 31, 2020 Warro holds his current wife and minor child at gunpoint, and she fled the state in fear for her life. I have had to go into hiding on two occasions with my son because of the judges and court's terrible decisions. Warro proceeds to violate the current restraining order following the incident on December 31, 2020, with his wife and was told via Webex that there was an active warrant and that he had one week to turn himself in. March 4, 2021 he is found high on drugs, possessing a modified weapon, and was taken into custody by five detectives. He is currently pending trial for the various charges in Larimer County Jail.

A father with this sort of criminal background, including prescription forgery in Wyoming in 2014, theft, various physical assaults, public disturbances, etc. should never have had a small child alone. My son now suffers from Post-Traumatic-Stress-Disorder and anxiety at only four and a half years old because of the judge's terrible decision making, none of which reflected the best interest of the child. Court personnel needs more training to recognize cases of

this magnitude to prevent this from ever occurring to another child. A child is a human being, not an object to be tossed around and no child deserves instability like the instability that Larimer County inflicted on my son.

Thank you,

Tabitha Corte