



Domestic Violence: What Attorneys Should Know

Attorneys handling family law cases will undoubtedly have cases with domestic violence, otherwise known as intimate partner violence (IPV). Various estimates suggest that approximately out of every five men and one in four women have experienced violence in their intimate relationships. Intimate partner violence is seen in more than one-third of all family law cases involving child custody issues. Both men and women experience IPV, though it is likely that women will suffer more serious injuries.

It is important to understand that IPV is not a unitary concept. Kelly and Johnston (2008) outlined several different types of IPV, including coercive controlling violence, violent resistance, situational couples violence, and separation-instigated violence.

Coercive controlling violence involves what might be described as the classic case of ongoing battering. Lenore E. Walker (1984) described this type of IPV in her description of the battered woman syndrome. IPV of this type involves both psychological and physical abuse, is ongoing, and is progressive in terms of the nature and severity of the violence. A subtype of coercive controlling violence involves the use of power and control but without the violence. Violent resistance involves the victim of IPV responding with violence to coercive control attempts. In this type of IPV, the victim is standing up for herself or reacting with violence. Situational couple violence may also be seen in cases where there are mental illness or substance abuse issues. Separation-instigated violence involves violence that is not typical and that is usually a reaction to the breakup of

the relationship. It is important to note that these various types of IPV are not necessarily mutually exclusive. They may overlap at various times within the same relationship. They may depend on the stresses experienced by the partners, stress from the relationship itself, and the mental health issues of the partners. Children from the relationship are also witnesses to IPV or may even experience their own abuse at the hands of the IPV perpetrator.

Family law cases in which children are exposed to the IPV are quite challenging. Of utmost importance, obviously, are protections for the IPV victim and the children. Often these cases involve mental health professionals who are working with the families. The development of a safety plan to protect the victim and children from additional violence may involve a temporary restraining order or other legal intervention to keep the perpetrator away from the victim and children. Often a risk assessment is conducted to determine if the perpetrator of the violence is an ongoing risk to the children. This may result in limited time-sharing or even supervised visitation plans.

A child custody evaluation may determine what is best for the children. In these cases, the child custody evaluator must be very knowledgeable about IPV, the effects of IPV on children, co-parenting, and developing an appropriate parenting plan that will attempt to preserve the children's relationship with both parents while safeguarding them from future violence. These are very difficult and complex cases that carry with them the possibility of very severe consequences to all parties involved.

For more a more comprehensive discussion of IPV, see Joan B. Kelly & Michael P. Johnson, *Differentiation among Types of Intimate Partner Violence: Research Update and Implications for Interventions*, 46 FAM. CT. REV. 476 (2008), and LENORE E. WALKER, *THE BATTERED WOMAN SYNDROME* (1984). **FA**

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