

# Making Appropriate Parenting Arrangements in Child Custody Disputes with Allegations of Domestic Violence

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## What Should We Have Learned about DV in the Past 30 Years?

- Significant problem that impacts the whole community
- Victims, perpetrators and children are a very heterogeneous group that defy stereotypes
- Key strategies have to include safety, accountability and healing
- Coordination/integration of services is essential

# Can a perpetrator of domestic violence be a good parent?

## National Council of Juvenile and Family Court Judges: A Model State Code

In every proceeding where there is at issue a dispute as to the custody of a child, a determination by a court that domestic violence or family violence has occurred raises a rebuttable presumption that it is detrimental to the child and not in the best interest of the child to be placed in sole custody, joint legal custody, or joint physical custody with the perpetrator of family violence (Sec. 401)

## Common Stages of Responses to DV in Child Custody and Visitation Disputes

- It didn't happen
- It happened but it wasn't that bad
- It happened and it was bad, but is it relevant?
- It happened, it was bad, it is relevant; but get on with your life

## Why is Domestic Violence Relevant in Custody Disputes?

- Abuse Does Not End With Separation
- Overlap Between Child Abuse and Domestic Violence
- Children's Exposure to an Inappropriate Role Model
- Undermining of Non-Abusive Parent
- New Relationships Potentially Violent
- Perpetual Litigation as Form of On-Going Control
- Extreme Cases - Homicides and Abductions

Jaffe, P.G. Lemon, N. & Poisson, S.E. (2002) Child Custody Disputes and Domestic Violence: Clinical and Legal Issues. Sage, Thousand Oaks, CA

## Video Discussion Questions

- As a family court judge what kind of contact would you arrange between Nick Nolte and his daughter for the next 6 months?
- What community services would you need to implement your plan?
- What are some of the barriers to providing service to this whole family system?

## What Services Will Nick Nolte and his Family Need or Come in Contact With?

### Justice System: Family Court (Civil)/Criminal Court

- Child Protection
- Visitation/Access Dispute
- Assault Charge (Child Abuse/DV)
- Police Intervention
- Prosecutor
- Multiple Judges
- Victim Witness Program
- Probation Officer
- Family & Criminal Lawyers/Advocates for mother.

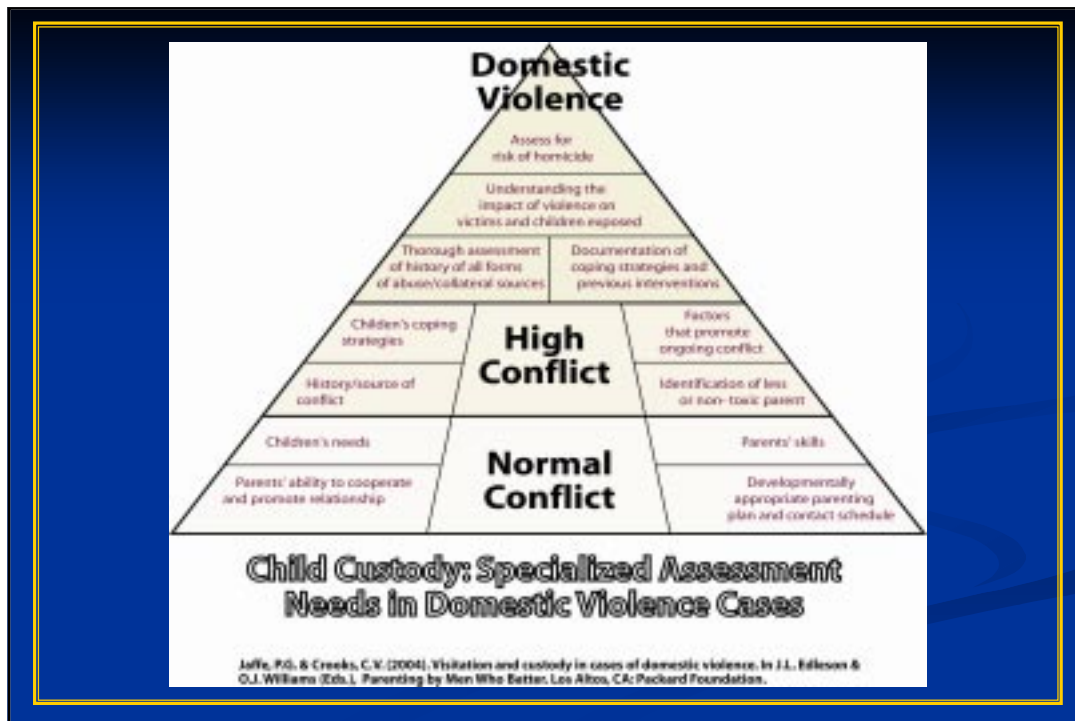
## What Services Will Nick Nolte and his Family Need or Come in Contact With?

### Social Services/Health

- Child Protection Services
- Supervised Visitation/Access
- Batterer's Program
- Advocates (Victim & Child)
- Alcohol/Addiction Counselling
- Family Doctor
- Children's Counsellor/Program
- Mother's Counsellor/Program
- Court Assessors & Mediators
- Community Volunteers (Church, Friends, Relatives)

## Critical Issues in Coordination

- Access to services (barriers)
- Sequencing of services (court vs community)
- Interagency cooperation, communication, formal protocols
- Responsibility for determination of:
  - Level of need/services (assessment)
  - Monitoring safety & progress
  - Accountability for service providers
- Overall community coordination of services



## Context is critical

Failing to distinguish one kind of domestic abuser from another can:

- endanger victims of ongoing violence
- embolden perpetrators of ongoing violence
- place children at risk

## Context means:

- Offender's INTENT in his/her use of violence
- MEANING of the violence to the victim
- EFFECT of act on the victim
  - Lethality and RISK of further violence
  - Risk of other, non violent ABUSE or intimidation of the victim

## The Perpetrator of DV as Parent

- Rigid, Authoritarian, Bullying
- Engendering Fear
- Lack of Empathy – child's needs not recognized
- Sense of Entitlement
- Lack of Respect {boundaries}
- Control over child, parent & family relationships – even after separation
- Child as pawn or vehicle to control/punish/communicate

## The Impact of DV on Victim's Parenting

- Impact may be short or long-term
- Physical & emotional pain/suffering
- Feeling demeaned, belittled and/or undermined as a parent
- Credibility & authority as parent compromised
- Compensating parenting style (pronounced compared to usual couple)
- True potential as parent may be compromised by abuse, disruptions, litigation and poverty (situational or enduring problem?)

## Dynamics Between Victim & Perpetrator

- Role model for unhealthy relationships
- Gender roles
- Constrained sense of community – limited access to support (problems undermine access to potential resources)
- Siblings may be protective or abusive
- Loyalty conflicts (betrayal in disclosure)

## Custody Dispute Dilemmas

- Accurately assessing perpetrator, victim, & children
- Domestic violence but no visible/measurable impact on children
- Children aligned with victim/primary caretaker {alienation allegations?}
- Children aligned with batterer {wishes vs. best interests}
- Role of extended family {helpful or harmful?}

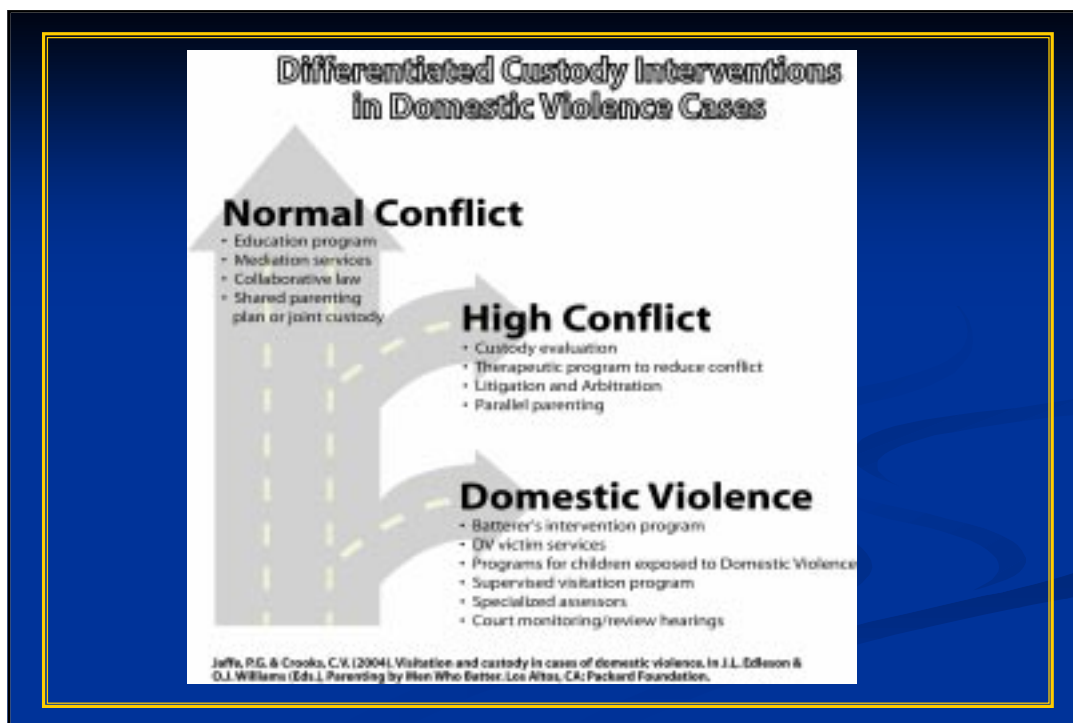
## Assessing Lethality

- Separation is the most dangerous period for abused women
- Threats of homicide or suicide
- Fantasies of homicide or suicide
- Depression
- Access to weapons
- Obsessiveness about partner or family
- Centrality of battered partner to batterers' view of life
- Drug or alcohol consumption
- Escalation of violent behaviour
- Hostage - taking

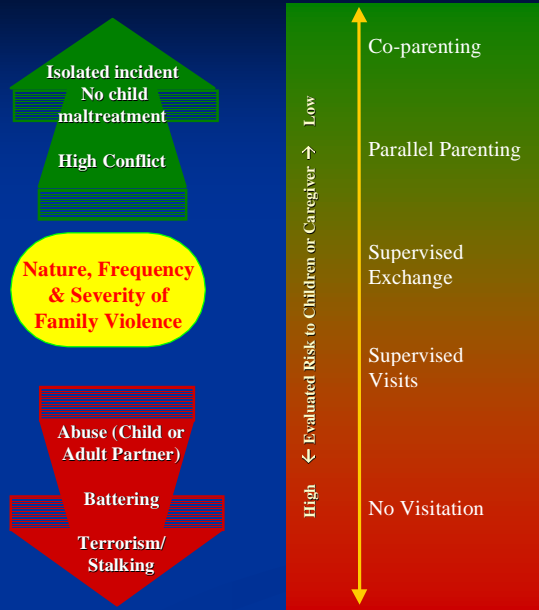
## Danger Assessment Risk Factors

- Partner used or threatened with a weapon (20.2)
- Partner threatened to kill woman (14.9)
- Partner tried to choke/strangle woman (9.9)
- Partner violently and constantly jealous (9.2)
- Woman forced to have sex when not wanted(7.6)
- Gun in the house (6.1)
- Partner controls most/all of woman's activities(5.1)
- Drunk every day (or almost) or illicit drugs (4.1)

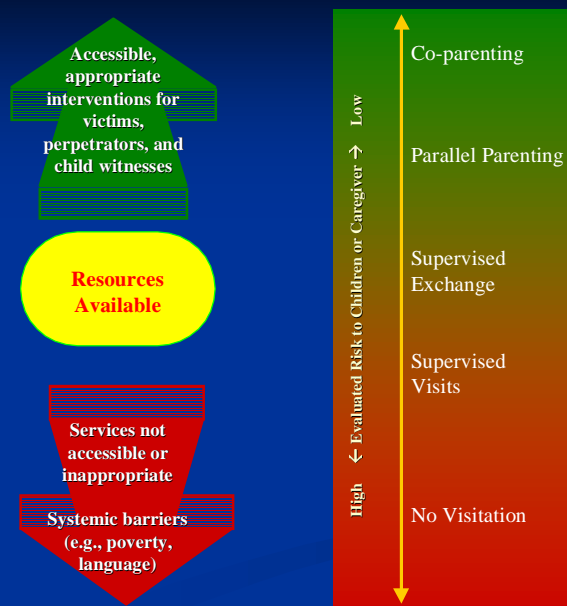
Campbell (2003)



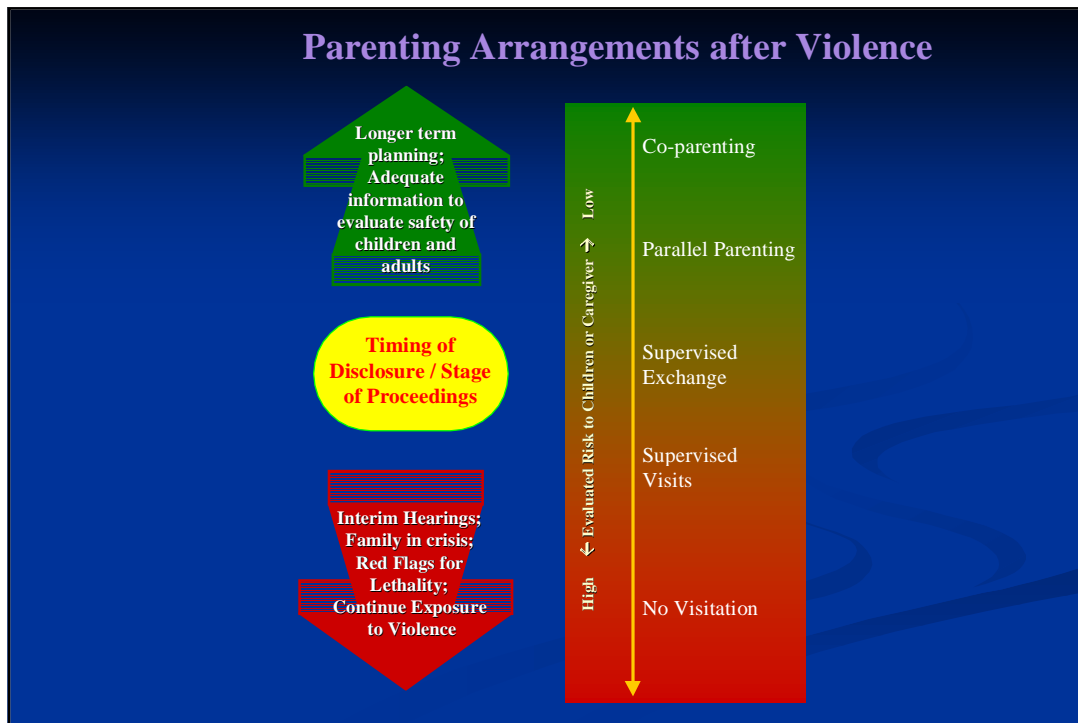
## Parenting Arrangements after Violence



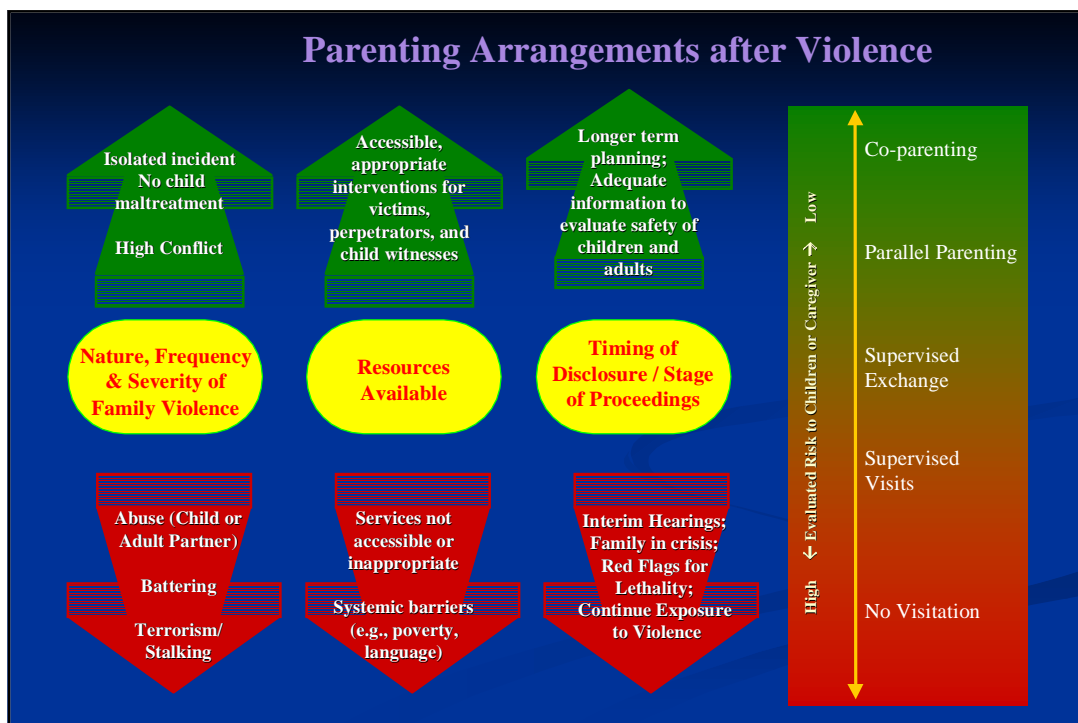
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## Parenting Arrangements after Violence



## The Gap between Theory & Practice

- Training
- Standards
- Expectations (Role of the Courts)
- Legislation
- Resources
- Genuine Collaboration
- Is DV a priority? Should judges specialize?
- One Family – One Judge?

## For more information

Centre for Research and Education on Violence  
Against Women and Children: [www.crvawc.ca](http://www.crvawc.ca)

Jaffe, Lemon & Poisson - Child Custody &  
Domestic Violence: A Call for Safety and  
Accountability  
(Sage, 2002)

“Don’t worry that  
children  
never listen to you,  
worry that they are  
always watching  
you!”

*Robert Fulgham*