

# **The Greenbook Project**

## ***The Co-Occurrence of Domestic Violence and Child Abuse and Neglect:***

### ***A Guide for Crisis Center Advocates***

*Draft - August 2006*

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The Grafton County Greenbook Project was designed to improve systems' responses to families affected by domestic violence and child abuse and/or neglect. The partnership in the five year initiative includes WISE, Lebanon; Women's Supportive Services, Claremont; The Support Center at Burch House, Littleton; Voices Against Violence, Plymouth; the NH Coalition Against Domestic and Sexual Violence; the Grafton County Family Division of the District Court; Claremont District Court; and the Division for Children, Youth and Families (DCYF) State Office and Laconia, Claremont and Littleton District Offices. Court Appointed Special Advocates (CASA) of New Hampshire served as an adjunct partner in the Project.

Grafton County was among six Greenbook demonstration sites nationwide. "Greenbook" is the informal name for the National Council of Juvenile and Family Court Judges' publication, *Effective Intervention in Domestic Violence & Child Maltreatment Cases: Guidelines for Policy and Practice*.

This exciting grant opportunity allowed the Grafton County crisis centers and the NH Coalition to develop this guide for advocates to use when working with battered women and their children who are involved with the child protection system. A multi-disciplinary team of Greenbook Project participants worked tirelessly to create this document. Special thanks are extended to the members of the drafting committee: Michelle Rosenthal, Domestic Violence Intervention Coordinator for the Division for Children, Youth and Families; Deb Coe, Child and Family Advocacy Coordinator for the NH Coalition Against Domestic and Sexual Violence; Hallie Wheeler, Domestic Violence Specialist, The Support Center; Tina Mulleavey, Domestic Violence Specialist, Voices Against Violence and Hana Massacar, Domestic Violence Specialist, Women's Supportive Services. Special thanks to Kathy Jones, Domestic Violence Specialist, A Safe Place, for her extensive review.

The purpose of this guide is to sustain the education and best practice enhancements that were begun by the Greenbook Project and it should be used as a cross-training tool, as well as a guide for advocates in their direct work with clients. Portions of this guide should be incorporated into crisis center training for new advocates and volunteers. Advocates are encouraged to read the sources cited for further information as what is contained in this guide is preliminary information.

The other systems involved in the Greenbook Project also developed documents with guidelines for practice in co-occurrence cases. These are the DCYF Domestic Violence Protocol, Co-Occurrence Court Guide for Judges, and CASA Guide for Co-Occurrence Cases. These can be obtained through these systems. The Family Violence Prevention Fund, a technical assistance provider to the Greenbook Project, has developed resource materials that, in conjunction with local products, compliment this guide. These documents include: [Advocacy Matters](#), [Accountability and Connection with Abusive Men](#), and [Confidentiality and Information Sharing Issues](#) and are available at [www.endabuse.org](http://www.endabuse.org).

## Introduction

Traditionally, domestic violence and child abuse/neglect have been regarded as distinct forms of violence requiring separate responses. This has often led to diverging or contradictory interventions for victims within the same family, with little success. Recognizing the need for a more holistic approach, community systems have begun to address these forms of violence with adult and child victims' safety and well-being serving as the overarching goal, along with coordinated responses that hold batterers accountable for their violence and coercive controlling behavior.

Research supports what domestic violence advocates have long recognized - in about half of the homes in which a woman has been abused by her intimate partner, her children have been abused as well.

This guide is designed to enhance advocates' knowledge about the complexities of cases in which domestic violence and child abuse and/or neglect are present, referred to often as co-occurrence cases. It is also presented to increase knowledge of the systems that collaborate in such cases including crisis centers, the child protection system, CASA, the Coalition and the court. It is based on emerging best case practice in the relatively new field of co-occurrence and centers on the following principles:

- Children's safety is intricately linked with the safety of their mothers.
- Batterer accountability is a key component of an effective intervention strategy.
- A strong safe relationship with mothers is critical to children's well-being and resiliency.
- Community collaboration and response is necessary to create safety for families as well as promote the societal and cultural change necessary to eradicate family violence.

Intimate partner violence is primarily a crime against women. National crime survey data show that men commit 95 percent of all assaults on female spouses or girlfriends. In 2001, women accounted for 85 percent of the victims of intimate partner violence and men accounted for approximately 15 percent of the victims. Women are much more likely than men to be killed by an intimate partner. Forty percent of all women murdered are killed by their husbands or boyfriends where less than four percent of murders of men are from intimate partner abuse.<sup>1</sup>

Because domestic violence is mostly committed by men against female partners, this Guide refers to abusers as 'he' and victims as 'she.' However, the information provided in the Guide should be understood as referring to all victims and abusers, regardless of the gender of either partner. Men can also be victims of domestic violence and intimate partner violence occurs in same-sex relationships. Because this is a co-occurrence guide, children must be involved, and therefore victims of domestic abuse are also referred to as mothers. Perpetrators may not necessarily be biological or step fathers, but have varied roles in the children's lives, depending

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<sup>1</sup> Family Violence Prevention Fund. *Domestic Violence is a Serious, Widespread Social Problem in America: The Facts Prevalence of Domestic Violence*. Available at <http://www.endabuse.org/resources/facts/>

on where they reside, how close to the children they are emotionally and their legal relationship to the children, thus they are referred to simply as men to acknowledge this diversity.

### **Co-Occurrence of Child Abuse/Neglect and Domestic Violence**

Nationally, the reported rate of overlap between violence against children and violence against women in the same families is 30 to 60 percent.<sup>2</sup> This high rate of co-occurrence has prompted attention at the federal level.

The co-occurrence rates in New Hampshire fall within the range of the reported national rates. As part of the Greenbook Project baseline evaluation, the local research partners for Greenbook collected data from the Division for Children, Youth and Families (DCYF) and the courts in Grafton County for the purpose of identifying the rates of co-occurrence in Grafton County and throughout the state.<sup>3</sup>

### **Definitions**

#### **Child Abuse and Neglect**

Child abuse and child neglect can take many forms. Child abuse may be physical, emotional, or sexual. Neglect can be as damaging and life-threatening as abuse.

Physical abuse is harm to a child caused intentionally or from excessive or inappropriate discipline methods. Common signs of physical abuse are bruises, welts, human bite marks, bald spots, cigarette burns, immersion burns, fractures, lacerations, and abrasions. Emotional abuse is psychological injury to a child caused by excessive belittling, berating, name-calling, or similar acts. It might include parents/caregivers not securing needed psychological treatment for a child.

Sexual abuse is improper sexual contact with a child or youth or any form of sexual exploitation of a child or youth, including incest or the making or use of pornography.

Neglect is the failure to provide a child with basic needs of food, clothing, shelter, hygiene, medical attention, supervision, or education as required by law. It may involve abandonment or parental/caretaker alcohol and drug abuse as well as other factors.

Please refer to Appendix A for the full text of NH RSA 169-C, The Child Protection Act, which includes legal definitions of child abuse and neglect.

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<sup>2</sup> *In Harm's Way: Domestic Violence and Child Maltreatment.* (2003) National Clearinghouse on Child Abuse and Neglect.

<sup>3</sup> Twenty-nine percent of the Grafton County child abuse and/or neglect DCYF case files in 2001 indicated co-occurrence. When reviewing the National Child Abuse/Neglect Data System (NCANDS) the statistics for New Hampshire were even higher, at 53%. This statistic remained the same in data from fiscal year 2004, with the rate for Grafton County at 40%. Although the numbers are small within Grafton County, a review of the Grafton County Family Division child abuse and/or neglect petitions that closed in 2000-2002 indicated that 39% of the petitions had documented domestic violence occurring within one year of the child abuse/neglect petition being filed.

## Domestic Violence

Domestic violence, also known as “domestic abuse” and “intimate partner violence,” is the establishment of control and fear in a relationship through the use of various forms of abuse. The batterer may use physical abuse, emotional abuse, sexual abuse, medical abuse, economic oppression, isolation, threats, intimidation, stalking or monitoring, and abuse and/or neglect of children to control his/her current or former intimate partner. Domestic violence may vary in severity from case to case, but gaining and maintaining control is the primary goal of batterers. Domestic violence occurs in heterosexual, gay and lesbian intimate relationships, in all ethnic and racial groups, and among all socio-economic and educational levels.

Batterers use many tactics to establish and maintain power and control over their partners. These tactics can include, but are not limited to, making and carrying out threats; pet abuse; destroying property; name-calling; controlling all finances; limiting interactions with family/friends; restricting outside involvement; using the children; and shifting responsibility for abusive behavior.

### **Role of the Advocate**

The independent crisis centers across the state are committed to providing direct services within a victim-based model of advocacy; supporting and assisting a victim to define needs, explore options, and ensure rights are respected within any systems with which the victim interacts. A victim’s experience is the basis of constructing appropriate services. This model includes working with victims to provide information and support that empowers them to make decisions that are in their own best interests. Empowerment is defined as the facilitation of a victims’ growing sense of dignity, power, control, and voice through a framework of peer support that includes information, validation, encouragement, and respect of the victim’s decision making process.<sup>4</sup>

Under RSA 173-C victims of domestic and sexual violence are afforded privileged communication with domestic violence advocates (with the exception of the mandatory reporting of child abuse and/or neglect under RSA 169-C). The privilege may be waived or claimed by the victim in all civil, administrative, and criminal court proceedings. The goals of confidentiality are:

Preserve safety strategies that rely on certain information remaining private.  
Provide the privacy necessary for women to talk freely with advocates and share details that will be essential to planning for safety.  
Place control of the information in the woman’s hands and demonstrate advocates’ commitment to women’s autonomy and self-determination.<sup>5</sup>

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<sup>4</sup> From the Program Standards of the NH Coalition Against Domestic and Sexual Violence.

<sup>5</sup> Attorney Jill Davies, for Greenbook National Technical Assistance Team.

## **Advocates' Role in Collaboration**

Domestic violence advocates serve a challenging, and pivotal role in encouraging and building community collaborations amongst those systems a victim must navigate to provide safety for her family. Advocates often work with women who also are involved with law enforcement, DCYF, court, CASA, schools and community service organizations such as mental health centers, resource centers, and food pantries. The ability to build collaboration is invaluable, for these services are vital to victims who are facing the risks posed directly by the batterer and those generated by life circumstances over which the victim has little or no control.<sup>6</sup>

### **Batterer Generated Risks:**

- Physical injury
- Psychological harm
- Involving children negatively
- Financial losses
- Harming family and friends
- Loss of relationship
- Arrest or jeopardized legal status
- Threatening the victim's employment

### **Life Generated Risks** (not an exhaustive list; risk varies with each woman's unique situation):

- Financial loss
- Homelessness
- Discrimination
- Physical and mental health
- Inadequate response by major social systems
- Disability

Advocates can help victims access services and work with service providers to offer a coordinated response to assist women and their children. Advocates are also instrumental in helping systems understand the obstacles faced by the victim, the dynamics of coercive control and domestic violence, and the role of the advocate.

Advocates may feel conflicted when they have to make information sharing decisions about children and their mothers involved with DCYF and/or the court. Advocates know that for children, the decision might lead to a safer place to grow up or it might mean they will still be in danger or even that they lose contact with both parents. Advocates also know that for battered mothers, the decision might mean the state will intervene in ways that enhance safety and autonomy from an abusive partner or in ways that limit options and increase danger, and in some cases will lead to the loss of the children. The stakes in these situations are high. Advocates will be in the best position to use information in ways that protect children and their battered mothers

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<sup>6</sup> Davies, Jill. Safety Planning with Battered Women; Complex Lives/Difficult Choices. SAGE Publications, 1998.

when they can rely upon carefully crafted protocols that are grounded in sound practice and when their work with systems has generated better results and more resources.

It is important for advocates to help adult victims consider the consequences in waiving the confidentiality privilege. In a child abuse and neglect court proceeding, the batterer will have the right to disclosure of any information shared with the court/DCYF. It is important for the mother's attorney to be her spokesperson, not an advocate.

See Appendix B for the Greenbook Information Sharing Principles. Also see [Confidentiality and Information Sharing Issues for Domestic Violence Advocates Working with Child Protection and Juvenile Court Systems](#) by Jill Davies, JD. This is available on the Family Violence Prevention Fund website [endabuse.org](http://endabuse.org).

The advocate's role in collaboration has been informed and influenced by the Domestic Violence Specialist Program; a collaborative program of the New Hampshire Department of Health and Human Services, Division for Children, Youth and Families, and the New Hampshire Coalition Against Domestic and Sexual Violence. This effort existed prior to Greenbook and the two projects shared goals. Domestic Violence Specialists play a unique role that leads all crisis center advocates in a new direction of collaboration with DCYF. The mission of the DVS Program is to provide services to victims of domestic violence involved with DCYF to maximize their safety and that of their children. DVSs are employed by their local crisis center. They spend time in the DCYF District Offices collaborating with DCYF staff to assist with intervention in co-occurrence cases through direct work with victims and consultation with staff.

## Effects of Domestic Violence on Parenting

### Men who Perpetrate Domestic Abuse

In *Batterer as Parent*, Lundy Bancroft and Jay Silverman discuss parenting characteristics that are often seen in perpetrators of domestic violence.<sup>7</sup> The characteristics they have observed in their clinical practice coincide with those published in research studies, and include the following:

- Rigid, authoritarian parenting coupled with a limited ability to accept feedback.
- More frequent anger at children than non perpetrators.
- More frequent spanking of children.
- Ability to perform under observation leading to inaccurate perceptions by observers of their actual parenting ability.
- Overdeveloped sense of entitlement that can make it difficult to meet children's needs. (In some instances, children may act as caretakers for abusive parents.)
- Irresponsibility in care-taking tasks regarding the children, yet perceive them to be under their authority.
- Developmental expectations of children that are not age appropriate.
- Lack of availability emotionally and physically.
- Increased risk of physical or sexual abuse of children by the batterer linked to a lack of empathy for children amongst other factors. (A study by Straus in 1990 of over 6,000 subjects revealed that "49% of batterers physically abuse children, whereas only 7% of non-battering men do so; the most frequently and severely violent batterers have 10 times the rate of child physical abuse that non-battering men do." The child abuse rate increases as the frequency and severity of intimate partner violence increases.)
- Sense of ownership of their partners and children. This may account, in part, for elevated rates of physical and sexual abuse and also for the fact that perpetrators of domestic violence seek custody more often than non-battering parents.

The most obvious parenting deficit of batterers is that they choose to expose children to abuse against the mother. Abusing a child's mother raises serious doubt about one's ability to be responsible for the care of children, given the harmful effects domestic violence may have on children.

Characteristics and the possible effects of a batterer's behavior on development in children:<sup>8</sup>

- Role modeling that perpetuates violence: Boys' risk of battering future partners is greatly increased by exposure to the values and attitudes of the perpetrator of domestic violence

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<sup>7</sup> Bancroft, Lundy and Silverman, Jay G. *The Batterer as Parent; Addressing the Impact of Domestic Violence on Family Dynamics*. SAGE Publications, 2002. Pages 42-43.

<sup>8</sup> Bancroft, Lundy, *The Batterer as Parent*, Synergy (Newsletter of the National Council of Juvenile and Family Court Judges.) Winter, 2002. Vol.6 No.1, pages 6-8.

more so than the trauma of exposure. Children may incorporate the beliefs that the victim is to blame for the abuse, that the victim exaggerates when reporting it, and that men are superior.

- Retaliating against the mother for her efforts to protect the children: Attempts by the mother to intervene on behalf of children may result in more harm to the children. But when she stops intervening as a way to avoid future retaliation against the children, her restraint may be viewed as uncaring by her children and as neglectful by child protection agencies.
- Creating division within the family: The batterer may engage one child, usually a boy, as the favorite child and/or encourage family tensions resulting in considerable sibling conflict.
- Manipulating children to harm and control their mother: The batterer may engage the children in monitoring or directly harming the mother. The batterer may threaten to kidnap or take custody of the children if she leaves, threaten to call child protection services, or destroy the children's belongings.
- Sabotaging mother's authority over children: The batterer may employ many controlling tactics that include preventing her from carrying out parental tasks that leave the children feeling uncared for. The batterer may also verbalize negative images of her to the children.

### **Mothers who are Victims of Domestic Violence**

In a 2000 research report on domestic violence by Sullivan and Bybee, interviews were conducted with victims of domestic violence and their children, followed up with second interviews eight months later.<sup>9</sup> The key findings relative to battered women as parents are as follows:

- 91% of the mothers reported that they enjoy being parents;
- Although most of the mothers reportedly used corporal punishment sometimes, they reported more use of time outs, taking away privileges and grounding;
- Mothers' reports indicated more frequent use of discipline than their children's reports; and
- 93% of children mentioned their mothers as a source of social support.

The interference of a batterer can profoundly affect the parenting of a mother and consequently, the perception of her as a parent. A batterer's undermining behavior can manifest in several ways and can have many consequences.<sup>10</sup> For example:

- Battered women tend to alter their parenting in the presence of the batterer to reduce his irritability by becoming either more lenient or more strict than usual. This can be confusing for children and misinterpreted by others.

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<sup>9</sup> Bybee, Deborah and Sullivan, Chris M. *Children Witnessing DV: What Affects Wellbeing Over Time*. Domestic Violence Report, Dec.-Jan. 2002, page 29.

<sup>10</sup> Bancroft and Silverman. *The Batterer as Parent*. SAGE Publications, 2002. Pages 68-69.

- A batterer may blame his victim for the misbehavior of the children, which may cause her to be overly strict.
- After an abusive incident, the children need comfort and support. Their mother, however, may be recovering from the incident and thus unable to attend to the children's needs, leading to the perception that she is uncaring.

Protective behaviors of battered women who stay with their batterers are often misinterpreted or unrecognized. She may employ a variety of strategies - some which may be deemed "harmful" by normal social standards - to lessen the effect of the violence on the children. These attempts to protect children may not be recognized as such unless viewed in the context of domestic violence. Often protective behaviors are misunderstood to reflect resistance or a lack of cooperation. Some examples of strategies that are susceptible to misinterpretation include:<sup>11</sup>

- Minimizing and denying the violence to avoid retaliation by the batterer.
- Fighting back or defying the batterer.
- Complying with and placating the batterer in order to stop the violence.
- Leaving children with a relative or friend when there is danger.
- Trying to improve the relationship or find help for the batterer.
- Refusing or not following through with services to not anger the batterer.

There are also some common identified areas of concern that adult victims may need to address, and may require assistance to overcome. Some examples are included in *Parenting in the Context of Domestic Violence* such as: "asserting non-abusive control of children when it may not have been allowed in the past, making up for the absent perpetrator, using children as confidants, and perceiving children, especially young males, as being similar to their abusive fathers."<sup>12</sup> Adult victims may need assistance in order to address these concerns.

## Visitation

Traditionally, visitation in child protection cases has been focused on the safety of children. Co-occurrence cases present unique safety concerns in that visitation can pose a risk to children and to their mothers. According to one study, 5% of perpetrators of domestic violence, during visitation, threaten to kill the adult victim, 34% threaten to kidnap their children, and 25% threaten to hurt their children. These considerations led a National Institute of Justice study to conclude that "nowhere is the potential for renewed violence greater than during visitation."<sup>13</sup>

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<sup>11</sup> Bragg, H. Lien. (2003) Child Protection in Families Experiencing Domestic Violence. Child Abuse and Neglect User Manual Series, USDHHS, Administration on Children and Families, Children's Bureau.

<sup>12</sup> Edleson, Jeffrey L., Mbilinyi, Lynugait F., and Shetty, Sudha, (2003) Parenting in the Context of Domestic Violence. San Francisco: Judicial Council of California, Administrative Office of the Courts, Center for Families, Children & the Courts. Page 21 (quoting Bilinkoff, 1995). Available at <http://www.courtinfo.ca.gov/programs/cfcc/resources/publications>.

<sup>13</sup> Brigner, Michael. (2003) The Ohio Domestic Violence Benchbook, Second Edition. Family Violence Prevention Center at the Ohio Office of Criminal Justice Services. Available at [www.ocjs.ohio.gov](http://www.ocjs.ohio.gov).

The following are some considerations to create a visitation plan that enhances safety:

- Plans should be crafted with input from the children and adult victim as well as information from third parties (DCYF Domestic Violence Protocol).
- If supervised visitation centers or parent aides are to be used, the providers should demonstrate understanding of risks posed by the perpetrator of the domestic violence, or should receive training on those risks.
- If supervised visitation is stressful to children, a therapeutic setting should be attempted.
- The adult victim should never be asked to monitor and report back on the alleged batterer's behavior during a visit as this may increase risk.
- The use of relatives and/or friends of the domestic violence perpetrator as visitation supervisors warrants careful review to include, but not be limited to, the ability of the supervisor to support the adult victim, not to allow access when it has been prohibited, to role model equity and non-violence and not to tolerate abusive, controlling behavior.

The Model Code on Domestic and Family Violence suggests ways in which safe visitation can be achieved:<sup>14</sup>

- .. Order an exchange of the child to occur in a protected setting.
- .. Order visitation supervised by another person or agency.
- .. Order the perpetrator of domestic or family violence to attend and complete, to the satisfaction of the court, a program of intervention for perpetrators or other designated counseling as a condition of the visitation.
- .. Order the perpetrator of domestic or family violence to abstain from possession or consumption of alcohol or controlled substances during the visitation and for 24 hours preceding the visitation.
- .. Order the perpetrator to pay a fee to defray the costs of supervised visitation.
- .. Prohibit overnight visitation.
- .. Require a bond from the perpetrator for the return and safety of the child.
- .. Impose any other condition that is deemed necessary to provide for the safety of the child, the adult victim or other family or household member.

Bancroft and Silverman encourage the use of a tiered approach to visitation with a perpetrator of domestic violence.<sup>15</sup> They also recommend that a perpetrator's failure to abide by expectations at each tier result in a return to the previous level. The tiered approach they recommend is as follows:

- Visitation supervised at a visitation center.
- Visitation supervised in the community by a trained supervisor.
- Visitation supervised by friends or relatives (adequate only to prevent abduction – not for other safety purposes.)

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<sup>14</sup> National Council of Juvenile and Family Court Judges (1994). Model Code on Domestic and Family Violence. Reno, Nevada: Author.

<sup>15</sup> Bancroft and Silverman. The Batterer as Parent. SAGE Publications, 2002. Page 173.

- Visits of up to two to four hours without supervision with clear guidelines as to appropriate behavior (based on unique parenting issues identified.)
- Daylong visits without supervision again with clear guidelines as to behavior and structure.
- Overnight visitation – although this is not recommended in most cases of domestic violence.

An advocate may raise the following questions with mother, service providers, the CPSW and/or CASA as they are useful to evaluate the success of the visitation arrangements:<sup>16</sup>

- Are the children strengthening their connection to the adult victim?
- Are they becoming less worried about and/or over-attached to the adult victim?
- How are their other trauma-related symptoms, such as hypervigilance, nightmares?
- Is the perpetrator of domestic violence supporting their treatment?
- Is the perpetrator supporting the parenting of, and the children's relationship with the adult victim?
- Are the children positively strengthening their connection with the domestic violence perpetrator?

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<sup>16</sup> Bancroft and Silverman. *Assessing Risk to Children From Batterers*, 2002. Available at [www.lundybancroft.com/pages/articles\\_sub/JAFFE.htm](http://www.lundybancroft.com/pages/articles_sub/JAFFE.htm).

## Children's Exposure to Battering

Research has shown that exposure to domestic violence impacts children in a variety of ways, based on factors such as gender, age, direct abuse or neglect of the child, and relationships with adults in and outside the home. Edleson et al in *Parenting in the Context of Domestic Violence* discuss two studies that explore the variables that affect how children respond to domestic violence.<sup>17</sup> A 1998 study by Hughes and Luke found “great variability in problems and symptoms” in a group of 58 children living in shelter who were recently exposed to domestic violence. A study in 2000 by Grych et al found that of 228 children living in shelters, “71 exhibited no problems, another 41 showed only minor distress symptoms, 47 exhibited externalized problems and 70 were classified as” having multiple problems.

Not surprisingly, children who exhibit the most significant behavior problems are those who are both victims of abuse and witnesses to domestic violence:

Hughes et al. (1989) found that children who were both abused and exposed exhibited the most severe problem behaviors, a witness-only group showed moderate problem symptoms, and a comparison, no-exposure group the least. Children seem to agree; for example, in one study their self-ratings indicated that being abused, or being both abused and a witness, had a greater negative impact than witnessing adult domestic violence alone.<sup>18</sup> (McClosky, Figueredo, and Koss, 1995)

It is important to solicit information from adults involved in the children's life about the impact domestic violence might be having on her/him.

### Variables

The following are some variables to consider when thinking about the effects of children's exposure to domestic violence:

- Severity of family violence.
- Frequency of violent episodes.
- Level of each child's exposure or proximity to the violence.
- Presence of other risk factors, such as physical abuse of the child, parental substance abuse, mental health issues, poverty, and presence or use of weapons.
- Children's response during and after a violent event.
- Children's individual coping skills and temperament.
- Age and developmental level of children.

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<sup>17</sup> Edleson, Jeffrey L., Mbilinyi, Lynugait F., and Shetty, Sudha. (2003). *Parenting in the Context of Domestic Violence*. San Francisco: Judicial Council of California, Administrative Office of the Courts, Center for Families, Children & the Courts. Page 16. Available at <http://www.courtinfo.ca.gov/programs/cfcc/resources/publications>.

<sup>18</sup> Ibid, page 10.

## **Mitigating Factors**

Edleson suggests that as positive influences in children's environments increase, the impact of witnessing domestic violence on children may decrease. For example, children appear to exhibit less difficulty the more time passes since the last violent episode.<sup>19</sup> Other positive factors that increase children's resiliency are:<sup>20</sup>

- Development of talents and interests;
- Relationships with trustworthy adults;
- Ability to escape self-blame; and
- Strength of peer relationships.

Batterers commonly isolate children, or otherwise exert control to limit the children's opportunities to develop talents, interests and relationships. Similarly, perpetrators often undermine the relationship between children and their mothers, potentially one of the most, if not the most significant relationship in children's lives.<sup>21</sup> At the same time, a strong positive relationship with their mothers is a key mitigating factor for children exposed to domestic violence. The protective strategies employed by adult victims may also lessen the affect of the violence on children. (See Parenting Section for more information.)

## **Possible Effects:**

Effects of exposure to domestic violence vary, depending on the factors referenced above and on the individual traits of the children affected. (Please see the Working Directly with Children section of this Guide for information specific to potential effects at each developmental stage.) Children can be injured intervening in, or as a bystander to a violent incident. Furthermore, children may present with physical ailments, real or psychosomatic, and/or stress related physical problems that are hard to quantify. Infants born to battered mothers are four times more likely to have low birth weight. Birth defects are also prevalent in these babies.<sup>22</sup>

The effects of exposure to domestic violence on the psychological development of children have been identified in many studies. They are divided into two categories: internalized and externalized behaviors. Edleson identified that some children, usually boys, exhibit externalized behaviors such as aggressiveness and antisociality while others, more likely girls, exhibit internalized behaviors of fearfulness and inhibition. Furthermore, children who witness domestic violence may exhibit lower social competence, be more anxious, depressed, or angry, or have low self-esteem.<sup>23</sup> It has also been reported that children, especially boys, who have witnessed

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<sup>19</sup> Ibid, page 12.

<sup>20</sup> Bancroft and Silverman. *The Batterer as Parent*. SAGE Publications, 2002. Page 41.

<sup>21</sup> Ibid, page 42.

<sup>22</sup> Goodmark, Leigh. *Assessing and Treating Child Victims of Domestic Violence*. Child Law Practice, American Bar Association. December, 2002.

<sup>23</sup> Edleson, Mbilinyi, Shetty. (2003) *Parenting in the Context of Domestic Violence*. San Francisco: Judicial Council of California, page 10.

domestic violence have difficulty with peer relationships, self-control, and autonomy. Children who witness domestic violence may also have difficulty understanding situations from the perspective of another.

Exposure to domestic violence can also affect children's cognitive development, including delays in language development and developmental regression. It may also affect school performance and learning such as phobias, attendance issues, tiredness, and inattention.<sup>24</sup>

The effects of exposure to domestic violence have been found to last into adulthood. A study by Silvern et al.<sup>25</sup> found that among 550 undergraduate students who witnessed violence as children, depression, low self-esteem, and trauma related symptoms were evident for women, while trauma related symptoms also were apparent for men.

In addition to having physical, psychological, and cognitive effects, exposure to domestic violence impacts children's belief systems as they struggle to come to terms with what they are witnessing. A batterer who is a caretaker and role model may cause the following distortions in children's belief systems:<sup>26</sup>

- The use of violence to obtain an outcome or resolve conflict is acceptable.
- There are no negative consequences for abusive behavior.
- Anger causes violence.
- Victims of violence are the cause of the abuse.
- Males are superior to females and should be in control.
- Negative perceptions about women are generalized and real.
- Men are better caretakers for teen boys.

### **Assessment of Children**

Assessment is the first step to understanding how children have been affected by exposure to domestic violence and what interventions, if any, are necessary. Clinical social workers are trained to make assessments based on observed behavior and careful listening instead of performing formal testing that is of questionable value in domestic violence cases. These assessment skills, along with domestic violence expertise, are important for obtaining reliable information. According to the Boston Child Witness to Violence Project,<sup>27</sup> comprehensive assessments of children should consider the violence in the family as only one influence on the children. Assessments should involve clinical interviews with the children and their mothers, and include:

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<sup>24</sup> Goodmark, Leigh. *Assessing and Treating Child Victims of Domestic Violence*. Child Law Practice, American Bar Association. December 2002.

<sup>25</sup> Edleson, Jeffrey. (1999) *Problems Associated with Children's Witnessing of Domestic Violence*. Available at <http://www.mincava.umn.edu>.

<sup>26</sup> Bancroft and Silverman. *The Batterer as Parent*. SAGE Publications, 2002. Page 48-51.

<sup>27</sup> Goodmark. *Assessing and Treating Child Victims of Domestic Violence*. American Bar Association. December, 2002.

- A detailed review of the abuse from the children's and mother's perspectives.
- Observations of the children's initial response and current symptoms.
- Developmental history, especially notable changes (e.g. lost or regressed developmental skills.)
- The mother's reaction to the children's experience and symptoms.
- The meaning that the children attach to events (may be necessary to explore through play).
- How the children are coping with the aftermath.
- The children's overall coping style.
- The children's strengths including his/her family and community.

Although clinical social workers should be the ones to conduct formal assessments, this information can also guide an advocate's work with mothers and their children.

## **Working with Mothers in Co-Occurrence Cases**

### **Helping Mothers Communicate with Their Children about their Experience with Domestic Violence**

Battered mothers often have difficulty talking to their children about the domestic violence they have experienced in their homes. This is a subject that advocates should consider discussing with mothers, as they may feel they should already know the right thing to say or do. Here are some helpful hints for advocates when talking with a woman about her children:<sup>28</sup>

- Help her to develop listening skills, especially when confronted with difficult topics by her children.
- Help her to develop responsive language that communicates understanding, is non-accusatory (i.e., don't ask "why" questions), models accepting responsibility ("I" statements instead of "you" statements), and sets a positive framework (what is expected instead of what not to do).
- Help her to act in a way that is non-threatening and non-violent with her children.
- Help her to understand and cope with the fact that her children will probably not respond immediately.
- Help her to understand and tolerate the conflicting feelings her children may be experiencing, i.e. if the batterer has played a significant role in the children's lives, they may have positive feelings towards him.
- Help her to be able to communicate to her children that:
  - Domestic violence is not their fault.
  - They are loved.
  - She will try to keep them safe/act in a way that is safe.
  - Violence is not okay.
  - She realizes how scary it is for them.

### **Ways to Support Mothers who are Victims of Domestic Violence**

Mothers need reassurance that their child's behavior and reactions to the domestic violence or shelter life is to be expected, is normal given the circumstances, and guidelines for when to seek professional help. Whether they decide to stay in their abusive relationships or leave, they will be challenged by the stress the domestic violence has had or continues to have on their parenting. Mothers need support and guidance in strengthening their relationships with their children. The following are some suggestions for supporting mothers' parenting:<sup>29</sup>

- Visualize and Reclaim Parenting – Help mothers to talk about how they thought it would be, how they wanted to be as a parent then strategize with them as to how to make that happen. Take small steps at first. Talk to her about ways to recapture times that have been disrupted by the batterer.
- Talk about schedules, consistency and guidelines.

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<sup>28</sup> Adapted from the Wisconsin Coalition Against Domestic Violence.

<sup>29</sup> Adapted from Amy Torchia, Child Advocacy Coordinator, VT Network Against Domestic and Sexual Violence. Greenbook training on Advocacy with Children Exposed to Domestic Violence. 2005.

- Offer mothers ongoing support as this will be a process that will take time and may sometimes be challenging.
- Help mothers to find additional support for parenting and post-separation challenges.
- Help mothers develop positive discipline strategies (see Appendix C *Tips for Positive Discipline*.)
- Help mothers to engage in activities that will strengthen family relationships (see Appendix D for instructions on these activities):
  - Make a ‘family banner.’
  - Make ‘feelings’ games and artwork and use them.
  - Make a family chore chart.
  - Make big stuffed family member dolls.
  - Cook together.
  - Make time each day to play together.
  - Play games.
  - Sing together.
  - Make family members out of clay and set them up doing their favorite things together.

Helping Children Thrive, Supporting Woman Abuse Survivors as Mothers by Linda Baker and Alison Cunningham, 2004 Centre for Children and Families in the Justice system, London Family Court Clinic, Ontario, Canada is an invaluable resource for working directly with mothers. There is information to share and tools to use when working with mothers on parenting. It can be downloaded at no cost from [www.lfcc.on.ca](http://www.lfcc.on.ca).

## Working Directly with Children

In working with children, it is helpful to understand child development. One way to understand development is from a social context; what a child may be working to master in terms of her/his sense of self and how s/he relates to the world. This information provides some context for identifying the impact of domestic violence and what interventions might be age appropriate and beneficial. Below is a description of one of the major psychological theories of childhood development. There is, however, the “nature” side of development; studies on the effect of trauma on brain development in children, for instance (see *From Neurons to Neighborhoods: The Science of Early Childhood Development*, The National Academies, October 2000). A complete discussion about the impact of nature versus nurture on child development cannot be captured here. Readers are encouraged to seek additional information as their needs and interests indicate.

### Child Development - Social Context

Erik Erikson was an ego-psychologist who developed a theory of eight stages of human development. The first five stages, pertaining to childhood development, are described below. According to Erikson each stage is defined by a specific psychosocial task that a child must resolve successfully in order to be prepared for the next stage of development. Successful resolution is defined by a balanced outcome. If this balance is achieved, Erikson theorized that a child develops virtues or psychological strength. What is provided below is only basic information about this theory; there is much more information to be found by searching Erikson on the internet.<sup>30</sup> Below each description some of the potential effects of domestic violence to that particular stage of development are listed; there is overlap between stages.<sup>31</sup>

Trust vs. Mistrust (0-18 months): The task is to develop **trust** without eliminating the capacity for **mistrust**. Newborns require familiarity, consistency, and continuity to develop a sense that the world is safe. They depend on adults for all their needs to be met. If parents are unreliable or do not meet the infant’s needs, the infant will not develop this basic trust. If the proper balance is achieved children will develop the psychological strength of **hope**.

Possible Effects: Negative impact on the parent-child bond because the parent does not consistently meet the infant’s needs. Visible distress due to loud noises or images associated with violence. Prolonged separation from parental figures is stressful. Possible symptoms are: excessive fears, poor sleeping habits, poor health, and/or excessive screaming.

Autonomy vs. Shame (18 months to 3-4 years): The task is to develop a degree of **autonomy** while minimizing **shame** and **doubt**. Parents/caregivers are toddlers’ most important people. Parents should neither discourage nor push children in their exploration of the world. A firm and

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<sup>30</sup> Boeree, C. George. Erik Erikson 1902-1994. Available at <http://www.ship.edu/~cgboeree/erikson.html>.

<sup>31</sup> Baker, Linda and Cunningham, Alison. (2004) Helping Children Thrive, Supporting Woman Abuse Survivors as Mothers, Pages 46-49. Centre for Children and Families in the Justice System, London Family Court Clinic, Ontario, Canada. Available at [www.lfcc.on.ca](http://www.lfcc.on.ca). Also adapted from Amy Torchia, Child Advocacy Coordinator, VT Network Against Domestic and Sexual Violence. Greenbook training on Advocacy with Children Exposed to Domestic Violence. 2005.

tolerant approach will help children to develop self-esteem and self-control. If balance is achieved, children will develop the psychological strength of **willpower**.

Possible Effects: Fear and instability may inhibit exploration and play limiting a child's sense of autonomy. Aggression may be imitated in play. Symptoms may include: fear of men, anxiety, clinging, and/or overdependence on mother.

Initiative vs. Guilt (3-4 to 5-6 years): The task is to learn **initiative** demonstrated by the capacity to manipulate their environment, the development of a sense of purpose, a conscience, and sexual identity. Parents can foster curiosity and imagination by encouraging children to try out ideas. Children begin to identify with the same sex parent. A balance leads to the psychological strength of **purpose**.

Possible Effects: Children in this stage may feel responsible for or guilty over the domestic violence. Boys especially may develop aggressive behavior or other inappropriate ways to express emotions. Children may become withdrawn, confused by conflicting messages that they see and hear at home, and/or experience regression.

Industry vs. Inferiority (6 to 12 years): The task is to develop a capacity for **industry** by experiencing the world outside the family and developing a sense of mastery over tasks and positive self-concept. It is a time for education and learning the social skills required by society. Experiencing success is important during this stage. **Competency** is the psychological strength developed.

Possible Effects: Children may attempt to mediate the violence or take on a nurturing role as awareness grows as to the impact of the domestic violence on their mothers and siblings. They may be distracted and learning is compromised as a result. If their successes are not recognized and reinforced, or if expectations are unrealistic, they may develop a poor self-concept.

Identity vs. Role Confusion (13 to 18/20 years): The task during this stage is to achieve **ego identity** and avoid **role confusion**. This requires children to integrate all that has been learned about life and her/his self into a unified self-image. The development of the psychological strength of **fidelity** is the balanced outcome.

Possible Effects: Teens may attempt to either join the aggressor or protect the victim. Adolescents may run away, commit delinquent acts, use alcohol or drugs in an effort to escape the abuse. Adolescents may feel an increased level of responsibility for care-taking. Skills for communication and negotiation may be poorly developed. Teenagers may develop a distorted sense of self because of the degradation of the abuser. They may have difficulty establishing healthy relationships.

See Appendix E for handouts on the stages of child development and potential effects of domestic violence that can be utilized with mothers.

Advocates can serve an important role in helping children cope with the abuse to which they have been exposed. This includes providing a safe environment in which children can express themselves. As with adult victims, an advocate's first response to children can greatly affect the subsequent relationship with her/him. In many ways helping children is no different than helping adults; being nonjudgmental and supportive is the key. It is important to be clear with children about confidentiality and its limitations.

### **What children need:**<sup>32</sup>

- To know that violence and abuse are wrong.
- To know that the abuse in their home is not their fault and they are not responsible to stop it or to care for the adults.
- A chance to talk, be listened to, and feel supported.
- To know that they are not alone.
- To know that they have a right to be safe and to have help in developing a plan for their own safety.
- To learn equitable, nonviolent ways to solve problems and get along with others.
- To have opportunities to feel good about themselves.
- To have opportunities to build a close, mutually supportive relationship with their non-abusive parent.
- To have structure, limits and predictability in their daily lives.
- To have strong community and familial relationships including with siblings.
- To have contact with non-custodial parents IF it is safe and does not interfere with healing.
- To know that they are not responsible for what happens after they disclose the abuse.
- To have opportunities to access community resources, including mentoring programs, counseling/support groups.

### **How to help:**<sup>33</sup>

- Validate children's feelings and their desire to express them; give feelings names.
- Listen with full attention.
- Repeat what they say so they know they are understood.
- Accept what they say and express concern calmly without shock or dismay.
- Listen for clues to underlying feelings.
- Be willing to explore all the complicated and conflicted feelings that children have about their home lives. Children from violent homes often experience divided loyalties, loving and resenting both parents. Reassure them that this is normal in their situations.
- Help children prepare safety plans with input from their mothers if at all possible.
- Model equitable gender roles and assertive, non-violent problem solving skills.
- Remember above all that the children may have been expected to keep secret the abuse that is occurring at home, and that the children have put themselves at risk to tell their stories. Every action taken should be considered in light of its potential to jeopardize the safety of the children and their families.

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<sup>32</sup> Adapted from Amy Torchia, Child Advocacy Coordinator, VT Network Against Domestic and Sexual Violence. Greenbook training on Advocacy with Children Exposed to Domestic Violence. 2005.

<sup>33</sup> Adapted from the Wisconsin Coalition Against Domestic Violence.

### **Tips for Communicating with Children:**<sup>34</sup>

- Sit or stand at the same level as children.
- Make eye contact but understand that they may not be able to do the same.
- Respect children's space and try to notice their level of comfort with your closeness or touch.
- Speak slowly; ask simple, developmentally appropriate questions.
- Engage in small talk to establish rapport.
- Explain what is happening.
- Let children tell their stories.
- Believe children.
- Do not make promises that cannot be kept.
- Reassure children.
- Be clear with children about what information has to be shared with others.

Some examples of specific things to say are:

- What you tell me is between you and me. Except, if you tell me that you are being hurt, hurting yourself, or hurting another person, then I might need to tell your mom and another adult to help keep you safe.
- What happened is not your fault.
- I believe you. I'm sorry this happened to you.
- I'm glad you told me. Sometimes it's hard to talk about this.
- No one deserves to be hurt.
- Can you tell me more about that?
- Let's talk about what you can do when something happens. Is there a safe place you can go?

Some examples of things not to say are:

- What did you do before the fight started?
- I'll keep your secret.
- It will all be ok now.
- \_\_\_\_\_ shouldn't do things like that. It's not nice.
- Oh my God! That's awful.

See Appendix F Activities for Young Children for support group activities, creating activity bags for young children, and additional ideas.

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<sup>34</sup> Adapted from Amy Torchia, Child Advocacy Coordinator, VT Network Against Domestic and Sexual Violence. Greenbook training on Advocacy with Children Exposed to Domestic Violence. 2005.

## Safety Planning

Advocates for victims of domestic violence believe in victim-centered safety planning that acknowledges the victim's expertise on her and her children's life situation. Victim-centered safety planning starts from the victim's perspective, and then integrates the advocate's knowledge and resources. It is an ongoing process of assessing risks to short and long term physical and emotional safety. Victim-centered safety planning values the thoughts, feelings and experiences of the victim and formulates strategies for safety and stability.

Advocates are comfortable safety planning with adult victims, but often struggle with the process of safety planning with children. Many of the same skills advocates use with women can be used with children. The goal is to enhance children's feeling of safety, not to give them the message that they are responsible for what is happening or for stopping it. It is important to take into account what children know about their situation when safety planning with them.

A mother's input is critical in the process of safety planning for her children.

An individual approach is particularly important in the development of safety plans for children. Some considerations include:

- The level of risk for each child.
- Is the child parentified? If so, care must be taken that the child does not feel an overwhelming sense of responsibility for carrying forth with the plan no matter what or for the care of others.
- Does the batterer pressure the child for information?
- Other significant adults in the child's life.
- Coordination with the safety plan for their mother.
- The children's ability, stage of development, and environment.

Safety plans may consist of, but are not limited to, the following elements:<sup>35</sup>

- A list of trusted adults children can talk with.
- Children should be given permission to opt out of any action in the plan at any time. S/he must be assured that this does not constitute a failure on her/his part.
- Safe places to go in the home, or ways to get out of the home if necessary, and where to meet outside (ask children to explain what s/he will do, step by step).
- Safe places to go near home, school, or other environments children frequent.
- Assuring that children know how to call 911, and to use a pay phone (and has the correct change) or cell phone (practice how to do it and what to say).
- What to do/not do during an argument or violent incident, i.e. do not try to intervene.
- A family code word or emergency signal, and what to do if it is seen or heard.
- Remembering important personal information: address, phone number, phone number of a safe adult.

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<sup>35</sup> Adapted from the Wisconsin Coalition Against Domestic Violence; and Ganley, Anne and Schechter, Susan. (1996) Domestic Violence: A National Curriculum For Children's Protective Services, Family Violence Prevention Fund. Available at [www.fvpf.org](http://www.fvpf.org).

- Expectations of older children in the care of younger siblings.
- Boundaries on what not to tell the perpetrator.

Safety planning booklets are often helpful with younger children so they can draw as younger children are concrete thinkers. See Appendix G for safety planning tools for use with children.

It is important for children who are going to have unsupervised visitation with a father who has battered their mother to have the opportunity to talk about the visitation and to safety plan. This can help children manage their fear and anxiety. Please see Appendix H for an outline of discussion points regarding safety planning for unsupervised visitation for use with children and their mothers.

## **Child Abuse and Neglect Reporting**

### **Mandatory Reporting**

All member programs of the NHCADSV require that all staff members and volunteers comply with New Hampshire's child abuse reporting statute, RSA 169-C. This statute requires that "any person having reason to suspect that a child has been abused or neglected shall report the same in accordance with this chapter." Reporters can remain anonymous, request that their identity not be disclosed to the family, or can allow their identity to be disclosed. As a professional reporter, an advocate may be requested to file a written report within 48 hours as a follow-up to the oral report. See Appendix A for RSA 169-C, Child Protection Act.

DCYF will inform professional reporters as to the screening decision. If the reporter does not agree with the screening decision, a reporter can speak with the Central Intake Supervisor. Professional reporters are then usually contacted by the assessment CPSW if the assessment is accepted and assigned at the local District Office. This contact is to enable the reporter to provide any new information.

If an advocate is not sure about the need to report a specific situation, a call to DCYF Central Intake at DCYF may help to clarify. The number to call is 1-800-894-5533 or 271-6556.

### **Informing the Victim about the Need to Report**

In most circumstances, it is imperative to include an adult victim in the reporting of suspected child abuse and/or neglect. This can be done in such a way as to meet the mandate to report but also offer some options to the victim. For example, an advocate may sit with the victim as she places the call to DCYF Central Intake or vice versa. The more information the advocate can give to the victim about the child protection process before she becomes part of it, the better prepared she will be.

## **Division for Children, Youth and Families**

New Hampshire's Department of Health and Human Services (DHHS), Division for Children, Youth and Families (DCYF) is designated to assist families in the protection, development, permanency, and well-being of their children. Families enter the child protection system through a report to DCYF Central Intake. A screening decision is made at intake. If the referral is accepted, the report is assigned to a local District Office for a 60-day assessment. At the end of this process, if the report is "founded" and remains open for services, a Family Service Worker is assigned to work with the family to alleviate the safety concerns. This entire process is detailed in the rest of this section from a DCYF Policy perspective, which has child safety as its primary mandate. DCYF recognizes and strives to achieve safety for all victims, adult and child.

To guide the decision making process, DCYF implemented Structured Decision Making (SDM) in December, 2001. The purpose of SDM is to promote objectivity and consistency to each key decision point for all aspects of the child protection process including response priorities, assessment, out-of-home placement and family services. (See appendix I for SDM forms.)

### **Intake**

DCYF Central Intake receives reports of child abuse/neglect from Monday-Friday 8:00-4:30, except on holidays (see previous section for more information on reporting). Reports on evenings, weekends and holidays are made to law enforcement. Although law enforcement notifies DCYF of these reports, reporters should also contact Central Intake the following business day. Central Intake screens reports of suspected child abuse/neglect within 24 hours. Intake policy outlines criteria for determining if a report is referred to the DCYF District Office for assessment. If a report does not meet the criteria for assessment, but appears to warrant intervention from local community resources, Central Intake staff will provide information on local resources to the reporter. When a report includes information that a crime may have been committed against a child, DCYF is mandated to provide this information to law enforcement. Reports that are not accepted for assessment are kept by DCYF for one year in case other reports concerning the same children are made.

If a referral is accepted for assessment the intake worker must determine, and the supervisor must approve, a response priority level (within the same 24 hours) to determine how quickly the assessment must be initiated. Response priorities are:

**\*Level 1:** Response occurs immediately, but no later than within 24 hours of receipt of the report by the DCYF District Office. Response means face-to-face contact with the alleged child victim(s) and parents.

**\*Level 2:** Within 48 hours face-to-face contact is required.

**\*Level 3:** Within 72 hours every effort must be made to ensure child safety through face-to-face contact with the alleged child victim(s) and parent(s). Telephone or collateral contacts may suffice with supervisory approval if safety is not a factor.

If the report contains any information regarding domestic violence, the reporter is given information about relevant community resources even if the report is not accepted for

assessment. The presence of domestic violence is documented in the DCYF record. This indicator should generate DVS involvement in the case if the case is accepted for assessment.

In any given year, over 60% of the reports screened at Central Intake are accepted as either new assessments, or as additional information on existing assessments or open cases.

### **Assessment**

If Central Intake accepts a report for assessment, it is forwarded to the DCYF District Office covering the town where the child lives and the 60-day assessment process begins. The primary goal of the assessment is to assess and secure the safety of children. It is also used as an opportunity for the education of parents and family members in an effort to prevent the abuse and/or neglect of children. The components of an assessment are:

- Determining safety of all children and family members;
- Developing a relationship with the family;
- Determining the validity of the report by meeting with each child and the family, and making necessary contacts with schools, neighbors, professionals, paraprofessionals, and others;
- Assessing future risk;
- Determining, based on the strengths, needs, and resources of the family, whether intervention by DCYF or referral to community agencies is necessary; and
- Coordinating services to meet identified needs.

The Child Protective Service Worker (CPSW) must keep well documented records based on factual observations, interviews and any relevant information from collateral contacts. The confidentiality of the family must be respected and collateral contacts are only to be given information regarding the family on a "need to know" basis to assess risk and safety.

Although those involved in a case can request information, DCYF can exercise discretion regarding the information released based on safety concerns.

As stated above, at the end of the 60-day assessment a case determination will be made. The CPSW completes the Final Safety Assessment. Even though most assessments involve situations where there are initial safety concerns for children, the majority (at least 85%, since 1994) are resolved safely without a determination that child abuse or neglect occurred. According to the child abuse statute, these are determined “unfounded”, and there is no further DCYF involvement with the family. The assessment records are retained for three years for DCYF reference only, in case a new report on the family is received.

When an assessment is “unfounded”, the family may want to engage in voluntary services. For this purpose, DCYF contracts with a statewide network of community agencies and family resource centers to maintain a local preventive support system, called Comprehensive Family Support. Through Comprehensive Family Support, family members can access services such as enhanced home visiting, relationship skill building, parenting classes, and respite services (in most areas).

A report accepted for assessment is determined to be “founded,” when, based on a review of information DCYF has collected, it appears that the child abuse and/or neglect did occur. “Founded” cases are delineated in the following ways:

- “Founded, court action,” which make up about 45% of all “founded” cases. DCYF believes that to remedy safety concerns, it is necessary to seek from the District Court/Family Division mandates for services, orders for individuals to leave the home so that the children can remain safely in their home, and/or placement for the children because they are at imminent risk.
- In assessments that are “Founded, problem resolved,” DCYF has made a determination that the child abuse/neglect that was alleged did occur, and steps have been taken to achieve safety for the child. No further action is taken and the assessment is closed.
- If DCYF has determined that the child abuse/neglect did occur, and the family agrees with this determination a case determination of “Founded, voluntary services” can be made. This is called a “B Case.” The family must agree as to who is responsible for the abuse/neglect, waive due process, and agree to a specific case plan to remedy the safety concerns within a six month timeframe.

Due process rights: If a case is determined to be “founded, problem resolved” and the family disagrees with this determination, they can initiate an appeal by completing a hearing request form. If a petition is filed in court, due process is afforded through the court process (see the next section of this guide for information on the child abuse/neglect court process).

The hearing request form comes with the letter that DCYF sends to the family informing them of the assessment determination. It must be returned to the local DCYF office. It is best to do this within 30 days of the notification although there is no mandatory time frame. The local DCYF office then forwards this request to the Administrative Appeals Unit at DHHS which schedules and conducts the appeal hearing. At the time of this writing hearings were being scheduled about four months from the receipt of the request. The time frame for a hearing varies according to the number of these requests that are being received at any given time by the Appeals Unit.

Founded cases result in a specific finding of who is responsible for the abuse and/or neglect. The perpetrator’s name will appear on the DCYF Central Registry for seven years following the determination. The Central Registry is directly available to the Department of Health and Human Services. It is used as a reference for DHHS licensed child care providers. If a registry check is requested and that person is named on the registry, DHHS will contact the named person to discuss the results. The registry information may or may not be disclosed depending on the results of that discussion. One year after the finding, the registered person may submit a “Petition to Expunge” to the court requesting removal of his/her name from the Central Registry. S/he has to prove s/he presents no risk to children. If this initial petition is denied, one can be filed every three years. The forms are available from the court.

### **Social Study**

If an assessment is founded and there are continuing concerns for the safety of the children, the case is opened and transferred to a Family Services CPSW. The social study is completed by the Family Services CPSW on court and B cases and includes information gathered during the assessment. It is completed 60 days after placement or 30 days after an adjudication/consent for

court cases. See Appendix J for the Social Study Form used by DCYF. The social study is used in the following ways:

- It is a required report to the court such as the social study prior to the dispositional hearing.
- For planning and facilitating voluntary agreements/consent decrees between DCYF and the family.
- As a reference in making referrals to behavioral health professionals for evaluations and/or treatment, to out-of-home placement facilities, and/or to community-based service providers.
- In developing a case and/or visitation plan.
- As a reference in facilitating discussion and case planning at Administrative Case Reviews.
- As a continuous reference by supervisors, permanency teams, and other CPSWs who may be involved with the family.

The social study should include the home conditions, family background including culture and ethnicity, financial assessment, school record, and physical health and social history of the family. It should also include criminal record information and other information that can highlight co-occurring issues, such as substance abuse, developmental and mental health issues. Also in co-occurrence cases the court expects the social study to include an assessment of the domestic violence and its effects, if any, on the children.

Mother's sharing of information results in CASA, DCYF, and the court having a more comprehensive view of the family, leading to more meaningful interventions. It can be unsafe for a battered woman to disclose fully the behaviors of the batterer and the ways she and her children are impacted. The advocate can help the mother sort out what is safe to disclose to the CPSW and other parties as well as the benefits and challenges associated with the disclosures. The advocate also can help the mother explore other sources of information, including witnesses to the batterer's pattern of coercive control. Obtaining information in this way may prevent compromising the safety of the adult victim and her children.

The social study is shared by the court with all the parties to the case. It is used by the court to assist in the development of a specific plan that outlines what each parent must do to alleviate the safety concerns.

Social study points for advocacy and consultation:

- Encourage the CPSW to obtain documentation of abuse from other sources such as the therapist, batterer intervention program provider, police, court, etc. so that this information can be brought forward with less risk to the adult victim.
- Help mother prepare/gather the information she would like to share with the CPSW about how his coercive control and battering affects her life, her parenting and her children.
- Offer to sit with the mother during the social study interview(s) to help her bring forward the information that she wants shared.
- Encourage the mother to share whatever information she safely can share that is related to the batterer's controlling and coercive behavior.

- Discuss with the mother a partial waiver, allowing the advocate to share information that will enhance the CPSW’s understanding of her situation.
- Offer domestic violence education that creates a context in which to understand the information for the social study, e.g. the way that a batterer’s behavior undermines the parenting of a battered mother.
- Ask to review the social study before it is finalized or ask the CPSW to discuss major themes at the end of the social study interviews so that the adult victim has an idea of what will be in the report.

The social study will be referred to throughout the life of the case to inform decisions about the family, and therefore, advocacy at this stage is critical.

### **Case Planning**

The Family Services CPSW must work with the family to develop a case plan, which is designed to facilitate the provision of a safe environment for the children and to strengthen the family. This plan is usually completed within 30 days of the assessment determination or within 60 days of the date of placement of the child in placement cases. DCYF must work with the family to identify the goals that need to be accomplished to correct the conditions that resulted in the child abuse and/or neglect, empower and strengthen the family so that child abuse or neglect does not happen again, and identify those supports and services necessary to accomplish these goals. In those cases in which children are in placement, the case plan describes the type, safety and appropriateness of placement; the needs and services required by the children, parents and foster parents; the individuals responsible for delivering the services or completing the tasks; the dates for completion; and the anticipated child and family outcomes. The case plan guides all participants towards achieving the permanent plan for the child. The case plan informs, if the case goes to court, the “reasonable efforts determinations” discussed in the legal process section of this guide. The case plan is updated every six months, and/or when placement or permanency goals change.

The DCYF Domestic Violence Protocol identifies the DVS/advocate as a consultation resource for case planning. If the DVS/advocate is not asked to consult on the plan, the DVS/advocate should offer this service.

The Family-Centered Case Plan is completed with the family to:

- Assess strengths, needs, and resources;
- Establish goals and objectives, and a framework of roles and responsibilities;
- Set time frames for meeting the goals; and
- Assess progress towards goals.

DCYF policy speaks to the need to involve the family as much as possible in the development of the case plan. The case plan includes a question about the family and children’s perception of the reason for DCYF involvement. Parents and children, when age appropriate, are asked to sign the completed plan, indicating that they have “participated in and understand this plan.” DCYF Policy mandates that if a family member refuses to sign the plan, the CPSW must document his/her disagreement on the plan.

In cases involving domestic violence, separate individualized case plans should be created with mother and the batterer. Case plans should not call for couples counseling, mediation or family treatment with both the batterer and mother participating together.

See Appendix K for DCYF Case Planning Forms; there are three based on the goal in the case.

### **Placement**

When removal is deemed necessary, every effort must be made to keep children as close as possible to their home, school, and community, while ensuring that the placement is the least restrictive possible. The CPSW must engage the parents in planning for the children, including locating absent parents and identifying other family members with whom the children may be placed.

The DVS/advocate may provide consultation regarding placing children with the relatives or friends of the batterer when there are concerns that the placement may allow the pattern of coercive control to continue.

When children enter placement, DCYF must show the court that it has engaged in reasonable efforts to prevent placement and is continuing to work towards reunification. This will be discussed in more detail in the next section of this guide.

### **Foster Care Administrative Case Review**

Administrative Case Reviews must occur every six months for children who reside in out-of-home placement and notification must be sent to the parents and others identified in the case plan within 10 days of the scheduled review. The case review is conducted to:

- Determine if case documentation is available to meet federal requirements.
- Discuss the case plan including parental and children's participation in the development of the plan and agency, family, and provider compliance with the plan.
- Review problem identification, the needs and strengths of the family, and progress made towards resolution.
- Review whether continued services and intervention are necessary.
- Review the status of the children's placement and visitation plan.
- Review the disability status of the children and the need for specialized services.
- Review educational placement and progress, and children's health information.
- Review preparation for independent living for children over 16.
- Identify services that are needed, but not being provided and the reasons why.
- Review the extent of the agreement between the case plan and the court order.
- Review Termination of Parental Rights and the progress towards the permanent plan.
- Report on findings and make recommendations.

The case review is facilitated by an independent, trained individual under contract with DCYF but not responsible for the case management or service delivery to either the children or parents. Parental and provider compliance with the case plan will be assessed at the review. The DVS/advocate may accompany the mother to the case review and/or help her prepare for the

review. If there are safety concerns, the DVS/advocate may advocate for the mother to have a review separate from the batterer's.

### **DCYF Domestic Violence Protocol**

DCYF has developed a protocol to guide practice in child protection cases when domestic violence is a co-occurring factor. This protocol guides the process from intake through family services and includes information on safely conducting interviews, screening, safety planning, batterer intervention, and visitation. It is important for DVS/advocates to be familiar with the entire protocol. Please see Appendix L for an outline of the protocol.

### **Advocates Working with the CPSW**

The DVS/advocate may assist the CPSW with:

- Consistently assessing the mother's behavior in the context of the batterer's controlling coercive behavior, for example he may threaten her so she does not agree to meet with the DVS/advocate, or he may tell her negative stories about DCYF so she avoids the CPSW.
- Understanding the batterer's efforts to undermine the mother's ability to follow through with her case plan.
- Maintaining the focus on batterer accountability and identifying his pattern of coercive control and its effects on all family dynamics.
- Engaging in a collaborative, ongoing process of safety planning with the mother to respond effectively to changes in the family situation.
- DCYF and the court have no jurisdiction to mandate that batterers that do not live in the household engage in services. Some of these boyfriends, however, if they want to continue a relationship with the mother and her children, may be amenable to services that will help them to address their controlling coercive behavior or other issues that create unsafe situations.
- Helping the CPSW to assess whether or not the domestic violence perpetrator is making change. Bancroft and Silverman suggest using multiple sources of information to assess the following factors in determining whether or not a perpetrator is making necessary changes:<sup>36</sup>
  - ü Has he made a full disclosure of his history of physical and psychological abuse?
  - ü Has he recognized that abusive behavior is unacceptable?
  - ü Has he recognized that abusive behavior is a choice?
  - ü Does he show empathy for the effects of his actions on his partner and children?
  - ü Can he identify his pattern of controlling behavior? How specifically?
  - ü Can he identify his entitled attitudes?
  - ü Has he replaced abuse with respectful behaviors and attitudes?
  - ü Is he willing to make amends in a meaningful way?
  - ü Does he accept the consequences of his actions?

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<sup>36</sup> Bancroft, Lundy and Silverman, Jay G. *Assessing Risk to Children from Batterers*. (2002) Available at <http://www.lundybancroft.com/pages/articles>.

The Family Services CPSW is also responsible to prepare court reports for each review hearing on those cases that are court involved. This provides another opportunity for the DVS/advocate to consult regarding how information is presented to the court.

If there are concerns regarding practice in a co-occurrence case, the first step should be to address these locally. A Co-Supervision/Conflict Resolution Process is in place through the Domestic Violence Specialist Program (see Appendix M.) If an advocate other than the DVS encounters practice issues, s/he should inform the DVS and the crisis center director. If the concerns cannot be resolved through the established process, the appropriate chain of command would first involve an Assistant Administrator for Child Protection, then the Child Protection Administrator, and finally the Director of DCYF. The Ombudsman's Office (271-6941) is available to help with concerns that cannot be resolved within DCYF. There is information about the Office of the Ombudsman, including frequently asked questions, on the DHHS website, [www.dhhs.state.nh.us](http://www.dhhs.state.nh.us).

## **The Child Protection Legal Process**

Some families are involved with the court through child abuse and/or neglect petitions filed by DCYF under NH RSA 169-C (See Appendix A). The Court Improvement Project developed *Protocols Relative To Abuse and Neglect Cases And Permanency Planning* which are the “how to’s” of the law; these are written for the court so they are from the court’s perspective, but DCYF relies upon them heavily (see Appendix N.) There are federal laws that address states’ child protection processes and funding. In performing advocacy in conjunction with child protection, some areas of these laws are particularly important for advocates to understand.

### **Federal Law**

Section 103 of The Adoption and Safe Families Act (ASFA), enacted in 1997, puts time frames on states to achieve permanent living arrangements for children in foster care. This section of the law states that for children who have been in foster care for 15 out of the previous 22 months, the state must file a petition to terminate parental rights and carry out a plan for adoption or other permanent living arrangement if more appropriate. It is expected that child protection will develop this plan at the same time they are working towards reunification (called concurrent planning). For purposes of the ASFA “time clock,” children’s time in foster care is calculated from the date of the first court finding of abuse and/or neglect, or 60 days from the date the children were removed from their home whichever comes first. The purpose behind this is to prevent children from remaining in temporary foster care for long periods of time. Difficulties arise, however, given the time recovery from trauma and obtaining appropriate services may take for families where there is a co-occurrence of domestic violence and child abuse/neglect.

When New Hampshire came into compliance with ASFA, RSA 169-C was amended to state that a termination petition shall be filed when children have been in foster care for 12 out of 22 months. There are several clauses in ASFA, and echoed in the New Hampshire statute, delineating when filing a termination petition is not required. These are:

- The children are being appropriately cared for by a relative;
- The state has documented compelling reasons why this would not be in the best interests of the children, for example the children continue to need treatment and are not ready for reunification; or
- The state has not provided the family with services and reasonable efforts as the state deems necessary for safe return of the children home.

The Social Security Act sets out the reasonable efforts requirement in Title IV-E, Section 671(a)15, and ties reasonable efforts determinations to federal reimbursements to the state for children in foster care. The Social Security Act sets out (and ASFA restates in Section 101) that in determining and making reasonable efforts, the children’s health and safety is the paramount concern; that efforts shall be made to preserve and reunify families “prior to the placement of children in foster care, to prevent or eliminate the need for removing the children from their home; and to make it possible for children to safely return home,” [(i) and (ii) of Section 101 ASFA, 1997]. Reunification does not have to include the whole family, but can involve only one parent and children. A finding of “no reasonable efforts” by a judge stops the “12 month time clock” and federal reimbursement to the state for that children’s stay in foster care.

New Hampshire law gives guidance to the courts for making reasonable efforts determinations by stating that the “court shall consider whether services to the family have been accessible, available and appropriate,” [NH RSA 169-C:24-a III (c)].

### **The Process in New Hampshire**

There are three ways families become involved in court child protection proceedings. These appear below, beginning with the most urgent to less so:

1. The children are taken into protective custody by police without a parent’s consent.
  - Standard is “Imminent Danger” and there is not enough time to petition the court for a custody order.
  - Danger to the children is perceived to be so high that the police do not feel comfortable leaving without the children in hand.
  - There must be a hearing within 24 hours of the removal (Sundays and holidays excluded).
  - The police have an obligation to tell the parent that the hearing is scheduled.
  
2. There is an ex parte request for custody made by the police or DCYF. The court will hear this request without the parents present.
  - The children are found to be in danger, but there appears to be time for DCYF or the police to appear in court to obtain a custody order “ex parte” (absent the other parties) to remove the children.
  - If there has been an ex parte removal, the petitions for abuse and/or neglect have to be filed within 72 hours of the order.
  
3. The petition is filed with the court and served to the family by law enforcement prior to any hearing or removal.
  - In-person service is the preferred way, but service at the usual place of residence is acceptable.
  - The petition will detail the grounds on which it is being filed.
  - The petition also will indicate who has been appointed from CASA or another GAL if there are no CASAs available.
  - The petition serves as notification of the preliminary hearing date, which should be no later than seven days after the petition is filed unless it was a removal case; these must be heard within five days.

With the filing of the petition, the parent(s) receives the name and address of his/her appointed counsel:

- Counsel is mandatory when it is alleged that a parent has abused or neglected his/her child.
- If a stepparent is accused of abuse or neglect, s/he also gets an attorney appointed.
- Appointment of counsel is discretionary for a non-accused parent who is a household member by statute. The protocols go further, mandating counsel if the parent qualifies financially.

- A battered parent who has fled the home temporarily with or without children is still considered a household member and should be appointed an attorney.
- An attorney can be appointed for the children if the children's expressed interests conflict with the recommendation for dispositional orders of the CASA/GAL.

Even if the mother is not accused it is strongly advised that she have an attorney due to the legal complexity and serious consequences of child protection proceedings.

If requested by the mother, the DVS/advocate should accompany her to any and all hearings. The court should allow the DVS/advocate into the court room. If another party objects to this, the court will need to consider the objection.

A party is defined as someone "having an interest" - the children, the CASA/GAL for the children, the children's parent or guardian, the state, or any household member subject to the court's order. Parties have rights and obligations, except for the children, i.e., they are expected to be present at the hearings; they are subject to questioning by each other and the judge; they can file documents and ask for orders from the court. Often the service providers are also in the room for these hearings but they are not parties unless the court "joins" them as a formal part of the proceeding; often the court will join the school district to these cases.

The DVS/advocate fits as a service provider, but should not want to be joined as a party as s/he does not want to be cross-examined. If called upon to give testimony, the DVS/advocate should site the privilege advocates hold under RSA 173-C.

### **Preliminary Hearing**

The purpose of this hearing is to determine whether there is reasonable cause to believe that children have been abused and/or neglected. One of the most important functions of the court during the preliminary hearing is to oversee DCYF's early efforts to locate and notify missing parents, including non-household parents and putative fathers, in addition to other relatives who might be placement options either temporarily or on a permanent basis. This is potentially unnerving and threatening for the mother if the father was abusive as it may bring him or his family members back into her life. At the same time the mother does not want to see her children with strangers if placement is going to occur.

An advocate should assist the mother by providing education as to DCYF's mandate to locate absent parents, help her to prepare for his presence and/or the questions that she will be asked as to her knowledge of his whereabouts. This information will be used to locate him and inform him of the court process. Safety planning is crucial. The mother can request that her work and home location not be shared. Please see the *Bill F.* Hearing information at the end of this section of this Guide for more information.

Another critical function of the preliminary hearing is to ensure that parents understand the serious consequences for failure to correct if a finding of abuse and/or neglect is later made, and the limited amount of time within which the parent must correct, i.e. the "12 month clock," when

a child is in placement. Valuable time will be lost and children may ultimately lose connections with parents if they do not aggressively pursue remedial action. Legal counsel play an invaluable role in this process. A parent will be asked to sign an Acknowledgement of Possible Consequences to Parental Rights in Abuse/Neglect Cases (See Appendix O for the sample form).

Advocates should work with the mother's attorney to assure that she understands the "12 month clock." Legal counsel should be advocating for appropriate services based on her needs to achieve safety.

Finally, the first reasonable efforts determination is made at this stage when placement has occurred or is requested. This is based on DCYF's efforts to prevent placement, and includes a description of what interventions/services were provided. What is considered "reasonable" depends, in part, on the length of DCYF's involvement with the family.

### **Consent Decree**

Sometime between the filing of the petition and the adjudicatory hearing, DCYF may propose the parents sign a consent decree admitting what was alleged in the petition, therefore negating the need for an adjudicatory hearing where the facts of the case are presented.

Before the mother signs a consent decree, it is imperative that the DVS/advocate talk with the mother and, if needed, her attorney about the implications of consenting to a finding. For instance, this will move the case to the next phase of correcting the issues and begin the "12 month time clock" discussed earlier if the children are in placement.

It is imperative that the DVS/advocate talk with mother and, if needed, her attorney about the fact that RSA 169-C allows for findings of abuse and/or neglect on only one parent in non-placement cases, which may be appropriate in co-occurrence cases when the family issues primarily stem from the domestic violence.

A key consideration of any consent decree is whether the parties' consents are voluntary. The court does not accept a consent decree without first ensuring that the consent is given freely, knowingly and voluntarily.

Advocates can help the mother and, if necessary, her attorney, to understand whether or not signing a consent decree is in her best interest by exploring her motivation for signing. For example:

- An attorney may need to be educated about the motivations for consenting to a finding in a co-occurrence case (the mother may feel pressured to sign so she does not have to testify about her and her children's abuse at an adjudicatory hearing, but perhaps she would not be found neglectful if there was such a hearing.)
- Encourage an attorney not to shy away from the adjudicatory hearing especially when the mother is saying 'I'll just sign it because I want help' or 'DCYF can't/won't take my children away.'

- Both attorney and advocate should reiterate to the mother the difficulties and challenges associated with being involved in the DCYF/court system and that she can lose her children permanently. It is important for the mother to understand she can exercise her rights to a hearing to let a judge determine if her actions/behaviors merit a finding of abuse and/or neglect and continued DCYF involvement.

In co-occurrence cases, batterers need to be held accountable for the domestic violence. All family issues are complicated by, and should be viewed in the context of, that abuse, e.g. the adult victim self medicating by using substances, the children’s failure to attend school or the mother’s failure to take the children to medical appointments.

Consent decrees can only be rescinded if an individual can prove to the court that it was signed fraudulently or under duress. Typically there should be an attorney present to go over the consent in detail before it is signed and the court proceedings begin. The judge should ask the person who signed the consent and their attorney a variety of questions to ensure that s/he understands what s/he signed. Attorneys and then the judge will provide information to the individual about the possibility of Termination of Parental Rights (TPR) and of other general ASFA information (“12 month time clock,” etc). When these procedures are followed, it is very difficult for someone to claim that their consent is invalid and should be overturned.

### **Adjudicatory Hearing**

The adjudicatory hearing is mandated by both law and protocol to happen within 30 days of the filing of the petition. The manner in which the adjudication is conducted has important long-term implications for the children and family. A speedy adjudication can reduce the length of time children spend in placement. All parties are expected to be present at this hearing except children. Testimony is presented and the court makes findings based on all evidence presented.

DVS/advocates can educate the mother’s attorney as to the dynamics of the domestic abuse, for example how the mother may talk about his pattern of coercive control and how this impacts her choices.

The court, if requested, should consider alternatives to having a victim of domestic violence testify either on direct or cross examination in the presence of the batterer. The right to face one’s accuser does not apply in child protection cases.

The principal decisions that the court must make at adjudication are: (1) which allegations in the petition have been admitted or proven using the standard “preponderance of the evidence;” (2) whether there is a legal basis (a finding of true) for continued court and DCYF intervention; and (3) whether reasonable efforts have been made to prevent the need for placement (if this determination was not made at the preliminary hearing.)

DCYF is ordered to complete a social study if there is a finding of true. As discussed in the DCYF section, this is a critical piece of information that lays the foundation for the rest of the case as it defines the family’s strengths and needs. It, along with the findings, will provide the

basis for the court's dispositional orders. The social study must be submitted to the court five days ahead of the dispositional hearing.

The information that the mother chooses to share is critical. What information is collected by DCYF and how this is done is also critical. The court expects a thorough analysis of the domestic violence regardless of the presence of a 173-B order. Due to the right of discovery whatever she shares will be given to the batterer's attorney if he is a party to the case. See social study information in the DCYF section of this Guide for further information.

CASA will also prepare a report for the dispositional hearing that will include recommendations regarding services, custody, and placement.

If placement has occurred, similar to signing a consent, after an adjudicatory hearing the finding of true is what begins the "12 month time clock."

### **Dispositional Hearing**

While the adjudicatory hearing is designed to identify the problems resulting in DCYF and court involvement based on the court's findings, the dispositional hearing is the time to ensure that an appropriate case plan is prepared for each parent to resolve the identified problems. This hearing occurs within 30 days of the adjudicatory hearing. At the dispositional hearing with the social study information in hand, the court will review with DCYF, the parents and CASA whether the plan proposed by DCYF is comprehensive in identifying the problems to be addressed to meet the needs of the family. The court will ascertain whether the plan defines clear, objective and measurable behavioral changes to be achieved, and whether the services proposed are the best available to meet the needs of the family and bring about the necessary changes resulting in an end to DCYF involvement (in a non-removal case) or to reunite the family (in a removal case). The court then will issue dispositional orders as to what each party must do to correct the conditions identified in the findings.

In a co-occurrence case, the parents should have separate case plans so that the mother does not feel responsible for her abusive partner's services and so that she has privacy and confidentiality in her services. This is important for an advocate to discuss with the mother and her attorney if needed.

The primary focus of court intervention in child abuse and/or neglect cases is the ongoing safety of children and it is widely recognized that children's safety is inherently linked to that of their mothers. An important element of protection of children in co-occurrence cases is to join with the adult victim in safety planning and to hold the abusive partner accountable for his behavior. This should be reflected in the case plan.

As this plan details what will be considered when making reunification decisions, it is important that the DVS/advocate provide input into its development by talking with the mother about her safety and other needs and consulting with the CPSW.

The court's dispositional orders reflect the requirements of the case plan. Guidelines for orders in co-occurrence cases include:

- The court should not be ordering mediation, couples or family treatment that involves the batterer and the mother together, and/or psychological evaluations to assess any issue other than mental health disorders.
- The court should be ordering separate visitation and, if supervised visitation is necessary, the supervisor should be carefully screened for any conflict of interest or collusion with the batterer.
- If domestic violence services are necessary for the mother, she maintains the option to work with a DVS/advocate to obtain education and safety planning. If she chooses not to work with a DVS/advocate, the court expects that DCYF in consultation with the DVS/advocate will provide this information to the mother.

### **Review Hearing**

The Review Hearing is the opportunity for the court to comprehensively review the status of the case. Review is vital to each case and should hasten family reunification. The extent to which DCYF has provided all court-ordered services and the extent to which parents are in compliance with court orders and making meaningful change are important components of all review hearings. Review hearings should continually re-examine long-term case goals and change any that are no longer appropriate. Another purpose of the review hearing is to see if the orders still match the needs of the family. If a change in circumstance has occurred, it is important to present this to the court.

If an awareness of domestic violence comes later in the process, there should be advocacy for meaningful assessment of its impact. Based on this assessment, appropriate services should be offered. This awareness does not necessarily present a barrier to reunification depending on the safety assessment.

In placement cases a primary purpose of the hearing is to review and determine the continuing necessity for and appropriateness of out-of-home care. Cases will be identified in which children cannot safely be returned home in a timely fashion. Thus, concurrent planning, i.e. planning for reunification while planning for an alternative permanent home for the children, is an integral part of each review.

The Court Guide for Co-Occurrence Cases calls for there to be an initial paper review 45 days after the dispositional hearing to ensure that all appropriate referrals for services have been made and parents connected with those services. There would only be an in-person review at this stage if services are not in place. The next review hearing would occur 90 days after the dispositional hearing and every 3 months thereafter.

At the review, reasonable efforts determinations are made relative to DCYF efforts towards reunification. Judges are encouraged to engage in meaningful discussion about and make reasonable efforts determinations at each review hearing. When thinking about whether

reasonable efforts were made, it is important to consider whether services are available, accessible and appropriate as New Hampshire law mandates.

Reunification decisions are based on whether or not the original findings from the adjudicatory hearing or consent decree were corrected by the parents and whether the children will be safe at home.

It is important for advocates to talk with the mother and her attorney about when the domestic violence was revealed (at the beginning of the case or later) and if reunification is not occurring or the case is remaining open based on new information rather than the original findings.

### **Permanency Hearing**

The permanency hearing is held 12 months from the finding at the adjudicatory hearing or the signing of the consent decree for cases in which children have been in placement for 12 or more months. The purpose is to make a final decision whether or when the children will be returned home, or, if this is not possible, to order an alternative permanent plan for the children's living situation. A decision is made as to whether DCYF made reasonable efforts to finalize the permanent plan.

If a parent has made progress towards reunification, an extension of up to 90 days may be granted if additional time is needed. This may be necessary if there was interference in a battered mother's efforts to correct the conditions that led to the finding. If the parent has complied, but the children are not ready for reunification due to the harm s/he has suffered, there may be an extension based on the children's needs.

### **Termination of Parental Rights**

If the court makes a permanency order to terminate parental rights, this hearing should be held within 60 days of the court's order.

Termination against or Relinquishment by one parent can occur. If it is safe for the children to return home to the battered mother, but the batterer has not worked on safety, his parental rights can be terminated so that the mother can achieve custody solely without fear of having to return to court to defend the custody decision against a motion for modification filed by the batterer. If his rights are terminated, however, he no longer has an obligation to support the children.

### ***Bill F.* Hearing**

The decision by the NH Supreme Court in the case of *Bill F.* sets forth the right of non-custodial parents to come forward and request custody when there is an open abuse and/or neglect case on the custodial parent and the parents do not live together. This can occur at any point in the process. A hearing would only occur if there was an objection to the non-custodial parent receiving custody. The hearing would be held to determine whether a non-accused parent is unfit to perform his/her parental duties.

If a hearing is held, the mother may not need to be present if she has safety concerns. The mother's attorney should be able to offer relevant information regarding the fitness of the children's father in her absence. If she is going to testify at such a hearing, or will be cross-examined, the court, if requested, should consider alternatives to her doing so in the presence of the children's father. The use of technology (to allow her to testify from another location) and/or third party testimony should be considered.

DCYF is mandated by law to look for absent parents and report to the court on these efforts. DCYF and the court have an obligation to ask battered women about the location of the father of the children, even if that person was abusive.

When child protection proceedings result in the involvement of an abusive ex-partner, it is important that DVS/advocates safety plan with mother and/or consult with the CPSW about the impact of the former partner on the mother. This may include explaining why the mother is unwilling to provide information as to his whereabouts.

If there is a domestic violence history it is important to provide this information to the court so the court has all of the information available to make the best custody decision possible.

If custody is granted, a hearing should occur in 30 days to review the child's status and whether this custody order should remain in affect.

If custody is granted to the absent parent and the children thrive in this environment, even if mother corrects, the children may not be returned to her due to the concerns regarding the disruption that may do harm to the emotional stability of the children.

## **CASA's Role in Co-Occurrence Cases**

The Court Appointed Special Advocate (CASA) program recruits, screens, selects, trains, supervises, and supports lay volunteers who assist and advocate for the best interest of children in child abuse and/or neglect cases. Each CASA Guardian ad Litem (GAL or "guardian of the case") is appointed by a District or Family Division judge to represent children who are victims. The CASA/GAL's role in abuse and/or neglect proceedings is to present the court with a unique "child-centered" perspective regarding what is in the best interests of the children throughout the life of the case. Some of the responsibilities of a CASA volunteer include supporting the children throughout the court proceedings; explaining the court process to the children; establishing a relationship with the children to better understand the children's needs and wishes; reviewing all available documentation about family, medical and school history; and submitting written reports to the court that communicate their perspective on the children's best interests and make recommendations.

To prepare their recommendations, CASA volunteers talk with the children, as well as parents, family members, teachers, social workers and others involved in the children's life. Most importantly, CASA volunteers visit with the children in order to gain an understanding of her/his situation.

Each CASA/GAL must complete a comprehensive 40-hour pre-service training. This curriculum is designed to inform volunteers about courtroom procedures, the dynamics of abuse and neglect, cultural differences, and effective advocacy techniques.

## Summary and Critical Thinking Points

Findings of child abuse and/or neglect are not generally based solely on children witnessing domestic violence. Nevertheless the presence of domestic violence in a child abuse and/or neglect case is enough to create the need to address the domestic violence and its consequences within the context of child protection cases. While the safety of children is always of primary concern in a child abuse and/or neglect case, the safety of the adult victim must also be a primary consideration that permeates all aspects of a co-occurrence case. As just one example, if parents are ordered to attend parenting education classes to address deficits in their parenting skills, it would not be a safe or effective practice to send adult victims to attend the same classes as the batterer. It is very important in co-occurrence cases to hold batterers accountable and to afford the adult victim safe opportunities to utilize community resources.

Recovery for a family can be difficult and slow. Therefore services targeted to meet needs identified in a family's social study should begin as soon as possible and should be practical for the family. In order for services to be effective, they must be individualized based on a case by case analysis of family needs and strengths. Members of a family are often best able to identify their own family's supports, strengths and needs and should be given safe opportunities to participate in choosing services and how the services are to be delivered. Overly burdensome plans and delays in the delivery of services can increase a family's chances of failure.<sup>37</sup>

The following checklist raises critical points to be addressed when domestic violence co-occurs with child abuse and/or neglect:

- Is each parent represented by her/his own attorney?
- Are the attorneys, service providers, and GAL or CASA/GAL adequately trained and knowledgeable about the signs and dynamics of domestic violence? Are they sensitive to the issues involved when domestic violence is occurring?
- Has the batterer been held accountable for the domestic violence and its effects on the children in pleadings, reports, case plans and court orders?
- Did efforts to discover the nature and extent of the domestic violence include interviewing the parties separately and collecting information from third parties?
- Has the batterer been provided information about the effects of witnessing domestic violence on children?
- Has the batterer been referred to a batterer intervention program and expected to successfully complete the program?

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<sup>37</sup> Edleson, Jeffrey and Schechter, Susan. (1999) Effective Intervention in DV and Child Maltreatment Cases: Guidelines for Policy and Practice, National Council of Juvenile and Family Court Judges, Reno, Nevada.

- Has the batterer been held accountable for behavioral change?
- When appropriate, has there been communication and coordination with a batterer's probation and/or parole officer?
- If referred to services other than a batterer intervention program, has the batterer authorized disclosure of information regarding domestic violence to the service providers?
- Has a referral been made for the adult victim to a DVS?
- Has the adult victim been apprised of services available through the local crisis center?
- Has the adult victim been provided information on how to seek a RSA 173-B protection order?
- Has the adult victim been provided educational information about safety, the cycle of domestic abuse, and the effects of witnessing domestic violence on children?
- Have safety goals and service needs been assessed with meaningful participation by the parents and children, if age appropriate?
- Have the case plans and court orders been crafted so that the parents are not aware of each others' treatment/visitation/meeting plans?
- Has safe visitation been provided that takes into account the risk posed to the adult victim by the batterer?
- Has the adult victim been able to access job training, welfare, child care, and/or short/long term housing as needed?
- Have services been provided in a way that enhances safety?
- Has the batterer undermined or compromised the adult victim's progress under the case plan?
- Have case plans been monitored and modified as needed?
- Was removal of the perpetrator of domestic violence considered?
- Are the professionals involved with the family using a strength based approach?
- Have all the orders issued by the court been reviewed to assure they make sense in the context of domestic violence?

- Have the effects of the domestic violence on the children been identified and addressed? Have the risks posed by the batterer been addressed? Have protective strategies employed by the adult victim been taken into account?
- Have the best interests of the children been thoroughly assessed and the relative risks of the children remaining with the adult victim (with services in place) weighed against the harm caused by removal?
- When was the domestic violence identified? If later in the case, has the domestic violence been addressed? Does more recently discovered domestic violence impact the original finding? Is it appropriate to hold the case open to address the domestic violence?

## Glossary

**Adjudicatory hearing** - The actual trial in juvenile cases is called the adjudicatory hearing. It is at the adjudicatory hearing that the judge determines whether the facts as stated in the petition are true. The judge may temporarily postpone a case to allow all parties time to obtain a lawyer or for any other reason needed to have a fair trial.

**Advocate** - One that pleads in another's behalf; an intercessor: *advocates for abused children and spouses.*

**Authoritarian Parenting** - Parenting strengths are in the area of action discipline (setting limits) and not relationship discipline.

**Autonomy** - the quality or state of being independent, free, and self-directing

**Batterer Accountability** – One element of accountability can be achieved through BIPs who work with batterers to help them identify and take responsibility for their abusive behaviors and the effects of their abuse on their intimate partners and children. These are important first steps in the transition to a non-abusive lifestyle. BIPs also work closely with others in their communities as part of the coordinated community response to domestic violence. Batterer accountability, however, is larger than batterer intervention. In a larger sense, it calls for all to work with the perpetrator of domestic violence in a way that holds him responsible for the violence. It also means reparation for harm done to family members and community.

**Case Plan**- This is a plan developed between the Family Services Worker and the parents, generally after the adjudication and dispositional hearings. The case plan outlines what the family's strengths and needs are, and how DCYF and the family will address these needs. The case plan is then presented to the Court at the dispositional hearing.

**Central Intake** - This is the office in DCYF that takes all of the initial calls regarding child abuse and neglect. Central Intake is located in Concord. They screen over 16,000 calls each year. When an individual calls Central Intake, they are asked a series of questions regarding the nature of their concerns. Based on their responses, the Intake Workers determine whether or not the caller's concerns rise to a level where an Assessment should occur with the family.

**Child Abuse/Neglect** - Child abuse and child neglect can take many forms. Child abuse may be physical, emotional, or sexual. Neglect can be as damaging and life-threatening as abuse. See Appendix A, RSA 169-C for the legal definitions.

**Child Abuse/Neglect Petition** – This is a petition that is generally filed by DCYF with the Court alleging specific acts that harm or threaten to harm the children. The petition also names those responsible for the alleged abuse/neglect.

**Child Protection Services** – An agency designed to investigate and protect children’s safety within a family setting.

**Clinical Social Worker** - Clinical social workers provide mental health services for the prevention, diagnosis, and treatment of mental, behavioral, and emotional disorders in individuals, families, and groups. Their goal is to enhance and maintain their patients' physical, psychological, and social function. Clinical social workers must have a masters or doctoral degree in social work.

**Consent Decree** – When a parent is charged with abuse or neglect, they have the option of pleading “true” to the charges. This is essentially the same as pleading guilty or no contest in criminal trials. The parent acknowledges that the abuse or neglect occurred and that they are willing to work with DCYF to correct the concerns outlined by DCYF. When all parties agree upon a consent decree, this eliminates the need for an adjudication. The Court can then schedule a dispositional hearing.

**Co-occurrence** – Child abuse and neglect and domestic violence happening simultaneously.

**Corporal Punishment** - Punishment inflicted on a person's body.

**Court Appointed Special Advocate (C.A.S.A.)** – A volunteer Guardian ad Litem, who is appointed to represent the best interests of children in child abuse/neglect proceedings pursuant to the provisions of the Children's Court Rules and Forms. The CASA GAL assists the Court in determining the best interests of the child by collecting information about the case, talking with those involved, and submitting a report to the court.

**Cross-examined** – During a trial, attorneys have the opportunity to question witnesses presented by the opposing party.

**Dispositional Hearing** - The purpose of the dispositional hearing is to adopt a case plan, establish legal custody of the child, set visitation arrangements if appropriate, and to determine appropriate findings of fact as required by statute.

**Domestic Violence** – Domestic violence, also known as “domestic abuse” and “intimate partner violence,” is the establishment of control and fear in a relationship through the use of violence and/or other forms of abuse. The batterer may use physical abuse, emotional abuse, sexual abuse, economic oppression, isolation, threats, intimidation, and child abuse and/or neglect of children to control his intimate or former intimate partner. Domestic violence may differ in terms of the severity of abuse, but gaining and maintaining control is the primary goal of batterers. Domestic violence occurs in heterosexual, gay and lesbian intimate relationships, all ethnic and racial groups, and among all socio-economic and educational levels.

**Ex-parte** – An initial hearing that is held with only one side present and other parties absent.

**Founded** – When a Court, or DCYF determines that abuse or neglect has occurred.

**Greenbook Project** – A five year demonstration project funded by the US Department of Justice and US Department of Health and Human Services designed to improve child protection, court and battered women’s organizations responses to families affected by domestic violence and child abuse and/or neglect.

**Hypervigilance** - The condition of maintaining an abnormal awareness of environmental stimuli. It is a symptom of post traumatic stress disorder (PTSD.)

**Imminent Danger** – Where a child is in immediate risk of harm or potential harm.

**Motion for Modification** – A motion made to the Court to modify a previous Court Order.

**Neglect** - Neglect is the failure to provide a child with basic needs of food, clothing, shelter, hygiene, medical attention, supervision, or education as required by law. It may involve abandonment or parental/caretaker alcohol and drug abuse as well as other factors.

**Parentified** – A child who has taken on parental responsibilities, usually of a sibling.

**Permanency Hearing** – The purpose of a permanency hearing in general is to compel a resolution of the case so the child does not remain indefinitely in temporary care. The court conducts a permanency hearing to determine what permanency plan is in the child's best interest.

**Perpetrator** - One who is responsible for, or commits a crime.

**Petition to Expunge** – A request to the Court to remove an individual’s name from the DCYF Central Registry.

**Placement** – When a child is removed from their home and placed in alternative care such as foster, relative or residential care.

**Physical Abuse** - Physical abuse is harm to a child caused intentionally or from excessive or inappropriate discipline methods. Common signs of physical abuse are bruises, welts, human bite marks, bald spots, cigarette burns, immersion burns, fractures, lacerations, and abrasions. Emotional abuse is psychological injury to a child caused by excessive belittling, berating, name-calling, or similar acts. It might include parents/caregivers not securing needed psychological treatment for a child.

**Preliminary Hearing** – Usually the first hearing in an abuse/neglect case. The hearing designed to weigh the merits of DCYF’s petitions.

**Protective Custody** – The police can take a child into protective custody if they believe that the child is in imminent danger.

**Review Hearing** – Review Hearings are scheduled every 3 months and are an opportunity for the Court to receive an update on the family's progress. DCYF workers are required to report to the Court on the family's progress.

**Safety Plan** – A concrete plan of action to determine how to maintain the safety of the individual and the individual's children when in a potentially unsafe situation. Safety plans are designed to help victims consider their options, and think about their own personal safety.

**Sexual Abuse** - Sexual abuse is improper sexual contact with a child or youth or any form of sexual exploitation of a child or youth, including incest or the making or use of pornography.

**Social Study** – A social study is conducted by the Family Service Worker, generally after the adjudication but before the dispositional hearing to gain a comprehensive understanding of the family's history. Any information revealed in a social study is then included in the Family Service Worker's dispositional report, which is released to all parties.

**Structured Decision Making** – Structured Decision Making is a tool used by DCYF to ensure that decisions regarding families are consistent from worker to worker and from District Office to District Office.

**Surrender of Parental Rights** – Parents may choose to voluntarily give up their rights to their child so that the child may be freed for adoption.

**Termination of Parental Rights** – In a DCYF case, a parent's rights can be terminated generally after 12 months of non-compliance by a parent. If DCYF feels that reunification of a parent and children is not possible, then they will recommend to the Court that a parent's rights be terminated. This then generates a different set of termination hearings that the parent and DCYF must participate in. In extreme cases, DCYF may not wait 12 months before recommending a termination, or if DCYF can prove that a child has been abandoned by their parent, they are not required to wait 12 months before recommending termination.

**Testimony** - Declaration by a witness under oath, as that given before a court or deliberative body. All such declarations, spoken or written, offered in a legal case or deliberative hearing.

**Unfounded** – DCYF was unable to substantiate that any abuse or neglect occurred.

## **Acronyms**

**ASFA**- Adoption and Safe Families Act

**BI**- Batterers Intervention

**BIP**- Batterers Intervention Program

**CAC**- Child Advocacy Center

**CASA**- Court Appointed Special Advocates

**CFSA**- Comprehensive Family Support Agencies

**CPSW**- Child Protection Service Workers

**DCYF**- Division for Children, Youth and Families

**DHHS**- Department of Health and Human Services

**DO**- District Office

**DOJ**- Department of Justice

**DV**- Domestic Violence

**DVP**- Domestic Violence Petition

**DVS**- Domestic Violence Specialist

**GAL**- Guardian Ad-Litem

**MSW**- Master of Social Work

**NHCADSV**- New Hampshire Coalition Against Domestic and Sexual Violence

**PRO**- Permanent Restraining Order

**RSA**- Revised Statue Annotated

**SDM**- Structured Decision Making

**TPR**- Termination of Parental Rights

**TRO**- Temporary Restraining Order

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