

Charging Battered Mothers with "Failure to Protect" is Often Wrong

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Charging battered women with "failure to protect" their children is common in many child protective services (CPS) agencies. A woman's disclosure of her own abuse may lead to her being charged with "failing to protect" her children because, as the primary caregiver, she "allows" them to be exposed to a dangerous environment. Even after a woman has taken repeated steps to protect herself and her children, one incident of re-contact with the abusive partner can lead to charges of failure to protect.

Decisions to charge battered women with failure to protect often constitute poor practice on the part of CPS. Such decisions may reflect a lack of understanding of adult domestic violence, may be based on an inaccurate assessment by the child protection worker, and may increase the danger to both the battered mother and her children.

Differing Views in the Field

Domestic violence advocates and CPS workers present different perspectives on the issue of a mother's failure to protect her children. Battered women's advocates cite cases of mothers who have been good caregivers to their children, but whose children are removed by CPS simply because the mother discloses her battering. Advocates often offer blistering critiques of CPS in their communities, saying the child protection systems blame women for the violence that men perpetrate against children, and hold men and women to different, gender-biased standards of care for children.

CPS workers have their own examples to share. A common example cited is of the women who repeatedly return with their children to live with the violent partner, even after CPS workers issue multiple warnings and offer the mother alternatives. These women are seen as further endangering their children; their advocates are seen as ignoring children's needs. Other CPS workers point to women who are themselves abusive to their children, saying that domestic violence advocates are often unwilling to acknowledge women's use of violence.

These real-life cases feed conflicting opinions about battered women's care of their children. One of the critical themes in these arguments is the relationship between a mother's love for her children and her decision to return to an abusive partner.

Battered mothers' caring for their children

Much of the current literature focuses on the negative effects on children who witness violence but ignores the concern that most abused women have for their children, a concern they share with advocates and child welfare workers alike.

Only a few studies have focused on the concerns battered women have for their children's safety. Yet these studies show that many battered women take active steps to protect their children despite the unpredictability of the violence and the effects such violence has on their children. In her study of 20 battered women, Hilton (1992) found that a majority of those she interviewed left their abusers for the children's sake. Several women left after their partners carried out life-threatening attacks, while others left after their children were threatened or abused. Interestingly, it was also concern for their children that led almost one-third of the women in Hilton's (1992) study to remain with their abusive partners. Women stayed, despite the violence, in order to ensure necessary financial support for their children or because their partner threatened to harm the children or to wage lengthy custody battles if the women left. Like Hilton, Syers-McNairy (1990) found that over half of the battered women she interviewed cited concern for their children as the major factor that led to their leaving the relationships.

The path to leaving a dangerous partner

Battered women clearly face great economic, social and safety hurdles when attempting to leave a violent partner. A sympathetic understanding of their reasoning and the many forces that shape their decisions is critically important to ensuring safety for both them and their children.

Brown (1997) recently examined the process of change that battered women go through when leaving their batterer. Brown's analysis found that battered women, like other people facing serious problems, travel down a path of change that is increasingly action-oriented and that at times meets with temporary setbacks, or "relapses". Simple solutions that suggest a woman "just leave" her abusive partner belie the reality of battered women's experiences. Permanently leaving an abusive partner requires great physical, material and psychological preparation over a period of time.

Brown argues that a woman's returning to a batterer is an expected consequence of a difficult journey. Workers who focus on her relapse fail to validate the safety-seeking action she took in leaving. Studies clearly show that women who leave and return often leave again. Each time a woman leaves a batterer, something is learned and her resolve for future action is often strengthened. A woman who returns to her abusive partner may have only paused in her movement toward more permanent change or may have found ways to achieve greater safety in her current relationship.

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To judge a woman's return to an abusive partner as a failure or the most dangerous outcome possible is too simplistic and often inaccurate. Living with the abusive partner may, in fact, be the safest option for a mother and her children at that moment. Living with the abuser may provide the battered woman with the best opportunity to monitor his danger and to arrange for effective exit at a later date. It may also provide her and her children with food and economic support increasingly unavailable through other channels.

Poor practice by child protection

A worker who is insensitive to the dynamics of domestic violence may charge a battered mother with failing to protect her children and order her to obtain a restraining order excluding the abusive male from the home. It is not uncommon for such a requirement to be a condition of the mother's reunification with her children.

This requirement is based on the belief that the home will be a safer environment for the children and the mother if the abusive man is removed. This assumption ignores the fact that a majority of battered women killed by their partners are separated, with the two months immediately after separation being the most dangerous (Wilson & Daly, 1994). It seems sadly logical that as the woman moves to take greater control of her life, her abusive partner may feel that he is losing control and subsequently increase the severity of his actions and the risk he is willing to take to re-exert control over her.

Child protection systems seldom appear to take actions against these dangerous men. With cases routinely listed under mothers' names, these violent men often become invisible in the child protection system and the juvenile court. Especially when the abusive male is not a legal caregiver, CPS workers see other systems as responsible for holding the abuser accountable. Focused narrowly on the "best interests of the child", workers place the burden of dealing with the violent offender on the mother, who is herself a victim of the man's brutality.

Something is terribly wrong with the strategy of charging battered women with "failure to protect" while ignoring the violent male. A child's best interests may well lie in helping provide safety to the mother while holding the abusive male accountable for his behavior. At the least, child protection agencies should first make every effort to help battered mothers implement safety strategies before even considering charges of neglect.

Conclusion

Charging battered women with failure to protect their children often reflects a misunderstanding of the mother's concern for her children and her rational fears of the violent partner. Other than a few model projects, such as the Massachusetts Department of Social Services, where domestic violence specialists work on child protection teams, there does not appear to be much movement within child protection systems to become more sensitive to the dynamics of domestic violence, to hold abusers accountable for their violent behavior, and to help battered mothers gain greater safety for their children and themselves. Simplistic solutions are often forced on mothers without providing access to the financial, housing, employment and safety resources that will provide a safe pathway for her and her children to leave the violent partner. Even in the context of severe fiscal constraints and social pressures, there is great room for child protection systems to improve their intervention strategies with battered women and their children and with these women's abusive partners.

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