



Spring 2015 – Newsletter of the NOW Foundation Family Law Ad Hoc Advisory Committee

Dear Friends,

The purpose of the NOW Foundation Family Law Ad Hoc Advisory Committee Newsletter is to provide continuing education on family court issues to the general public and supporters of NOW Foundation. The newsletter contains current news and information regarding the ongoing crisis for mothers and children in family courts. As many of our readers are aware, protective parents – primarily mothers – are losing custody of minor children in court proceedings that often ignore evidence of battering or child abuse and grant custody or unsupervised visitation to the abusive parent.

We hope you find the information we share with you of value as you go about your work advocating for women and their children.

General Information

A clearinghouse of materials the committee has compiled can be found at the NOW Foundation web site at this link, <http://now.org/now-foundation/crisis-in-family-courts/>. There are additional materials at the Chapters only web site on the NOW, Inc. website.

Family Law Advisory Committee Brochure available at this link: <http://now.org/wp-content/uploads/2015/02/familylawbrochure7-08final.pdf>

Battered Mothers Custody Conference Announcement

[REGISTER NOW FOR THE ELEVENTH BATTERED MOTHERS CUSTODY CONFERENCE \(BMCC XI\)](#)

The BMCC XI - *Hands Across the Water!* The First International Battered Mothers Custody Conference

Co-sponsored by NOMAS (National Organization of Men Against Sexism), the Battered Mothers Custody conference addresses the many serious legal injustices encountered by battered women who approach the family/domestic relations court system seeking protection for themselves and their children from an abusive spouse or partner.

Several noted speakers and professionals will be presenting at the conference this year. Additionally, there will be the opportunity to participate in various informative and dynamic workshops.

May 15th - 17th, 2015 in Secaucus, N.J., at the Empire Hotel Clarion Meadowlands Hotel, in the New York City general metropolitan area. A special BMCC rate is available before April 20th, \$99 single or \$103 double. <http://www.reservations.com/hotel/clarion-hotel-empire-meadowlands-hotel>

REGISTER NOW! Go to www.batteredmotherscustodyconference.org

Check out BMCC's Facebook page: [FIRST INTERNATIONAL BATTERED MOTHERS CUSTODY CONFERENCE](#)

For further information, contact Dr. Mo Therese Hannah, Chair BMCC, at mhannah413@aol.com

FEATURED ARTICLE

The Quincy Solution: A Better Way to Protect Domestic Violence Victims in Court

*This article focuses on highlights from an important book, **The Quincy Solution – Stop Domestic Violence and Save \$500 Billion**, by Barry Goldstein, published in 2014 by Robert D. Reed Publishers (www.rdrpublishers.com). The model discussed here is one that activists for family court reform and supporters of protective parents can promote with legislators and court personnel as a proven solution to correct many of the problems found in family courts.*



Author Barry Goldstein, JD

Attorney Barry Goldstein has devoted his career to helping battered and sexually abused women fight for their freedom and custody of their children in biased courts. His new book, *The Quincy Solution*, details the steps that cities like Quincy, MA, Nashville, TN, and San Diego, CA have taken to advance the health and safety of victims of domestic violence.

Understanding Domestic Violence

- Domestic violence (DV) is described as “tactics used by abusive men in heterosexual relationships (and in same-sex relationships) to coerce and control their partners so they can make the

major decisions in the relationship.” Domestic violence comes from a sense of entitlement; men believe they are better and more valuable than women, and therefore should control the decisions and the behavior of their wives or partners. DV tactics are used by men to manipulate women to conform to their wishes and are intended to cause the victim to be afraid to “disobey.” The control exerted by an abuser is often extreme, monitoring women’s daily routines, phone calls and whereabouts. Isolation imposed by the abuser on the wife or partner is a common tactic. Domestic violence comes in many forms: verbal, emotional and psychological abuse being far more common than physical. The non-physical types of abuse are harmful and debilitating, but judges frequently view only physical abuse as important. Domestic violence is primarily committed by men, only rarely by women. In divorce and child custody proceedings, DV perpetrators often wish to continue controlling their

former spouses – frequently, by seeking custody of minor children.

Children at Risk -When mothers attempt to divorce their husbands, the domestic relations/family courts are ill-equipped to help, and often give full or partial custody to abusive fathers. Studies show that batterers frequently abuse children as well. Unfortunately, this has led to many cases of further violence, and even the death of the children. One estimate has put the toll at 175 children murdered by fathers while involved in contested custody cases over a two-year period and 58,000 children a year sent to live or visit unsupervised with abusers.

Ground-breaking Study The Center for Disease Control (CDC) led the first Adverse Childhood Experiences (ACE) study

(<http://www.cdc.gov/violenceprevention/acestudy/index.html>) first report in 2010(<http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5949a1.htm>),

which found that children who were exposed to domestic violence and abuse had more injuries and illnesses throughout their life, as well as a shorter life expectancy. In fact, through direct health costs from DV experiences the United States spends \$750 billion yearly.

Combining these costs, plus that of crime and future illnesses exacerbated by cases of DV, the annual cost is over one trillion dollars. Because of this, Goldstein claims that the United States could save at least \$500 billion a year by preventing domestic violence and child abuse. For a political system that appears to value revenue above

the suffering of many victims of domestic violence and child abuse, the potential savings of \$500 billion can help make the case for transforming family court systems to be more like Quincy's.

Better Way to Reduce DV - A group of *best practices* that make up the Quincy Solution were formulated when the district attorney in Quincy, MA., Bill Delahunt, found that nearly all of the inmates at a local prison had experienced domestic violence during their childhood. Delahunt believed that ending domestic violence would lead to a lower overall crime rate. When the county developed a better system for reducing domestic violence, they went several years with no murders. Previously, there had been an average of five or six domestic violence-related homicides a year.

A Coordinated Community

Response - Local officials in Quincy created a system of best practices wherein law enforcement, court workers, and DV professionals came together to make “strict enforcement of criminal laws, protection orders, and probation requirements combined with practices that made it easier for victims to leave their abusers, aided by a coordinated community response.” In contrast, Dutchess County, New York did not put the safety of DV victims first, by not enforcing orders of protection, not arraigning defendants arrested after court hours, and siding with abusers in custody cases. Because of these failures, many women stopped using the court system entirely, according to Goldstein.

Judges, Others Poorly Trained in DV - Dr. Daniel Saunders conducted a study* for the National Institute of Justice, U.S. Department of Justice in 2012 that showed that evaluators, judges, and lawyers are chronically undertrained in matters of DV. Court officials are often uninformed about scientific research findings about domestic violence that are necessary to make critical decisions. Often judges, attorneys and support personnel operate with “false assumptions and misinformation” based on a time before there was solid scientific research on the nature of domestic violence. Research findings, properly understood, can correct many long-held beliefs about domestic violence perpetrators abusers and their victims that are harmful. For instance, abuse is not caused by mental illness, substance abuse, or a lack of control. Nor is it an act of an otherwise non-violent person who ‘just snaps.’ The prevalence of sociopathic personalities among abusers is also a factor.

Judges Disbelieve Victims - Frequently, judges do not listen and do not believe victims. Judges do not know that it is common practice for victims themselves to downplay the violence. When courts don’t understand DV dynamics, the consequences are dire. For example, when Dr. Amy Castillo filed for a restraining order to protect her children from her abusive husband, the court allowed him unsupervised visitation because she engaged in sexual activity with him before going to court. The court, not understanding that refusing child

custody for an abuser is dangerous, took this act to mean that Castillo was exaggerating her husband’s behavior. Unfortunately, the father killed the three children during his visitation. This is only one of many tragedies that occur as a result of uninformed – and often biased -- judges, lawyers and even custody evaluators.

Widespread Bias Against Women - Author Goldstein notes that at least forty states and many judicial districts have convened court-sponsored committees to review bias against women in courts. They have found pervasive bias against women, requiring higher burdens of proof on mothers than fathers. A core difficulty is the common requirement, imposed by judges without a procedural or law basis, that mothers prove that the father committed a criminal act. Without that proof, allegations of battering or child abuse are discounted by the judge and, reportedly, many women heading into child custody proceedings are told not to mention the abuse.

DV Experts Key in Court - Goldstein proposes that employing domestic violence experts is the best way to change the current dysfunctional system. Saunders’ study demonstrates that the courts are not properly informed, and many are not open to learning more. Therefore, bringing in advocates that have the proper training and knowledge to effectively recognize and make recommendations in cases where domestic violence is a factor is essential. Mandatory

training of court personnel would also be an important element.

Multi-pronged Approach - The Quincy Solution employed a multi-disciplinary approach which brought together experts from different fields, including lawyers, judges, psychologists, sociologists and DV advocates. This coordinated community of experts responded more effectively and with more knowledge than previous single-disciplinary approaches. The Quincy Solution also includes the creation of special courts for domestic violence crimes, dealing differently with recurrent abuse by men on probation than most systems. The Quincy Solution moves the abuser to jail for a probation violation, rather than resolving criminal charges that would take longer. Probation violations are responded to more expeditiously, and often don't require the victim to testify. Through this practice, the abuser is removed from the community, and cannot further harm or threaten the victim(s). The most successful aspects of the Quincy Solution were the strict enforcement of criminal laws and protective orders. These measures facilitated a safer, more effective way with the help of a coordinated community response for victims to leave their abusers.

Law Enforcement Training - The Quincy Solution also involves law enforcement and probation officers by training them in handling DV situations. While serious penalties are one aspect of enforcement, just as important is an in-depth and timely investigation of the crime. The

training included gathering evidence at the scene rather than just taking the victim's statement. This reflects an understanding of DV dynamics. For example, often victims attempt to drop the charges because of threats from the abuser. The evidence allows a stronger case to be made and gives the victim more credibility. Quincy adopted a pro-arrest policy that was in stark contrast to the separation and "cool off" period that was used before. This demonstrated to the community that domestic violence was no longer being tolerated in Quincy.

Current System Fails Women - There can be no denying that the current system fails women and children with abusive partners. Research shows that in 95 percent of cases where an abuser murdered his partner, the police had been called to the house an average of five times. Only monitoring and accountability have proven successful in changing abusive behavior, which is exactly what Quincy's enforcement of restraining orders and criminal laws accomplished.

Abusers Seek Custody - When creating the best practices, District Attorney Delahunt also noticed that victims stopped resisting their abusive partners when their abusers sought custody of their children. This is a routine tactic used by abusers to gain control over victims who are trying to leave the relationship. Unfortunately, courts are more concerned with making sure children have both parents involved in their lives than understanding the nature

of abusive relationships. Therefore, the Quincy Solution includes **The Safe Child Act**, which explicitly says the courts “must make the health and safety of children the first priority in all custody and visitation decisions.”

Tailored to Victims’ Needs - The Quincy Solution makes it easier for victims to leave their abusers, providing trained clerks to help victims fill out petitions for restraining orders, as well as help them understand court procedures. If necessary, police would escort a victim to court as a safety precaution. Hearings were scheduled around the victims, to prevent discouragement caused by missing work from hours-long court sessions. Systems that provide and enforce “orders of protection, emergency shelter, community support and financial support” have been shown to make it easier for victims to leave their abusers, and reduce both DV crime and homicide.

An outside aspect of the Quincy Solution’s success was press coverage. Local newspapers posted pictures of men wanted for DV crimes, inspiring the police to ensure that warrants were executed. The *Boston Globe* published stories about Quincy’s successful practices, making sure potential abusers knew the consequences of committing DV in Quincy.

How the Process Worked - The Quincy Solution worked like this: police would be called to a house in a potential DV case. They would focus on the victim’s safety by taking

pictures, collecting evidence, and not allowing themselves to be manipulated by the abuser, but instead recording potential admissions that could be used against them. If there was probable cause, the offender would be arrested. Law enforcement would answer victim questions, escort them to the courthouse if their safety was in question, and connect them with DV advocates. The court’s clerks and volunteers were specially trained to assist the victim in filling out forms for a restraining order and explain the process. The court made sure the victims could leave proceedings before the defendant to prevent witness tampering, a common practice in DV cases. Prosecutors did not drop cases unless the evidence was very weak, referrals to a batterer program were mandatory, the probation department closely monitored offenders, and violations were taken seriously and used as a way to get offenders off the streets.

“Fathers’ Rights” Groups - Unfortunately, though the Quincy Solution led to a significantly more effective court system for dealing with DV cases, the Probate Court where custody cases are handled has a bias towards keeping both parents in children’s lives. “Father’s Rights” activist groups --- actually ‘abuser rights’ groups -- have successfully used the Probate Court system to maintain control over their partners and children, resulting in further abuse, and in some cases the murder of children. The spread of the false psychological syndrome or disorder -- parental alienation – used in court against protective

parents, usually mothers, has been particularly harmful, resulting in the loss of custody by the protective parent and awarding of custody to the abusive parent.

Continues a Major Problem -

Domestic violence against women and children remains a major problem in the U.S. and elsewhere. Unfortunately, due to lack of knowledge, ineffective practices by law enforcement and court professionals, and lax enforcement of orders of protection and probation, victims of domestic violence are unable to safely divorce their partners and protect themselves and their children. The Quincy Solution is a collection of best, multi-dimensional practices involving law enforcement, court professionals and DV experts creating a community response to better protect and support victims of domestic violence.

Editor's Note: Former executive director of the National Coalition Against Domestic Violence, Rita Smith, notes that the Quincy Solution demonstrates DV is not inevitable, and society has the ability to dramatically reduce DV crimes. She also asks the question, "Why does society let abuse continue?" This question, she says, encourages a constructive discussion of how we can develop laws and practices to

discourage abuse and hold the abuser accountable. I would add that it is of utmost importance for activists to lead an effort to draft new laws that reflect the best practices of the Quincy Model and aggressively promote these with state legislators, bar associations, and court personnel. It will be an uphill battle to reform family courts, but there is no alternative. Until that happens, we will continue to see protective parents lose custody and children put in harms' way.

Summary prepared by Victoria Cleveland, NOW Foundation Public Policy Intern (2014) and edited by NOW Foundation Director of Programs, Jan Erickson.

***Child Custody Evaluators' Beliefs About Domestic Abuse Allegations: Their Relationship to Evaluator Demographics, Background, Domestic Violence Knowledge and Custody-**

Visitation Recommendations, Final Technical Report Submitted to the National Institutes of Justice, U.S. Department of Justice (October 31, 2011) Principal Investigator Daniel G. Saunders, Ph.D., Co-Investigators: Kathleen C. Faller, Ph.D. and Richard M. Tolman, Ph.D.,
<https://www.ncjrs.gov/pdffiles1/nij/grants/238891.pdf>

Uniform Law Commission

Uniform Law Commission Forms Drafting Committee on “Non-Parental Rights to Custody and Visitation”

The National Uniform Law Commission (ULC) has established and appointed members to a committee of judges, attorneys, and other legal experts to work on drafting a uniform act governing third-party (non-parent), child custody and visitation rights. It is chaired by a Texas Supreme Court Associate Justice Debra H. Lehrmann. In addition, the ULC invited a number of “observers” to participate in the committee meetings and to monitor the drafting process. The National Organization for Women (NOW) was given “observer” status. Renee Beeker and Mike Smalz, both members of the NOW Foundation Family Law Committee, are serving as observers on the Drafting Committee for the ULC.

So far, the ULC Drafting Committee has held several meetings by telephone conference and then an in-person meeting in Washington, D.C., March 27-28. Jan Erickson, NOW Foundation Director of Programs, attended the meeting. The committee’s goal is to finish drafting the uniform act by mid-2016 and then present to the draft to the full ULC Commission for approval. Upon approval by the Commission, the uniform act will be sent to the state legislatures of all 50 states for their consideration. The ULC Commission is a prestigious organization, and its legislative recommendations carry considerable weight with state legislators and bar associations.

The ULC Drafting Committee is considering and analyzing a wide range of legal issues, including: standing requirements for persons seeking child custody or visitation; the rights of cohabitants who have agreed to raise a child with the biological parent; the legal test and burden of proof for determining custody and visitation disputes between parents and non-parents; and whether both juvenile and domestic relations courts should be subject to the same legal test and burden of proof. The Drafting Committee will examine these issues from the perspective of the parents, grandparents and other relatives, non-relative caregivers, the affected children, and the courts.

The U.S. Supreme Court’s expected decision this summer in a same-sex equal marriage case should enable the committee to clarify provisions in their recommendations for a model code pertaining to children of same-sex couples.

NOW is monitoring the progress of this model legislation. Anyone who may have questions, relevant information (e.g., case stories), or opinions based on personal experience that may relate to the topics of the ULC Drafting Committee should contact Renee Beeker and/or Mike Smalz of the NOW Foundation Family Law Committee, at reneebeeker@aol.com and msmalz@ohiopoverlylaw.org .

National Coalition Against Domestic Violence (NCADV) Shareable Content

NCADV has a new resource page and offers **Shareable Content**.

Do you, or someone you know, need legal assistance or help seeking information about domestic violence? If so, see National Coalition of Domestic Violence (NCADV) website: www.ncadv.org. The NCADV is dedicated to working to raise public awareness about domestic violence and to provide assistance to its victims.

NCADV link to **free online legal advice for survivors**:

<https://www.domesticshelters.org/domestic-violence-articles-information/is-there-free-online-legal-advice-for-survivors-of-domestic-violence#.VQ4YPKzy0qd>

NCADV resource website: Online domesticshelters.org is a place to learn about and find help for escaping domestic violence. But, when you're ready to talk, a place to turn is The [National Domestic Violence Hotline](http://NationalDomesticViolenceHotline.org) 1-800-799-7233.

NCADV's Shareable content are articles from domesticshelters.org that you can easily and quickly share through social channels and email. If you are part of a DV program without the time to create your own content, or you are just someone who cares deeply about ending domestic violence and helping others, you are welcome to use the shareable content. To share, just click on the links above. That will take you to the article. On the article page, click any of the "share" icons. Easy!

Domesticshelters.org is busy socially! Be sure to Like us on [our Facebook page](https://www.facebook.com/domesticshelter), @domesticshelter on Twitter, or [Google+](https://www.google.com/), Instagram or [Pinterest](https://www.pinterest.com/domesticshelter/).

Go to www.NCADV.org to **sign up for their email newsletter** to receive Shareable Content.

Florida Commission on Access to Civil Justice

The Chief Justice of the Florida Supreme Court in late 2014 announced the formation of the Florida Commission on Access to Civil Justice. A link to his announcement can be seen here:

<http://www.floridabar.org/TFB/TFBPublic.nsf/WNewsReleases/E865D46FC567588985257D9A004FD1BF?OpenDocument>

This Commission was charged with “studying the unmet civil legal needs of disadvantaged, low-income and moderate-income Floridians and with considering the state’s legal assistance delivery system as a whole...” and with making a recommendation as to whether Florida should join 32 other states and the District of Columbia in establishing a permanent Access to Justice Commission. More information: <http://www.flaccessstojustice.org/>

An Activist's Letter in Response to the Chief Justice of the Florida Supreme Court

*Adele Guadalupe, activist, long-time mothers' rights advocate, has listened to many tragic stories of mothers and children, who have been devastated by the family legal system. Below is a letter penned by Ms. Guadalupe to advocate for family court reform in Florida, particularly for the inclusion of lay court advocates as a potential resource. We encourage *you* to write a letter advocating on behalf of mothers and children who may find themselves negotiating the maze of the family court system in your own state.

Letter to Chief Justice Jorge Labarga of Florida's Supreme Court

For over 12 years I have been witnessing family and other civil court proceedings in Palm Beach, Broward, and other Florida counties. It was with great interest that I read about the recent formation of the Florida Commission on Access to Civil Justice. -As you state in your press release, the civil and family court system is truly broken. Having lawyers available to family court litigants and having mandated courtroom recordings of such family civil hearings and trials made available at a reasonable cost, is of utmost importance if justice is to be provided to everyone involved in those court proceedings, especially those of limited means. (Note that many family court litigants start out with sufficient means, but are financially devastated by courtroom related fees and a former partner determined to grind them down through court expenses.)

As President of Families Against Court Travesties, I have helped develop a website, given talks to numerous groups, conducted court watches, written evaluations, given testimony to the Supreme and Appellate Courts, and participated in many interviews of judicial candidates prior to elections. Our group has a hotline that takes calls from parents who have lost access to their children because of misguided decisions made by family court judges. Many of these arbitrary decisions have wreaked havoc on children and their families. Because there is no form of legal aid available to these parents, the family court system has become a very lucrative arena in the legal arena. Lawyers, paid guardians ad-litem, custody evaluators, psychologists, etc. are involved in a revolving door of fees that leave most parents, women especially, penniless and heart-broken, as well as impoverishing and causing emotional damage to their children and extended families.

Time after time, especially in heavily contested child custody cases, I have witnessed child abusers, child molesters, and domestic violence perpetrators being given sole custody of their children or unsupervised visitation with them. Children have been traumatized by the fact that they've not only lost their mothers, but they also have been forced to live with the abuser. (On occasion, it is the father who is most suitable and the mother who is abusive, but that is rare). Evidence of the abuse is not even allowed into the family court hearings and

trials. Children, toddlers and even infants are being denied access to loving parents and other members of their families. Due Process is being ignored, and children are being viewed as property to be divided or awarded.

The lack of finances has caused many protective and custodial challenged parents to go pro se, because they have nowhere to turn for help with needed resources. Needless to say, a high-powered attorney on the other side makes mincemeat of these protective parents, and the judges often become annoyed with the pro se litigant's lack of familiarity with courtroom procedures. To make matters worse, when these parents can no longer afford the court-reporter or transcripts, their rights to appeal become severely hampered.

I have noticed that the 27-member committee does not include any lay people, such as I. If there is no one to represent the actual litigants, to explain what they have to experience in court, including their losses and their frustration, this committee will not truly represent the general public, which is the entire purpose of it.

Please consider inviting people such as myself into your committee, so that it is truly representative of those in the trenches.

I look forward to your reply.

Adele Guadalupe, Vice President of FL NOW Palm Beach County

A Call to Action

Research mothers' rights and the status of family law in your state or jurisdiction. If family law cases continue for years while protective mothers go bankrupt to pay the professional fees, yet still lose custody to abusive or molesting parents, see the **Activist's Letter** above and write a similar one to the Chief Justice of your state Supreme Court. Check our next newsletter for more information on the Access to Justice Commissions and how they might be tapped to improve family courts and provide justice for women and children. Also, see <http://www.ncsc.org/microsites/access-to-justice/home/Topics/Access-to-Justice-Commissions.aspx>

Links to Related Information

Courageous Kids, www.courageouskids.net
Child Justice, Inc., <http://child-justice.org/>
National Coalition Against Domestic Violence, Get Help, <http://www.ncadv.org/need-support/get-help>