

# The Failure of Family Courts to Protect Child Victims of Sexual Abuse

By Quenby Wilcox



[www.global-expats.com](http://www.global-expats.com)



**Safe Child International**

[www.causes.com/causes/497298](http://www.causes.com/causes/497298)

***For a long time, we have been the lepers that mar the Ball, we captives are not a politically correct topic...***

***We must think of where we come from, who we are, and where we want to go. I aspire to our having that thirst for greatness one day that makes people rise up from nothingness to the sun.***

***When we are unconditional vis-avis the defense of the life and liberty of our own, that is, when we are less individualistic and more committed to the common good, less indifferent and more involved, less intolerant and more compassionate, then at that time we will be the great nation (world) that all of us would like to be.***

***That greatness is there asleep in our hearts. But hearts have hardened and weigh so heavily that no elevated sentiments are permitted....***

***...The wars waged against the freedom of a handful of forgotten ones are like a hurricane seeking to bring down everything. It is of no interest. His intelligence, his nobility, and his devotion have given pause to many, and here, more than the freedom of some poor crackpots chained up in the jungle, it is a matter of taking stock of what it means to defend human dignity.***

**Ingrid Betancourt**

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*I fairly well know what the law is, but I don't often know what justice is - it is a pattern according to our own personal conceptions.*

Clarence Darrow

*When we violate the law ourselves, whatever short-term advantage may be gained, we are obviously encouraging others to violate the law; we thus encourage disorder and instability and thereby do incalculable damage to our own long-term interests...*

*...Insofar as international law is observed, it provides us with stability and order and with a means of predicting the behavior of those with whom we have reciprocal legal obligations....*

***In a democracy, dissent is an act of faith.***

Senator J. William Fulbright

# Introduction

***"Imagine a childhood disease that affects one in five girls and one in seven boys before they reach 18***

*(Finkelhor & Dziuba-Leatherman, 1994):*

- a disease that can cause dramatic mood swings, erratic behavior, and severe conduct disorders;***
- a disease that breeds distrust of adults and undermines the possibility of experiencing normal sexual relationships;***
- a disease that can have profound implications for an individual's future health by increasing the risk of problems such as substance abuse, sexually transmitted diseases, and suicidal behavior*** *(Crowell & Burgess, 1996);*

***•a disease that replicates itself by causing some of its victims to expose future generations to its debilitating effects.***

***Imagine what we, as a society, would do if such a disease existed.***

***We would invest heavily in basic and applied research. We would spare no expense.***

***We would devise systems to identify those affected and provide services to treat them.***

***We would develop and broadly implement prevention campaigns to protect our children. Wouldn't we?***

***Such a disease does exist—it's called child sexual abuse.***

***Our response, however, has been far from the full-court press reserved for traditional diseases or health concerns of equal or even lesser magnitude.***

***Perhaps the perception of sexual abuse as a law enforcement problem or our discomfort in confronting sexual issues contributes to our complacency.***

***Whatever the reason, we have severely underestimated the effects of this problem on our children's health and quality of life."***

Excerpted from a commentary by Dr. James Mercy's, a researcher with the Center for Disease Control and Prevention: Mercy, J. A. (1999). Having New Eyes: Viewing Child Sexual Abuse as a Public Health Problem. *Sexual Abuse: A Journal of Research and Treatment*, 11(4), 317-321.



***All forms of abuse have one purpose:  
to gain and maintain control over the victim.***

## **Child Sexual Abuse**

- Child sexual abuse has been reported up to 80,000 times a year, but the number of unreported instances is far greater.
- Child sexual abuse can take place within the family, by a parent, step-parent, sibling or other relative; or outside the home, for example, by a friend, neighbor, child care person, teacher, or stranger.
- The child who knows and cares for the abuser becomes trapped between affection or loyalty for the person, and the sense that the sexual activities are terribly wrong.
- If the child tries to break away from the sexual relationship, the abuser may threaten the child with violence or loss of love.
- When sexual abuse occurs within the family, the child may fear the, jealousy or shame of other family members, or be afraid the family will break up if the secret is told.

by the American Academy of Child and Adolescent Psychiatry



Every year in this country, two million children are brutally beaten or sexually abused. 340,000 new cases were reported in 1989 (U.S. Advisory Board, April, 1991). Of these abused children, 3,000 to 5,000 die every year.

Children who are neglected or sexually abused are known to have lower IQs and an increased risk of depression, suicide and drug problems.

Abused children are 53% more likely to be arrested as juveniles, and 38% more likely to be arrested for a violent crime. During preschool years, abused children are more likely to get angry, refuse direction from teachers, and lack enthusiasm.

By the time they reach grade school, they are more prone to being easily distracted, lacking in self-control, and not well-liked by peers.

Specialists in the addiction field (alcohol, drugs and eating disorders) estimate that up to 90 percent of their patients have a known history of some form of abuse.

The American Academy of Experts in Traumatic Stress

The NIBRS data indicate that an arrest was made in only 29% of reported juvenile sexual assaults

<http://www.mayoclinicproceedings.com/content/82/4/457.full#T2>

TABLE 2. Sexual Assaults of Young Children as Reported to Law Enforcement (NIBRS Data 1991-1996)<sup>2\*</sup>

Assault type	Age (y)			
	<6	6-11	12-17	>17
Percentage of all NIBRS-reported sexual assaults	14	20	33	33
Female committed offense	12	6	3	1
Juvenile committed offense	40	39	27	4
Abused female child	69	75	91	96
Firearm used for coercion	Rare	Rare	1	5
Assaults in a residence	87	83	69	56
Multiple children abused simultaneously (group)	21	28	13	4
Abused by a family member	49	42	24	12
Abused by an acquaintance	48	53	66	61
Abused by a stranger	3	5	10	27
Arrest was made	19	33	32	22

\*Data are presented as percentages. NIBRS = National Incident-Based Reporting System.

When sexual abuse has occurred, a child can develop :

- low self-esteem
- feeling of worthlessness
- abnormal or distorted view of sex
- withdrawn and mistrustful of adults
- can become suicidal
- difficulty relating to others except on sexual terms
- some sexually abused children become child abusers or prostitutes,
- unusual interest in or avoidance of all things of a sexual nature
- sleep problems or nightmares
- depression or withdrawal from friends or family
- seductiveness
- statements that their bodies are dirty or damaged, or fear that there is something wrong with them in the genital area
- refusal to go to school
- delinquency/conduct problems
- secretiveness
- aspects of sexual molestation in drawings, games, fantasies
- unusual aggressiveness.

by the American Academy of Child and Adolescent Psychiatry



# Duluth Model – Abuse of Children Wheel



## Total Annual Cost of Child Abuse and Neglect in the United States

Hospitalization	\$6,205,395,000
Chronic Health Problems	\$2,987,957,400
Mental Health Care System	\$425,110,400
Child Welfare System	\$14,400,000,000
Law Enforcement	\$24,709,800
Judicial System	\$341,174,702
<b>Total Direct Costs</b>	<b>\$24,384,347,302</b>

[www.preventchildabuse.org](http://www.preventchildabuse.org)

# Duluth Model - Power and Control Wheel



*"An abuser systematically uses threats, intimidation, and coercion to instill fear in his victims. These behaviors are the spokes of the wheel. Physical and sexual violence holds it all together—this violence is the rim of the wheel."*

Domestic Abuse Intervention Project, 202 East Superior Street, Duluth, Minnesota 55802, 218-722-2781 [www.duluth-model.org](http://www.duluth-model.org)

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# The Pedophile

People with pedophilia generally experience feelings of:

- inferiority
- isolation or loneliness
- low self-esteem
- internal dysphoria
- emotional immaturity

They have difficulty with mature age-appropriate interpersonal interactions, particularly because of their reduced assertiveness, elevated levels of passive-aggressivity, and increased anger or hostility.

These traits lead to difficulty dealing with painful affect, which results in the excessive use of major defense mechanisms: intellectualization, denial, cognitive distortion & rationalization.

Even though pedophiles often have difficulty with interpersonal relationships, 50+% will marry at some point in their lives.

<http://www.mayoclinicproceedings.com/content/82/4/457.full#T3>



It is common for people who are diagnosed as having pedophilia to also experience another major psychiatric disorder :

- affective illness in 60%-80%
- anxiety disorder in 50%-60%
- diagnosable personality disorder (70%-80%) at some time in life
- 43% of pedophiles have cluster C personality disorders
- 33% have cluster B personality disorders
- 18% have cluster A personality disorders

Cluster A	Cluster B	Cluster C
<b>Paranoid</b> Pervasive distrust and suspiciousness of others <b>Schizoid</b> Detachment from social relationships (neither enjoys nor desires) and restricted emotions <b>Schizotypal</b> Interpersonal deficits and discomfort with cognitive distortion and eccentric behavior	<b>Antisocial</b> Disregard and violation of rights of others <b>Borderline</b> Instability of interpersonal relationships with impulsivity traits <b>Histrionic</b> Excessive emotionality and attention seeking Narcissistic Grandiosity, need for admiration, lack of empathy	<b>Avoidant</b> Social inhibition, feelings of inadequacy, hypersensitivity to negative evaluation <b>Dependent</b> Need to be taken care of, with fear of separation <b>Obsessive-compulsive</b> Preoccupation with orderliness, perfectionism, and control

<http://www.mayoclinicproceedings.com/content/82/4/457.full#T3>

Many pedophiles also demonstrate narcissistic, sociopathic, and antisocial personality traits. They lack remorse and an understanding of the harm their actions cause.

Cohen et al suggest that, instead of viewing pedophilia as the result of an impulse-aggressive trait (eg, unplanned with no consideration for consequences), it should be viewed as the result of a compulsive-aggressive trait (planned with the intention of relieving internal pressures or urges).

Some individuals who have pedophilia are able to present themselves as psychologically normal during examination or superficial encounters, even though they have severe underlying personality disorders.

<http://www.mayoclinicproceedings.com/content/82/4/457.full#T3>

# Gender Bias in the Courts and the Consequence for Victims of Abuse

*"...the family courts remain a dark and terrifying gauntlet through which battered mothers must pass in their attempts to protect both themselves and their children from the violence of their ex-husbands...*

*...historic notions of fathers' rights over their family members, misguided public policy, inadequate judicial guidelines, the perversion of scientific evidence and, finally, the reluctance of many to even contemplate such horrific risks from men who claim to be fighting for the right to be a father, have led to a crisis in which the courts of virtually every state in the nation have increased the desperation of protective mothers and become complicit in the continuing victimization of thousands of children..."*

**DOMESTIC VIOLENCE, ABUSE, AND CHILD CUSTODY:  
Legal Strategies and Policy Issues** by Jay G. Silverman, Ph.D.



## ARE "GOOD ENOUGH" PARENTS LOSING CUSTODY TO ABUSIVE EX-PARTNERS?

By Stephanie Dallam -- updated 2008 for the Leadership Council on Child Abuse & Interpersonal Violence.

High conflict families are disproportionately represented among the population of those contesting custody and visitation. **These cases commonly involve domestic violence, child abuse, and substance abuse.**

Research indicates that that custody litigation can become a vehicle whereby **batterers and child abusers attempt to extend or maintain their control and authority over their victims after separation.** Although, research has not found a higher incidence of false allegations of child abuse and domestic violence in the context of custody/visitation, **officers of the court tend to be unreasonably suspicious of such claims and that too often custody decisions are based on bad science, misinterpretation of fact, and evaluator bias.**

As a result, **many abused women and their children find themselves re-victimized by the justice system** after separation.

**Noting that negative stereotypes about women encourage judges to disbelieve women's allegations of child sexual abuse. Gender bias problems are particularly acute in family courts, and most problematic when sexual abuse of children is alleged in custody or visitation proceedings....**

**"tendency to doubt the credibility of women who make these allegations, and to characterize them as hysterical or vindictive even when medical evidence corroborates a claim of child abuse."**

*Danforth, G., & Welling, B. (Eds.). (1996). Achieving Equal Justice for Women and Men in the California Courts: Final Report. Judicial Council of California Advisory Committee on Gender Bias in the Courts (p. 149-150).*

**Fathers are often awarded sole custody even when their sexual and physical abuse of the children is alleged and substantiated. According to the American Judges Association, 70% of the time the abuser convinces the court to give him custody.**

*American Judges' Foundation. Domestic Violence and the Court House: Understanding the Problem. Knowing the Victim . Williamsburg, VA: Author. (see, Forms of Emotional Battering Section, Threats to Harm or Take Away Children Subsection:*

**"94% of fathers that actively seek full or joint custody of their children obtain it without taking into account reports of abuse."**

The Massachusetts Supreme Judicial Court Gender Bias Task Force. (Nov. 2002).

A majority of the probate judges surveyed agreed that **"mothers allege child sexual abuse to gain a bargaining advantage in the divorce process..."**

**"In sex abuse cases when a small child describes explicit abuse and the experts corroborate that there has been abuse the court's reaction is disbelief..."**

**"The feeling is that the woman is using abuse to control the husband. There is an immediate bias in favor of not believing the story..."**

**"Women and children who allege sexual abuse are simply not believed.."**

New England Law Review: Gender Bias Study of the Court System in Massachusetts, Volume 24, Spring 1990



## **Protective Mothers Within the Courts**

**Faller and DeVoe found that 40 concerned parents experienced negative sanctions associated with raising the issue of sexual abuse.**

**These sanctions included being jailed, losing custody to the alleged offender, a relative, or foster care, limitation or loss of visitation, admonitions not to report alleged abuse again to the court, Protective Services or the police, and prohibitions against taking the child to a physician or therapist because of concerns about sexual abuse in the future.**

**None of the parents experiencing these sanctions were ones who were judged to have made calculated false allegations. In fact, sanctioned cases tended to score higher on a composite scale of likelihood of sexual abuse, and were more likely to have medical evidence than cases without sanctions.**

Faller, K. C., & DeVoe, E. (1995). Allegations of sexual abuse in divorce, *Journal of Child Sexual Abuse*, 4(4), 1-25.

**“Of the 10 years that mothers attempted to protect their children from sexually abusive fathers, in 70% of the cases fathers were given supervised visitation or joint custody;**

**In 20% of the cases mothers lost full custody and even visitation rights.”**

**Arizona Coalition Against Domestic Violence. Battered Mothers' Testimony Project: A Human Rights Approach to Child Custody and Domestic Violence (June 2003), pp. 33-34, 47-49.**

**“The majority of women interviewed felt that court personnel did not take their complaints of domestic abuse seriously. The personnel ignored them, treated them with lack of respect, and discriminated against them.”**

**Arizona Coalition Against Domestic Violence, Battered Mothers' Testimony Project: A Human Rights Approach to Child Custody and Domestic Violence (June 2003), pp. 47, 49, 6.**

**“A number of emerging investigations show that mothers who denounce the sexual abuse of fathers run the risk of not being protected when they find themselves in custodial litigation.”**

**Sexual Assault Report. Myths that Place Children at Risk during Custody Disputes. Volume 9 Number 3. January/February 2006.**

**“Our analysis indicates that the problem of paedophile fathers that obtain custody is extensive and well documented by studies.”**

**Sexual Assault Report. Myths that Place Children at Risk during Custody disputes. Volume 9 Number 3. January/February 2006.**

**“The myth that false accusations of sexual abuse during custody battles is refuted by investigations, showing that the incident of these cases is very small, the same as in other crimes, between 1% and 5%.**

**Sexual Assault Report. Myths that Place Children at Risk during Custody disputes. Volume 9 Number 3. January/February 2006.**



**The investigators found that only in 10% of cases was primary custody was given to the protective parent and supervised contact with alleged abuser.**

**Conversely, 20% of the cases resulted in a predominantly negative outcome where the child was placed in the primary legal and physical custody of the allegedly sexually abusive parent.**

**In the rest of the cases (70%), the judges awarded joint custody with no provisions for supervised visitation with the alleged abuser.**

**Neustein, A., & Goetting, A. (1999). Judicial Responses to Protective Parents, *Journal of Child Sexual Abuse*, 4, 103-122.**

**This scholarly book documents case after case where accusations of sexual abuse by a child resulted in forced contact with the alleged abuser, and sometimes complete termination of parental contact with a loving parent who seeks only to protect the child.**

**Neustein, A., & Leshner, M. (2005). *From Madness to Mutiny – Why Mothers are Running from Family Court and What Can Be Done About It.* (Northeastern University Press.**

**....65% reported that they were threatened with sanctions if the "talked publicly" about the case.**

**The average cost of the court proceedings was over \$80,000 and over a quarter of the protective parents reported being forced to file bankruptcy as a result of filing for custody of their children.**

**87% of the protective parents believe that their children are still being abused; however, 63% have stopped reporting the abuse for fear that contact with their children will be terminated.**

**Eleven percent of the children were reported to have attempted suicide.**

Stahly, G. B., Krajewski, L., Loya, B. Uppal, K., German, G., Farris, W., Hilson, N., & Valentine, J. (2004). Protective Mothers in Child Custody Disputes: A Study of Judicial Abuse. In *Disorder in the Courts: Mothers and Their Allies Take on the Family Law System*

A survey of 201 psychologists from 39 states who conducted custody evaluations indicated that **domestic violence was not considered by most to be a major factor in making custody determinations.**

Conversely, **three-quarters of the custody evaluators recommended denying sole or joint custody to a parent who "alienates the child from the other parent by negatively interpreting the other parent's behavior."**

Ackerman, M. J., & Ackerman, M. C. (1996). Child custody evaluation practices: A 1996 survey of psychologists. *Family Law Quarterly*, 30, 565-586.

"...in all contested custody cases, **84% of the fathers in the study were granted sole or mandated joint custody. In all cases where sole custody was awarded, fathers were awarded custody in 79% of the cases. In 26% of the cases fathers were either proven or alleged to have physically and sexually abused their children.**"

The Committee for Justice for Women and the Orange County, North Carolina, Women's Coalition. (1991). *Contested Custody Cases In Orange County, North Carolina, Trial Courts, 1983-1987: Gender Bias, The Family And The Law*. Author.



**The study found that prior to divorce, 94% of the protective mothers surveyed were the primary caretaker and 87% had custody at the time of separation.**

**However, as a result of reporting child abuse, only 27% were left with custody after court proceedings. 97% of the mothers reported that court personnel ignored or minimized reports of abuse and that they were punished for trying to protect their children.**

**45% of the mothers say they were labeled as having Parental Alienation Syndrome (PAS).**

**Most protective parents lost custody in emergency ex parte proceedings (where they were not notified or present) and where no court reporter was present.**

**The common theme that emerged from the testimony is that there is a widespread problem of abusive parents being granted custody of children and protective parents having their custody limited or denied, and/or being otherwise punished.**

[Testimony to the Truth Commission](#). (2007, Jan 13). Fourth Battered Mothers Custody Conference. Albany, NY.

**There is a crisis in the custody court system, which has resulted in thousands of children being sent to live with abusers while safe, protective parents, primarily mothers, are denied any meaningful relationship with their children.**

**The court system has failed to respond appropriately to domestic violence and child abuse cases involving custody...**

[Testimony to the Truth Commission.](#) (2007, Jan 13). Fourth Battered Mothers Custody Conference. Albany, NY.

## **OFFICE ON VIOLENCE AGAINST WOMEN STATEMENT OF CATHERINE PIERCE - ACTING DIRECTOR**

*"Battered women losing custody of their children is a serious and growing problem. In August of 2008, OVW convened a Roundtable Discussion on Custody and Domestic Violence with experts and practitioners to inform OVW about how battered women are losing custody of their children to either the perpetrators (through Family Court) or to the State (through Child Protective Services). "*

STATEMENT OF CATHERINE PIERCE ACTING DIRECTOR OFFICE ON VIOLENCE AGAINST WOMEN UNITED STATES DEPARTMENT OF JUSTICE BEFORE THE UNITED STATES SENATE COMMITTEE ON THE JUDICIARY HEARING ENTITLED "THE CONTINUED IMPORTANCE OF THE VIOLENCE AGAINST WOMEN ACT" JUNE 10, 2009

# Best Interest of the Child Standard in the Courts

Theoretically, the law guides and controls child custody evaluations, but the prevailing custody standard (**the "best interests of the child" test**) is a vague rule...

In this vacuum, custody evaluators typically administer to parents and children an array of tests and assess them through less formal means including interviews and observation.

**Sadly, we find that (a) tests specifically developed to assess questions relevant to custody are completely inadequate on scientific grounds; (b) the claims of some anointed experts about their favorite constructs (e.g., "parent alienation syndrome") are equally hollow when subjected to scientific scrutiny...**

Emery, R. E., Otto, R. K., & O'Donohue, W. T. (2007). Custody Evaluations: Limited Science and a Flawed System. *Psychological Science in the Public Interest*, 6(1), 1-29.



## **Sacks vs. Sacks**

On May 6, 2011 a mother from Daytona Beach, Florida, Linda Marie Sacks, walked over to the Supreme Court in Washington, DC and hand delivered her Petition for Certiorari **challenging the “Best Interest of the Child Standard” under the First, Fifth, Ninth, and Fourteenth Amendment...**

*Petitioner, a fit Mother to R.M.S. and S.R.S. filed for dissolution of marriage on 01/26/04 in her efforts to protect her children from documented sexual and physical abuse to them by the Respondent, their Father, and in doing so, lost physical custody of the minor children on 04/16/07, and was placed on Supervised Visitation.*

*Mother appealed the ruling of Judge Shawn L. Briese and on 08/08 the Fifth District Court of Appeals REVERSED and REMANDED the issue of child custody back to the trial court for a new hearing, due to the Petitioner’s constitutional right to due process being violated. This rare reversal provided no relief to Mother to be reunited with her children.*

*The trial court of Judge Shawn L. Briese refused to vacate the supervised visitation order after the Mandate from the Fifth District Court of Appeals, even though all of the supervised visitation reports from the Family Tree House Visitation Center were perfect and reflected a loving caring bond between Mother and her minor children.*

*Judge Briese insisted on hearing the "Retrial of Custody of Children" and refused his oral ruling 06/09 on the "Retrial of the Custod of Minor Children" and he insisted that Mother must continue to be on supervised visitation because she did not buy greeting cards for the children to give to the father, (App. C) and that Mother did a TV interview at the Battered Mothers Custody Conference in Albany, New York in 01/09 about the family court crisis "and this could be detrimental to the children".*

*The trial court had NO evidence that Mother was ever a threat to her children, and there was ample evidence that Mother is a loving, caring Mother, class Mom, soccer Mom, community volunteer, car pool Mom, truly the all American Mom.*

*Mother is the longest family law referral case at the Family Tree House Visitation Centre, and has only had 82 hours of contact in 4 rs. And 1 month, the 2nd and 4th Saturday of the month for 1 hour...*

*Further in the Sacks case "the "Court appointed" psychologist, Dr. Deborah O. Day of Psychological Affiliates is quoted on page 5 as she stated "that it is this examiner's opinion that this child is experiencing a significant mental health crisis, likely to pediatric bipolar, and therefore that negates any child sexual abuse". Then she thwarted the investigation by the police department and DCF, Dept. of Children and Family. The child never had pediatric bipolar, but yet Dr. Day falsely labeled her, and provided false and misleading information to the court, and failed to protect the minor children.*

*Linda Marie's daughter in April 2007, said "Mommy fight for us, and do something every day to get us back, and don't ever stop". This Florida Mother has kept her promise to her daughter's and now is speaking on behalf of America's children and their "protective parents".*

<http://www.worldpulse.com/node/37799>



## Best Interest of the Child? More Testimonies and Case

The California Protective Parent Association (<http://www.protectiveparents.com/cases.html>) cites case studies showing a clear pattern of perpetrators/pedophiles being awarded custody, asking for Congressional hearings to address this crisis.

On March 2, 2011, Peter Jamison from the SF Weekly published the article, *Illegal Guardians: When Judges Give Custody To Abusive Parents the Family*. **This article documents child sexual abuse cases and the identified perpetrator/ pedophile will get sole physical custody of the minor child(ren), and the safe protective parent, will be restricted to supervised visitation or all contact will be terminated.**

<http://www.sfweekly.com/2011-03-02/news/family-court-parental-alienation-syndrome-richard-gardner-pedophilia-domestic-violence-child-abuse-judges-divorce/>

Magazine, by Oprah, 10/06 article by Jan Goodwin, **"Please Daddy No", Stopping Court Ordered Parental Child Sexual Abuse** ([www.jangoodwin.com/articles/pleasedaddyno.pdf](http://www.jangoodwin.com/articles/pleasedaddyno.pdf))

Dr. Phil has also addressed this crisis on 04/14/10, **"America's Family Courts System Failing It's Citizens"**. (<http://www.drphil.com/shows/show/1442/>)

This latest research is available in the book **"Domestic Violence, Abuse and Child Custody, Legal Strategies and Policy Issues"** by Editors: Dr. Mo Therese Hanna Ph.d and Barry Goldstein, J.D. ([www.domesticviolenceabuseandchildcustody.com](http://www.domesticviolenceabuseandchildcustody.com))

**Attorney General Eric Holder's** speech to the National Summit on Domestic Violence and Child Maltreatment. In that speech, Attorney Holder asked, **"Why are battered mothers losing custody of their children to the courts or child protective services?"**. (<http://justice.gov/ag/speeches/2009/ag-speech-090602.html>).

# **Parental Alienation Syndrome (PAS) in Divorce Courts**

**“The theory of the existence of Parent Alienation Syndrome (PAS) has been discredited by the scientific community.**

**“A testimony in judicial custody proceedings with allegations of this syndrome should be considered inadmissible (...).”**

**“Abusive fathers blame their spouse for turning children against them rather than assume responsibility for the impact that their behaviour has on their children.”**

**National Council of Juvenile and Family Court Judges. Navigating Custody and Visitation Evaluations in Cases with Domestic Violence: A Judge’s Guide. 2007.**

**Research has found that many custody evaluators consider alienation of more significance than domestic violence in making custody recommendations.**

**Ackerman, M. J., & Ackerman, M. C. (1996). Child custody evaluation practices: A 1996 survey of psychologists. *Family Law Quarterly*, 30, 565-586.**



## **PAS and Gender Bias in the Courts....**

**First, when PAS is “diagnosed” coming from the father, the “therapy of menaces” is not applied, and no modification of custodial rights is applied nor is the “best interest of the child” considered.**

**Additionally, visitation rights of the mother may be restricted in order to not “traumatize” the child who suffers the visits as something “terrible.”**

**Second: When PAS is diagnosed coming from the mother, there is an immediate change of custody, many times without any fore-warning, and a “therapy of de-programming” is applied. Restricting or removing visitation and communication with the mother, in the supposed well-being of the minors.**

*Jurisprudence Study on the Impact of PAS in Asturias Courts  
Institute Asturias of Women Lawyers for Equality*

# **Court Psychologists Role in Custodial Decisions**

Court psychologist play a vital role in custodial determinations as judges often hand down decisions based exclusively upon their recommendations. Therefore, their role and qualifications should be scrutinized closely in examining the failure of courts to protect victims of domestic abuse.

***"... it is important to make a distinction between professionals licensed by forensic clinics...and professionals that are members of psycho-social groups...(who lack) a specific status and whose activities are not duly regulated..."***

***What capacity do they (court psychologists and social workers) possess to carry out this role?***

***We have only found "procedural protocol" or "good practice guides" in certain CCAA, but never any specific norms, nor a reference to their professional qualifications, nor specific knowledge of psychology or social work..."***

***...the determinations of psycho-social teams was accepted by the court as an irrefutable conclusion. The courts consider the technical teams experts for the simple fact that they have obtained this position.***

***However...one can confirm that a large majority of decisions which are over-turned are based on mala praxis of psycho-social teams assigned to the courts and their lack of specialization in child psychology, deficiencies in the methodology used in their reports, and in many cases in violation of principles of ethics, breaking deontological codes...***



***...in 85% of cases studied where there have been the intervention of psycho-social teams or an expert psychologist assigned by the courts, the courts dutifully follow the recommendations of those reports.***

***The percentage increases to 88.24% when the intervention comes from the psycho-social team.***

***In regards to this criteria, the rulings and indications of the team become dogma of faith, absolute truths molded into court decisions without any more reason than those given by the technical teams, without any value, consideration of proof, nor analysis of the circumstances of the case or of the minor. "***

Jurisprudence Study on the Impact of PAS in Asturian Courts Institute of Asturian Women Institute for Women of Asturias Lawyers for Equality

# Duluth Model Nurturing - Children Wheel



*"In order to break the cycle of abuse in our societies, we must start with the way we raise our children and future generations.*

*The key lies in raising our children in an environment filled with respect and love."*

Quenby Wilcox

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202 East Superior Street  
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[www.duluth-model.org](http://www.duluth-model.org)

# Human Rights Implications

“A pattern of human rights violations by family courts has been encountered, including a failure to protect abused women and children, discrimination against abused women, degrading treatment , and denial of due process.”

**Wellesley Centers for Women, Battered Mothers' Testimony Project, Battered Mothers Speak Out: A Human Rights Report on Domestic Violence and Child Custody in the Massachusetts Family Courts (Nov. 2002).**

*“The failure of justice systems across the globe to effectively charge, investigate and prosecute human rights violations against women and girls has resulted in a system of global impunity for perpetrators...”*

***Good Practices in Combating and Eliminating Violence Against Women***  
*by the United Nations Division for the Advancement of Women 2005*

*“An illegal act which violates human rights and which is initially not directly imputable to a State (for example, because it is the act of a private person or because the person responsible has not been identified) can lead to international responsibility of the State, not because of the act itself, but because of the lack of due diligence to prevent the violation or to respond to it as required by the Convention [American Convention on Human Rights].*



*".. State inaction can be seen in a range of different areas. These include inadequate preventive measures; police indifference to abuses; failure to define abuses as criminal offences; gender bias in the court system; and legal procedures which hamper fair criminal prosecution."*

***Broken Bodies, Shattered Minds Torture and Abuse of Women*** by Amnesty International 2001

*"Human rights standards are the bare minimum of what every human being should expect to enjoy in their daily lives. They provide internationally recognized and legally enforceable benchmarks...."*

*Adherence to international human rights instruments, without reservations, strengthens women's enjoyment of human rights and fundamental freedoms, including protection from gender-based violence.*

*Such instruments include:*

- *International Covenant on Civil and Political Rights;*

- *International Covenant on Economic, Social and Cultural Rights;*
- *Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol ;*
- *International Convention on the Elimination of All Forms of Racial Discrimination;*
- *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;*
- *Convention on the Rights of the Child;*
- *The gender provisions of the Rome Statute of the International Criminal Code;*
- *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;*
- *Convention relating to the Status of Refugees and the protocol relating to the Status of Refugees;*
- *United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especial y Women and Children;*
- *Security Council Resolution 1325 (2000) on women, peace and security;*
- *Declaration on the Elimination of Violence against Women.*

*Good Practices in Combating and Eliminating Violence Against Women  
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## Conclusions

The rampant and flagrant human and civil rights violations within family courts is well-documented and common knowledge at all levels of governments and judicial systems. **However, nothing is done to address the problem.**

Thousands of children each year are knowingly being handed over to pedophiles who are at liberty to sexually abuse them at their will with judges, court officials, and child protection services sanctioning the abuse. **However, nothing is done to address the problem.**

Millions of lives of lives each year are being destroyed by the violence and abuse within our homes. **However, nothing is done to address the problem.**



The result of this unchecked abuse is rampant violence and bullying in our schools and streets, explosive drug consumption (legal, illegal and prescription), unsustainable health care costs for our societies, unstable and erratic spending at micro-economic levels, and increasing unethical behavior in the public and private sector.

**However, nothing is done to address the problem.**

**Until, and unless, government officials and agencies are held accountable and responsible for their failure to protect the rights of their citizens, particularly the most vulnerable and defenseless, the violence and resulting socio-economic problems, which permeate our societies will continue to destroy the democratic principles that our fore-fathers fought so hard to create and defend.**

*In A Brief History of the Human Race Michael Cook states "Man is the only animal that possessed enough cultural agility and enough aggressiveness to have been able to successfully migrate to every continent (except Antarctica) of the earth. Therefore, it may be assumed that humans possess an inherent sense of aggression and competition, and that while this trait appears to have been necessary in the development of civilizations it also appears to be the one trait that may produce our extinction."*

***The world is a dangerous place to live; not because of the people who are evil, but because of the people who don't do anything about it.***

*Albert Einstein*