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## Post-Separation Abuse of Women and their Children: Boundary-setting and Family Court Utilization among Victimized Mothers

April M. Zeoli, Echo A. Rivera, Cris M. Sullivan, and Sheryl Kubiak  
Michigan State University

### Abstract

Continued abuse of themselves and their children is a concern for many mothers leaving intimate partner violence (IPV) perpetrating husbands. This research examines women's responses to abuse committed by ex-husbands with whom they had undergone custody disputes. In-depth, qualitative interviews were conducted with 19 mothers who had divorced IPV-perpetrating husbands between one and three years prior. Participants were located through publicly available family court divorce records and interviews were examined using analytic induction. Women's strategies to protect themselves and their children from abuse involved setting boundaries to govern their interactions with ex-husbands. Mothers often turned to family court for assistance in setting boundaries to keep children safe, but found that family court did not respond in ways they believed protected their children. Conversely, when women turned to the justice system for restraining orders or called the police for help against IPV, they generally found the justice system responsive.

### Keywords

intimate partner violence; child abuse; child custody; family court

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Intimate partner violence (IPV) is a factor in many women's decisions to end their marriages (Kurz, 1996). While it is commonly assumed that leaving an abusive partner will increase a woman's safety, this is not always the case. Previous research has established that, in many cases, IPV does not end upon separation (Fleury, Sullivan, & Bybee, 2000; Hardesty, 2002; Hardesty & Chung, 2006; Jaffe, Crooks, & Poisson, 2003; Johnson, Saccuzzo, & Koen, 2005; Kurz, 1996; Slote et al., 2005). In fact, abuse often escalates post-separation (Johnson & Sacco, 1995; Wilson & Daly, 1993). Many victimized women report continued threats and intimidation when leaving their assailants, including threats against their children (McCloskey, 2001). Moreover, estrangement has been identified as an important risk factor for intimate partner homicide, with men murdering their wives/ex-wives most commonly within a year of separation (Campbell, Glass, Sharps, Laughon, & Bloom, 2007).

When separating couples have minor children in common, family court decides the degree to which each parent will have physical and legal custody of, or parenting time (also termed visitation) with, the child. In most custody arrangements, IPV-victimized mothers are not allowed to completely cut ties with their assailants, the children's fathers. Survivors of IPV are often court-ordered into custody and parenting time arrangements where they must continue to see their assailants during child exchanges; they must continue to consult with their assailants in joint legal custody arrangements; and sometimes the assailants gain

primary physical custody and survivors must depend on them for contact with their children. These court-mandated arrangements allow assailants to have access to survivors, and therefore provide opportunities for continued abuse (Hardesty, 2002; Hardesty & Ganong, 2006; Hart, 1990; Shalansky, Ericksen, & Henderson, 1999; Varcoe & Irwin, 2004).

However, mothers are not only concerned about their own safety from their estranged husbands. In 30% to 60% of homes with IPV, child abuse also occurs (Edleson, 1999). IPV-perpetrating fathers may use opportunities presented by physical custody arrangements or parenting time to victimize children post-separation (Hardesty & Ganong, 2006; Varcoe & Irwin, 2004). This is cause for concern because children who have been abused suffer a range of negative health consequences (Wegman & Stetler, 2009), including behavioral health consequences such as self-injury (Glassman, Weierich, Hooley, Delibaerto, & Nock, 2007; Goldstein, Flett, Wekerle, & Wall, 2009).

There are few studies of IPV assailants' attempts to control mothers or harm children post-separation and fewer still on mothers' responses to those attempts. Assailants use a variety of tactics to control mothers post-separation, including physical violence or threats thereof (Bemiller, 2008; Hardesty & Ganong, 2006; Wuest, Ford-Gilboe, Merritt-Gray, & Berman, 2003), emotional abuse (Bemiller, 2008; Hardesty, Khaw, Chung, & Martin, 2008; Wuest et al., 2003), threatening to abduct children (Harrison, 2008), undermining mothers' parental authority (Bancroft & Silverman, 2002; Harrison, 2008), and using parenting time arrangements to track and control mothers' schedules (Aris, Harrison, & Humphreys, 2002; Shalansky et al., 1999; Varcoe & Irwin, 2004). Women's attempts to minimize post-separation abuse include setting boundaries for interactions and maintaining physical distance (Hardesty & Ganong, 2006; Varcoe & Irwin, 2004). For example, women may have others conduct custody or parenting time exchanges of their children for time with fathers, thereby reducing contact with their assailants (Varcoe & Irwin, 2004).

In addition to boundary-setting, women's strategies to reduce the likelihood of future harm may include, counter intuitively, cooperating with court orders even when they do not believe the orders are in their children's best interests (Harrison, 2008). For example, in Harrison's (2008) research on women using supervised contact centers for visits between children and fathers, women reported that they agreed to use the centers despite concerns for their own safety and that of their children. Women feared that refusing to do so would result in the court instituting parenting time or custody arrangements that were even less safe. These fears stemmed from women's prior negative experiences with family court.

When women make allegations of IPV or express concerns that fathers will harm children, the court often views them as obstructing the court process and the father's right to have a relationship with their children (Harrison, 2008; Johnston, Lee, Olesen, & Walters, 2005). There is a tendency for courts to minimize the impact of IPV on women and children and to view the perpetration of abuse toward a partner as irrelevant to parenting (Bancroft & Silverman, 2002; Dalton, 1999; Jaffe et al., 2003). This is demonstrated by few differences in custody granted to IPV assailants versus non-violent fathers (Kernic, Monary-Ernsdorff, Koepsell, & Holt, 2005; Logan, Walker, Horvath, & Leukefeld, 2003). Furthermore, many courts use the "friendly parent" presumption, which recommends that primary physical custody be granted to the parent most likely to encourage frequent contact of the children with the non-custodial parent (Bancroft & Silverman, 2002; Jaffe & Crooks, 2004). This presumption disadvantages mothers who disclose fathers' abuse because they are then perceived as unfriendly parents (Bancroft & Silverman, 2002; Jaffe & Crooks, 2004). Women who recognize the bind that these perceptions leave them in may avoid advocating for their and their children's safety and comply with unsafe custody and visitation

arrangements (Harrison, 2008). Because of this, women may regard family court as impeding their attempts to gain safety for themselves and their children (Harrison, 2008).

Scant research exists on how IPV-perpetrating fathers use custody and parenting time arrangements to abuse mothers and/or children and how women respond to protect themselves and their children. The current study was conducted as a step in filling this gap. Using the research discussed above, and the qualitative data analysis technique of analytic induction, we created two preliminary assertions to be tested in the study:

Assertion 1: In those cases where the ex-husband neglects or harms the child(ren), the mother will make efforts to protect them that may not be supported by the system (e.g., if she tries to legally change the custody determination, she will be denied).

Assertion 2: In those cases where the ex-husband attempts to maintain control over the mother, she will make efforts to set boundaries to limit her contact with him.

Both assertions were later altered to better represent the shared experiences of the research participants, as will be explained.

By conducting in-depth, qualitative interviews with mothers who went through custody disputes in family court, we were able to gain a rich description of women's experiences of the complexities involved in IPV, child abuse, and court processes. Specifically, we examined the occurrence of abuse against mothers and children and mothers' perceived likelihood of future harm to themselves and their children. When mothers related events in which ex-husbands abused them or their children, or mothers perceived a likelihood of abuse to their children, we investigated their strategies for increasing their safety and that of their children, including whether mothers turned to family court for assistance in reducing risks to their children and if they found family court helpful. This research is intended to spur further investigation of mothers' and children's safety when leaving IPV-perpetrating fathers and whether mothers turn to family court to intervene to reduce the risk of future violence.

## Method

In-depth, qualitative interviews were conducted with 19 mothers who had divorced IPV-perpetrating husbands between one and three years prior. We chose this time frame so that each research participant had time with a custody determination in place on which to report, but whose divorce was recent enough that court experiences would not be difficult to recall. From July through September 2009, trained research assistants searched publicly available electronic family court records in one Midwestern county for women with minor children who had filed for divorce between January 2006 and June 2008, and whose court records indicated that there were objections to the court's custody, parenting time or child support determination. We used the criterion of objections to identify women who were more likely to have experienced IPV (Logan et al., 2003).

When a woman's electronic family court divorce record indicated that she met our preliminary inclusion criteria, her publicly available court file was requested from the court clerk and her telephone number, if listed in the file, was logged. We then telephoned women to screen them for eligibility and, if eligible, invited them to participate in the research. A woman was eligible if she: 1) spoke English, 2) was at least 18 years old, 3) went through a divorce with at least one minor child in the study county and still lived in the general area, 4) experienced IPV, as defined as physical, emotional, and/or sexual violence by her husband during their relationship, causing her to fear for her safety, and 5) was willing to be audiotaped during the interview.

Because the women we called had not yet consented to research, and to reduce the risk of the women being overheard while speaking about IPV, we chose to screen women for IPV using two brief and general questions. We introduced the topic with the following statement:

We'd like to talk to women about their experiences with child custody and visitation, from court processes to current experiences. We would especially like to talk to women who experienced issues in their relationship with controlling behaviors or violence. This might include physical violence, but can also include threats, emotional abuse, sexual violence, or any other behavior that caused you to fear for your safety.

After this statement, we asked the following questions: 1) Have you ever experienced any of these things within your relationship with your ex-husband?; and 2) Did you ever fear for your safety because of your ex-husband? Women who answered yes to both questions were considered positive for IPV.

We obtained the phone numbers of 174 women. Ninety-seven of those numbers were disconnected or had changed, and for an additional 19 numbers, we never reached the women. We spoke to 58 women, of which 47 were screened for inclusion and 29 were eligible for the study (61.7% of those screened). Because not all eligible women chose to participate, we interviewed 23 women, four of whom were removed from the sample because we later determined that their cases did not meet our definition of IPV. Specifically, despite initially screening positive for IPV, during the course of the interviews, the women in these cases indicated that they were not afraid that their ex-husbands would harm them. The present analyses were conducted with the final sample of 19 women.

### Interview Protocol

We used a semi-structured protocol to guide our interviews with participants. Three main domains of prompts were used to investigate the initial assertions: 1) prompts to assess IPV before and after separation; 2) prompts to assess women's perceptions of whether family court supported their efforts to gain safety for themselves and children; and 3) prompts used to assess ex-husbands' violence against women or children and women's responses to violence after separation and divorce. Please see Appendix A for examples of prompts used under each domain. When mothers disclosed specific abusive acts by fathers against themselves or children, interviewers specifically probed for when the act(s) occurred (e.g., before or after separation); the context around the assailants' behavior; actions mothers took in response; children's responses; and whether the abuse occurred during opportunities presented by time spent with children, either through physical custody or parenting time arrangements. We also probed for whether the participant turned to the court for help in attaining safety and whether the court responded in a way she found helpful. In all cases of child maltreatment or neglect, women had alerted the appropriate officials. The research protocol was reviewed and approved (IRB# 08-912) by the Social Science/Behavioral/Education Institutional Review Board at Michigan State University.

### Analyses

Interviews were transcribed verbatim and coded for key ideas and themes. Specifically, we coded for physical and emotional abuse and stalking of mothers; physical and emotional abuse and neglect of children; and children's self-injury. Operationalizations of these concepts are as follows:

- Physical abuse: Completed or attempted forceful physical contact that causes intimidation, pain, or injury

- Emotional abuse: Acts that cause emotional pain or confusion. Acts can be verbal or nonverbal, and can include acts of omission
- Stalking: Threatening or intimidating acts, including unwanted contact, that cause the mother to fear for her safety
- Neglect of children: Failing to provide for a child's safety or health needs when one is capable of their provision
- Self-injury: Suicidal or non-suicidal physical injury committed against one's self

We also coded women's concerns for their children, including perceptions of a high likelihood of physical harm or parental kidnapping, and women's attributions of responsibility for children's self-injury. Additionally, we coded women's behaviors that were intended to minimize their ex-husbands' opportunities to abuse them and their children. Each abusive act was time coded for when it occurred: during the relationship, post-separation, or after the divorce was finalized. We also coded specifically for whether the abuse was facilitated by access to the child through the court-ordered custody and parenting time arrangement.

Two trained graduate research assistants double-coded the first four (20%) interviews, and compared coding for reliability. Discrepancies between codes were brought to the attention of the PI who, in discussion with the research assistants and after reading the relevant material, made a final decision. After the fourth interview, few discrepancies in coding arose and the remaining interviews were split between the two research assistants to code. Questions in coding continued to be brought to the PI. After initial coding was concluded, the PI read through each interview and confirmed codes.

The qualitative data analysis technique of analytic induction was used to analyze the interview data. Analytic induction allows researchers to approach qualitative data with preconceived hypotheses, termed assertions, about the phenomenon under study (Erickson, 1986) that can be developed from existing literature and experiential knowledge (Gilgun, 1995). After the preliminary assertions listed above were developed, the first interview was examined to determine the degree to which the interview data confirmed or disconfirmed the assertions. During the assertion testing process, we explicitly sought disconfirming evidence, a technique known as negative case analysis and a core component of analytic induction (Erickson, 1986). When an assertion did not adequately capture a participant's experience or was disconfirmed, we undertook in-depth examinations of the contexts in which this occurred and, when appropriate, modified the assertion to accurately reflect a participant's experience. We then tested the modified assertion on all participants for final confirmation. However, we also allowed assertions to be disconfirmed without adjusting the assertion to fit the case when modification was not appropriate.

Two trained research assistants made preliminary decisions regarding assertion confirmation, disconfirmation, or modification, and discussed these decisions in a group with the PI. Modifications were made to each assertion. The PI then tested the modified assertions on the interviews again and made final decisions on assertions in consultation with the research assistant.

Both of the preliminary assertions were modified during the analytic process to accurately represent the experiences of our sample, and the final versions follow:

Assertion 1: In those cases where the ex-husband neglects or harms the child(ren) and/or there is a perceived likelihood of future neglect, physical harm, or parental kidnapping, the mother will perceive that family court does not make decisions that are in the best interests of the children. This will manifest in one of three different

ways: 1) she will not go to family court for assistance; 2) she may attempt to use family court for assistance, but find that they do not support her; or 3) she may gain support from family court after extreme harm to the child occurs.

Assertion 2: In those cases where the ex-husband contacts the ex-wife, or uses times at which he has contact with her, to attempt to maintain control over her, she will make efforts to limit her contact with him.

Assertion 1 was modified to represent mothers' fears of future neglect, harm, and kidnapping, which was as much a concern for mothers as was past neglect and harm. Furthermore, as we analyzed the interviews for evidence of whether mothers' efforts to protect children were not supported by family court, the dominant theme that emerged was that women did not believe that family court made decisions in the best interests of the children. We added the ways this belief may manifest to the assertion to better characterize the experiences of our participants. Assertion 2 was modified to reflect participants' experiences of limiting contact to reduce ex-husbands' attempts to control them only when these attempts had occurred during previous contact.

For assertion 1, the threshold for *harm* was physical injury, either through physical abuse of a child or through the commission of emotional abuse that a mother believed precipitated a child's physical self-injury. Experiencing emotional abuse as a child has been positively associated with both suicidal and non-suicidal self-injury in studies of adolescents and adults (Cerutti, Manca, Presaghi, & Gratz, 2011; Croyle & Waltz, 2007; Glassman et al., 2007; Goldstein et al., 2009; Hakansson, Bradvik, Schlyter, & Berglund, 2010; Jeon et al., 2009; Whitlock, Eckenrode, & Silverman, 2006; Zoroglu et al., 2003). We chose to exclude emotional abuse that was directed at children who did not self-injure from this assertion because we were interested in acts that mothers believed they could bring to the court's attention. As one mother stated, regarding emotional abuse, "Who do you talk to about him hurting my daughter's feelings? What do you do, file a motion for that?"

For assertion 2, we considered post-separation abusive acts by the assailant as evidence of attempting to maintain control over his wife/ex-wife. Here, the term post-separation refers to the period of time that began at separation and includes the time during and after the divorce. Only abusive acts that required some type of contact between the parties applied to the assertion. Therefore, we considered emotional abuse, physical abuse, and stalking as evidence of attempted control; post-separation sexual abuse would have applied but was not reported by any of the women in our sample. For ease of presentation, we have assigned pseudonyms to the participants. However, to further reduce identifiability, the pseudonyms used in this paper differ from the pseudonyms featured in other publications on this population.

## Results

Nineteen women, with a mean age of 40 years (range of 23 to 52 years), were included in this research. Seventeen of the women were White, one was Black, and one was Latina. The women had a total of 39 children whom they shared with IPV-perpetrating ex-husbands, with the children's ages ranging from 3 to 25 years; 32 of these children were under the age of 18 at the time of the interviews. At the time of the interviews, mothers had sole physical and legal custody of eight children; nine children were the subjects of joint physical and legal custody arrangements; mothers had sole physical but joint legal custody of 12 children; and fathers had sole physical but joint legal custody of three children. Fifteen mothers reported the court had mandated a parenting time plan for the non-custodial parent, of which 13 were fathers and two were mothers. The court ordered that two of the non-custodial fathers have supervised parenting time. It is important to note that custody and parenting

time arrangements may change any number of times in response to petitions by parents or new circumstances. This happened for our sample of mothers multiple times.

Prior to separation, assailants used a range of abusive tactics against the mothers; notably, one participant reported that abuse began after separation. Eighteen mothers reported pre-separation emotional abuse. These acts ranged from verbal denigration of the mother; threatening the mother with the loss of her child if she leaves him; and isolating the mother from family and friends. Fifteen participants reported that assailants were physically abusive toward them, and committed such acts as holding a firearm to the mother's head; beating mothers to the point that injuries, such as broken ribs, were sustained; and throwing objects at mothers. Two mothers were sexually abused by their then-husbands. Six mothers reported that fathers used physical abuse against their children before separation, including throwing objects at them, and pushing or hitting them; five of these mothers were also physically abused. Eight mothers reported that fathers emotionally abused their children before separation. Emotional abuse took many forms, from name-calling to killing the family's puppy in front of the children.

### Post-divorce Abuse of Children

Our first assertion was: *In those cases where the ex-husband neglects or harms the child(ren) and/or there is a perceived likelihood of future neglect, physical harm, or parental kidnapping, the mother will perceive that family court does not make decisions that are in the best interests of the children. This will manifest in one of three different ways: 1) she will not go to family court for assistance; 2) she may attempt to use family court for assistance, but find that they do not support her; or 3) she may gain support from family court after extreme harm to the child occurs.* We examined only the post-divorce period for this assertion because all women received a custody and parenting time order from the court by or at the final divorce judgment. By this point, mothers had had opportunities to share their safety concerns for their children with the court, and the court had had time to take those concerns into account. Therefore, based on the degree to which women believed the court had previously taken their concerns seriously, they came to conclusions about whether or not future concerns would be taken seriously. For detailed information on whether women believed that court personnel took their safety concerns seriously, and how that affected their willingness to engage the court in the future, please see the work of Rivera, Sullivan, and Zeoli (2012).

For assertion 1 to be applicable to a participant's experiences, the participant's ex-husband had to neglect or physically harm the child, the child had to have committed self-injury that the mother believed to be in response to the father's emotional abuse, or the mother had to perceive that neglect, harm or parental kidnapping were likely. For seven women, this assertion was not applicable, and for two additional women, the interviews contained insufficient information to test this assertion. The assertion was therefore tested on ten participants, eight of whom confirmed it, and two of whom disconfirmed it (see Table 1).

Mothers reported that three fathers were physically violent toward their children during the fathers' time with the child. Additionally, two mothers believed that the fathers' emotional abuse of their children led the children to engage in self-injury, namely cutting and a suicide attempt. Both mothers believed that the emotional abuse contributed to their daughters' poor mental health conditions, increasing their risk for self-injury, but more proximal emotionally abusive acts triggered the actual injury events. As one mother related:

My youngest, she was with her father ... and she got in trouble at school and he had to go and pick her up because she was gonna be suspended. And he just went ballistic. I mean, we have the assistant principal that's there, we have the school

counselor, and we have two other people that are there. I was not there. The principal was telling him that he had to control his anger. But they released her to him. And he was just screaming at her and screaming at her and screaming at her. And later that night she took a knife and tried to commit suicide so she ended up being hospitalized... He just raged at her and she was just at a point where she just couldn't take it. (Jennifer)

Three fathers were reported to have neglected their children's safety during their parenting times. One father, for example, did not spend time with his child during his court-ordered parenting time. Instead, he left his daughter with her grandmother, who had previously physically harmed her and was specifically prohibited by the court order from watching her. The child's mother believed that her former mother-in-law was likely to harm the child again. Another father repeatedly left his small children home alone for hours at a time during his parenting time. As our participant related, "He would literally go to work in the morning and come home for five minutes to see...that they're still alive and then leave and these children were too little to take care of themselves..." (Meredith)

Four mothers believed that there was a high likelihood that their children would be physically harmed during fathers' parenting time. Karen, whose child had a mental health problem that required mental health care, feared that the father would become so frustrated with his child that he would react with physical violence, as he had in the past. Finally, because of previous threats, two women perceived a high risk that the fathers would kidnap their children if allowed to see them: "He always threatened to leave and take the kids away." (Vanessa)

As stated, eight women confirmed assertion 1. Two women avoided family court, one of whom had previously tried to increase her child's safety through family court but was unsuccessful. Additionally, six other mothers accessed family court post-divorce in attempts to safeguard their children, four of whom were not supported and two of whom were supported after the occurrence of extreme harm to the children.

Both of the women who chose to avoid family court did so because they believed that accessing the court could increase the risk to their children. One mother, Kathleen, specifically did not go to court to address her concerns for her child's safety because she feared that if she did, the court would remove the child from her custody. She believed this because before the custody order was finalized, the court mediator, who makes initial decisions on custody arrangements and recommendations to the judge, repeatedly pushed the father to ask for greater access to his child despite having been told that: 1) the father perpetrated IPV in front of his child; 2) the father's mother, with whom he left the child during his parenting time, had previously physically harmed the child; 3) the father was currently being charged with a federal crime; and 4) he did not want greater access to his child. As Kathleen stated "She just kept asking him, 'Are you sure you want her to live with her mom? Are you sure you want her to not live with you? Are you sure that's where you really want her to live?' And [she] just kept asking him that over and over again." Kathleen believed that avoiding court was more protective of her child than accessing it because any changes the court made to the parenting time schedule may not have been in her favor: "I figured if I objected to [the current schedule], would [the mediator] have taken my daughter away from me? Put her in the home with him? Would she have made her go [more frequently]?" It is unknown whether this mother would have developed additional strategies to protect her child as, after a short period, her ex-husband was convicted of a felony crime unrelated to IPV and sentenced to prison.

The second mother, Carole, whose ex-husband had an extensive criminal background including felonies, first went to family court specifically to protect her daughter by



requesting the court deny the father access to her. Carole was unsuccessful, but the court did mandate that parenting time be supervised out of recognition of the risk the father posed to his daughter. Despite the father's threat to harm their daughter during parenting time even if another adult was present, Carole strategically decided not to fight the supervised parenting time awarded to her ex-husband. Later, when a warrant was issued for her ex-husband for a crime unrelated to IPV, Carole believed it might persuade the court to deny the father's parenting time. However, the court told her that the father had the right to see the child despite having a warrant out for his arrest. Carole continued to fear for her child but believed that the court would not revoke the father's parenting time even though he had a second warrant out against him and was on the run: "Well, I want to [have his parenting time revoked] because of finding out that he's been on the run... But I've already been there, done that, and I know they're not gonna do it." Knowing that the court would not revoke parenting time, Carole tried a different tactic: she believed that her ex-husband would lose interest in seeing the child if his threats did not appear to upset her and she appeared to support visitation. As she stated, "If you fight it, he's gonna keep pushin' it. If you go along with it, he's gonna drop it." Her strategy seemed to work as he only saw his child a handful of times before he stopped visiting.

In all, nine of the ten mothers on whom this assertion was tested accessed family court post-divorce in efforts to protect their children. These women accessed family court either by, 1) notifying court personnel of the danger and gaining information on their legal options and likelihood of a change in custody being made; and/or 2) filing a motion for a change in custody and parenting time. Eight of these women wanted to have custody and parenting time orders changed, four of whom were successful, and one woman wanted the court to make her ex-husband comply with existing court orders (she was unsuccessful).

Mothers who accessed family court but were unsupported, told the court of the fathers' physical harm or neglect of children or that they feared kidnapping or future physical harm. Jesy, who feared that her ex-husband would harm the children on occasions when he had been drinking, was able to have an order inserted into the custody decision prior to the divorce being finalized that he was not to consume alcohol during or within 24 hours prior to visits with his children. Despite this order, her children often reported to her that their father drank when he had responsibility for them. Fearing for her children, she accessed the court for a remedy:

So I go and I file to have his visitation supervised. I just want 'em supervised' cause the kids are gettin' kinda nervous. They know dad's doin' things he's not supposed to. He goes in [to the court] and lies [about using alcohol]. And lies and lies and lies. Says, 'Nope. Kids are lying.' I'm a liar. 'This isn't happening.' He didn't follow the court order [that required him to get a] drug and alcohol assessment. As far as I know he still hasn't done it 'cause I haven't received a copy. And the [court personnel] says, 'I'm sorry but we're not gonna supervise [visitations]. We're taking his word over yours.' I said, 'Okay, but I'm gonna tell you right now. If my kids come home and they tell me one more time that their dad has been drinking, I'm not sendin' 'em.' [The court personnel replied ] 'Well, then you'll be held in contempt of court.' (Jesy)

In her case, the court eventually told her that she could refuse to send her children with their father if she believed they would not be safe; however, the court refused to order that parenting time be supervised.

Two women were successful in making changes to the custody and parenting time order after the occurrence of extreme harm to their teenaged children. In both of these cases, the children wanted less (or no) contact with their fathers and both had taken their own steps to

limit contact. One child, who had attempted suicide, simply stopped living with her father despite being the subject of a joint physical custody arrangement. This caused the court to recognize that her custodial environment was solely with the mother and, furthermore, that removing the child from her mother's physical residence might inhibit the mother's ability to act as an advocate for the child's significant mental health care needs. The second child, who had committed non-suicidal self-injury, skipped court-ordered visits with her father. When her mother petitioned for a change in the parenting time arrangement, the daughter clearly explained to the judge why she no longer wanted contact with her father and how her previous contact had negatively impacted her.

Finally, two women disconfirmed the assertion: these women's requests to the court were taken seriously and the court acted in ways the participants believed were in the children's best interests. Significantly, both women had independent evidence of the ex-husbands' dangerous and/or illegal behaviors. The first disconfirming participant, Vanessa, had physical evidence of her ex-husband's violence, including threats to kill her. She obtained a restraining order to keep her ex-husband away from her and he was later incarcerated for violating that order. This enabled her to obtain a no-contact order against her ex-husband, which prohibited him from having any contact with their children. After leaving jail, he attempted to have his parenting time re-instated, but the court denied his request.

The case of the second disconfirming woman, Meredith, is more complex. She called the police to report that, during his custodial time with them, the father had left their small children home alone, which was specifically against the court order. After the police verified that the children were alone, the father returned home while driving under the influence of alcohol, for which he was arrested. The court granted a temporary ex-parte order for Meredith to have full physical custody of the children. However, the father fought the ruling and, within eight weeks of the event and against Meredith's views of what was best for her children, the custody arrangement was returned to joint physical custody.

Despite the court initially acting in ways these two women believed to be in their children's best interests, both women expressed the belief that the court would not continue to act in this way in the future. For Meredith, this was because the court had already acted against what she believed to be her children's best interests by restoring the joint custody arrangement. For Vanessa, it was because she disagreed with the reasoning behind the court's decision to deny her ex-husband parenting time. She believed he should be denied because she feared kidnapping and he wanted the visits to occur at a site near the state border. The court recognized the risk of kidnapping and pondered fitting the ex-husband with an electronic tether to monitor his location. However, the judge ultimately decided not to reinstate the father's parenting time because there were firearms, which he was legally prohibited from accessing, at the proposed site. Vanessa believed that if the firearms were removed from the property, the father would be granted parenting time despite the risk of kidnapping.

### **Post-separation Abuse of Mothers**

All of the women in the sample experienced emotional abuse by their ex-husbands post-separation. Other tactics utilized by abusers were physical abuse ( $n=9$ ) and stalking ( $n=5$ ). Vanessa, whose assailant stalked and threatened to kill her, related one of many events in which her assailant showed up outside her home:

[I called his sister] and I said, "You need to talk to him and find out what's going on." She [called him and then] called me back. She told me to get outta the house because "He's got his gun and he's gonna blow your fuckin' head off." So I called the police, made a police report, and ran next door... (Vanessa)

Assailants stalked their ex-wives post-separation by making repeated, harassing phone calls and texts, harassing them at work, or sitting in parked cars outside of their ex-wives' houses. For one woman, abuse began post-separation and three additional women reported an escalation of physical abuse post-separation. Tamara's and Mim's experiences with their ex-husbands illustrate the varied ways in which assailants would continue to attempt to control and harass their ex-wives:

I was getting threatening text messages, threatening phone calls when he wasn't supposed to call here... He'd open the gate so my dogs got lost one day. You know, things that he knew would upset me... I had this little flower shelf that my son had painted and I had all flowers in it, I had come home and it was all trashed. They were all dumped upside down and it was dirt and all of them were ruined. You know, stupid things like that just to piss me off. He had disconnected my garage door... so it wouldn't open. Dumb stuff like that just to kinda say, I can still affect you even though I'm not there. (Tamara)

He stole the license plate off my car. He smashed my window, or my mirrors on my car. [He] would show up to my place of employment and make nasty comments... He would back me into a corner when I was trying to get away from him. And I couldn't get away. He would grab my arm and hold onto me so I couldn't leave... [He would tell] me I'm a bad mom, [and say] 'You're ruining our kids.' (Mim)

These quotes illustrate how assailants used numerous abusive tactics to continue controlling their ex-wives. While many of these tactics are criminal, some are not, but still caused emotional distress to mothers and sent the message that their assailants could get to them at any time.

Twelve assailants used opportunities presented by parenting time schedules to attempt to control their ex-wives, mostly through emotional abuse. Emotionally abusive tactics included undermining the mother's confidence as a parent; playing "mind games;" and verbally degrading her. However, some of the emotionally abusive and controlling tactics used by perpetrators were subtler in nature and bear illustration.

One subtle tactic that fathers used was manipulating custodial or parenting time schedules to exert control over mothers' schedules ( $n=6$ ): fathers demanded to see their children outside of scheduled times; demanded flexibility from mothers in rescheduling custodial or parenting times; failed to keep the children for the entire scheduled time, often returning them unannounced; failed to show up for scheduled visits; and refused to take the children for custodial or parenting times (even at times to which they had demanded mothers reschedule). While fathers demanded flexibility from mothers, they refused to be flexible when mothers requested changes in the schedules, even in emergency situations. As Jesy described "We were in a car accident on my way home from work one night and I called him, I said, 'Look, I've been in a car accident. I need you to go pick up the kids.' [He replied] 'No, you figure it out.'" Many fathers engaged in this tactic as a matter of course, but some used it specifically when they were angry with their ex-wives. The result was that women often had to re-arrange their schedules or avoid making firm plans because they were uncertain whether fathers would adhere to parenting time arrangements. As Emily stated, "it just, it got to the point where I never knew when he was gonna take 'em and when he wasn't." Importantly, this tactic was never used in isolation; each of the assailants who did this engaged in other types of abuse, such as stalking or physical abuse, as well.

Our second assertion, *In those cases where the ex-husband contacts the ex-wife, or uses times at which he has contact with her, to attempt to maintain control over her, she will make efforts to limit her contact with him*, deals directly with post-separation abuse (PSA)

and women's strategies to minimize PSA. Sixteen of our 19 participants confirmed assertion 2. Despite all of the study participants experiencing PSA, for two women this assertion was not applicable. These women experienced mainly economic abuse and emotional abuse that took place outside of interactions with their assailants (e.g., the ex-husband repeatedly and falsely reported a mother to Child Protective Services), and therefore likely could not have been reduced by limiting contact. For an additional participant, we did not amass enough information during the interview to examine this assertion. No participants disconfirmed this assertion.

Women used a range of strategies to limit contact with their ex-husbands with the goal of reducing PSA. Some women used formal strategies, such as accessing the civil and/or criminal justice system. Specifically, nine women accessed the court to reduce their ex-husbands' abilities to contact them. Eight of these women filed for civil restraining orders at the time of post-separation; however, only six women were awarded restraining orders. One woman who was not granted a restraining order viewed petitioning for one as a failed strategy that ultimately decreased her safety because it antagonized her ex-husband without providing a more protective police response:

In the end I think that [petitioning for a restraining order] actually caused more problems. Because then every time [I called the police], they wouldn't make him leave. So that just led to more episodes and us calling the police more and things going on where it just escalated everything that was already going on, where we could have avoided it had they separated us. (Paige)

Conversely, women who gained restraining orders generally felt safer, or at least valued having a record of the abuse. At the time of the interview, Rebecca's restraining order had lapsed; however, she allowed her assailant to believe that the order was still in place to continue its protective effects. Another woman, whose assailant made harassing phone calls, obtained a court order specifically restricting his ability to call her. Additionally, women used the criminal justice system to limit their exposure to assailants ( $n=6$ ). For example, one woman had her assailant jailed for violating a restraining order, and another successfully pressed charges against her assailant for misdemeanor stalking.

Women also took informal steps, such as not being present during child exchanges, to set boundaries and limit contact with their assailants. Informal steps were sometimes taken in combination with formal steps (see Table 2). One assailant, who was in prison for charges unrelated to IPV, sent letters that were manipulative in tone to his ex-wife and child and also wrote letters to a mutual friend of theirs in an attempt to gain information about his ex-wife. When he requested, through his mother, that his ex-wife allow him to call her from prison, she refused. Another way in which women set boundaries was by not allowing their assailants into their houses.

Women were also able to anticipate when their ex-husbands would harass them and used strategies to avoid it. For example, Meaghan, whose ex-husband closely monitored his child's grades in school, called her ex-husband when she knew he wouldn't answer and, in an attempt to preempt his harassing phone call, left a message explaining why the child's grades had slipped. Soma decided against obtaining professional counseling services for her child because the father did not give his permission and, because of a joint legal custody arrangement, she would have had to actually go to court to get a court order for counseling for my son.

And the pediatrician woulda supported it. She woulda given me a letter. But [the father's] got a right to make a decision on the therapist. And I thought, 'Oh, we're gonna be at this for months and I don't want to have that much contact with you.'

So I just backed off and [my son] gets social work services at school with his Special Ed. That's part of it so I just kinda let the social worker handle it. (Soma)

By dropping her request, Soma avoided having to make court appearances that would have provided her ex-husband access to her. Importantly, she was still able to provide some type of counseling for her child.

Finally, some women simply stopped interacting with their ex-husbands when they sensed that they were going to act "badly."

I can just say, 'You know what? This is not good. I'm not having this conversation with you.' And I'll hang up the phone or...I'll leave or whatever. And I know how to cut things off when he starts to get to where I know it's gonna go badly. I pick up his signals quite quickly, you know. But it's like, 'Okay, this is not my problem anymore. This is somebody else's problem. You can talk to someone else.'  
(Shelby)

Mothers perceived child exchanges as times in which fathers may act badly and the risks to their safety may increase. Accordingly, some mothers ensured that they would not be in contact with the assailants during child exchanges by either using other people as intermediaries or by not getting out of the car during the exchange.

See Table 2 for a breakdown of assailants' abusive tactics and women's strategies to limit contact. Women often used multiple strategies over time, modifying tactics if one was unsuccessful. Requesting a restraining order was the most common strategy women used; in fact, all five women who experienced stalking petitioned for restraining orders, though only four women received them. Four of the women who called the police on their assailants had restraining orders against them. Two of the women who experienced solely emotional abuse relied only on informal ways to limit contact or avoiding seeing their assailant at child exchanges. Fear of future violence led the remaining three women to utilize the civil and criminal justice systems to help them stay safe.

## Discussion

This qualitative study examined women's responses to abuse committed by IPV-perpetrating ex-husbands with whom they had undergone custody disputes. The mothers in this research reported that IPV-perpetrating fathers made use of opportunities presented to them by child custody and parenting time arrangement to further abuse mothers and children. When fathers harmed children, or mothers believed harm was likely, women overwhelmingly turned to family court, at least at first, to help keep their children safe. However, many mothers found that family court did not act in ways that they believed protected their children. Conversely, when women turned to the justice system for restraining orders or called the police for help against IPV, they generally found the justice system responsive. When the justice system did not support women, for example by denying a restraining order petition, they found that this increased the danger they faced from their partners.

No clear patterns emerged when comparing assailants' abuse of mothers with that of children. While all women reported abuse against themselves, not all women reported that fathers abused children. Likewise, no clear patterns emerged comparing pre-separation abuse of women and children with post-separation abuse of women and post-divorce abuse of children. While the lack of patterns is likely due to the small sample size, it also illustrates a need for the court to analyze each case on its own merit.

As in other research (Harrison, 2008; Kurz, 1995), this sample of women provided examples of women who feared that advocating for their or their children's wellbeing in the court would backfire and increase their or their children's risk of being harmed. For one woman, a failed petition for a restraining order led to an increase in the frequency of violence her ex-husband perpetrated. Fear that advocating for their children could backfire prevented some mothers from accessing the court and possibly gaining increased safeguards for their children. The perception that the court may not help is understandable given that two of these women had been previously told that being charged with federal and felony crimes, being the subject of arrest warrants, committing IPV, and previously physically harming their children did not negate the fathers' parental rights to see the children or even warrant safeguards when the fathers saw their children. However, mothers believed that these facts indicated that spending time with those fathers was not in the children's best interests.

As has been noted by other scholars (Moloney, 2008), while it is stated that the best interests of the child should guide custody and parenting time decisions, it appears to take a backseat to parental rights. Even when women had independent evidence of IPV, such as a restraining order, they were not always able to persuade the court to alter custody and parenting time arrangements in a way they believed protected their children from harm. It is possible that, as other research has suggested (Bancroft & Silverman, 2002; Dalton, 1999; Jaffe et al., 2003; Kernic et al., 2005; Logan et al., 2003), IPV-perpetration was not considered relevant to fathers' rights or abilities to parent their children.

Some women found it difficult to gain safety for their children as a result of court decisions. An example that bears exploring is that of Jesy, the mother who petitioned for supervised visitation so that the father would be less likely to drink or be drunk around the children, something she believed increased his risk of being violent. She believed the father to be a danger to his children because of his history of severely physically abusing her, including threatening her with a firearm and choking her in front of their children, all of which the court was aware. The court ruled against her, taking his word that he did not drink around the children, and told Jesy that she would be held in contempt of court if she denied visitation. Jesy therefore risked civil sanctions, including the possibility of jail, were she to refuse to send her children to visit their father despite the clear risks to their safety. Only after her continued arguments with the court was it written into her record that she could deny visitation in unsafe situations. Although Jesy considered this a minor win, it is actually problematic for multiple reasons.

The first reason it is problematic is because this was already the law in the Midwestern state in which the study was conducted. Thus, Jesy was initially threatened with contempt of court for acting within her legal rights. It may also be that court personnel did not believe that the father's alcohol use around the children, despite the court order against it, constituted a danger. Ultimately, it is for the court to decide what situations are unsafe, and the court already demonstrated an unwillingness to believe Jesy's report of her ex-husband's alcohol use. Regardless, it is in the court's interest to inform parents, especially those who disclose abuse, of what they legally may and may not do in efforts to protect their children.

The second reason the court's informing the mother that she could deny visitation in unsafe situations instead of agreeing to have visitations supervised is because it increases the mother's responsibility to keep her children safe. This mother learned of her ex-husband's use of alcohol during visitation only after her children returned home to her; because child exchanges require very little if any interaction on the part of parents, she did not know beforehand. It is unclear what information the mother could use to determine whether her ex-husband had consumed alcohol prior to the visit, and certainly it is outside her ability to know whether he *would* drink during the visit. The mother stated that she would use her

instincts to determine whether her children were in danger. However, we would argue that children would be safer relying on the watchful eye of a supervisor to keep them safe, rather than forcing women to predict when their children might be in danger. Furthermore, mothers' "instincts" will not likely be trusted by the court, which leaves them still at risk of contempt.

Women without independent evidence of IPV or child abuse are at a disadvantage in family court. That most women do not have independent evidence of IPV is not uncommon; a study in Australia found that most allegations of IPV in child custody proceedings are not substantiated with objective evidence (Moloney, 2008). In our previous research with this sample, we found that a lack of independent evidence of IPV often lead court personnel to dismiss the allegation (Rivera, Zeoli, & Sullivan, 2012). Research by Kernic and colleagues (2005) found that even in custody cases in which allegations of IPV were made and independent evidence, such as police records, was available, this evidence often is not included in child custody case files. This points to a larger problem in which IPV is not adequately understood or handled in custody cases.

It is clear that while courts have processes, rules, and evidentiary procedures that must be followed, at least for many of the women in this study, these processes failed them and they, and often their children, continued to be victimized by partner-violent fathers. Family courts should undertake in-depth evaluations of procedures in place to identify, investigate, and respond to allegations of IPV and child abuse. The points in the process at which the problem of IPV could be inadequately handled are numerous, and could include, but not be limited to: 1) court personnel believing an IPV allegation to be insufficient to warrant investigation; 2) a custody evaluator or investigator being unknowledgeable of IPV; or 3) court personnel believing that IPV perpetration ends upon separation and/or is not relevant to parenting. In-depth evaluations of court procedures would determine how IPV allegations are handled in daily practice and could point to concrete ways to improve the system and its outcomes for victimized mothers.

In this research, we did not examine all abusive tactics used by assailants against mothers and children; in fact, the assertions were particularly limited in the scope of abuse considered. The iterative process of analytic induction required that our assertions develop from the data, and some types of abuse simply did not fit thematically with the assertions that were developed. For example, we had multiple cases in which fathers attempted to undermine mothers or who emotionally abused children who did not resort to self-injury. We did not include emotional abuse that did not precipitate self-injury in assertion 2 because the assertion had emerged as an examination of women's potential use of the court, and women often did not feel they could go to the court with complaints of emotional abuse alone. Because emotional abuse is implicated in serious, negative health outcomes including behavioral problems, depression, delays in growth, and problems in brain development in young children (Rees, 2010), it is in the best interests of children to be protected from such abuse. Court personnel should consider emotional abuse to be a serious problem, and this message must be conveyed to parents so that they feel justified in coming forward with these complaints.

Our examination of harm to the children was also limited. Our reliance on mothers as informants limited our findings to those events of which mothers were aware. Therefore, we likely did not learn of either all the abusive acts toward children or all the children that were abused. Moreover, we do not expect that we learned, or mothers knew, of all the children who engaged in self-injury. While we relied on mothers to link the self-injury to fathers' actions, and emotional abuse has been linked to self-injury in the literature numerous times, it is critical to note that other events in these children's lives could have triggered the self-

injury. Specifically, parental divorce has been linked with suicidal or self-harm behaviors (Rubenstein, Halton, Kasten, Rubin, & Stechler, 1998), as has living in a home with intimate partner violence (Cerutti et al., 2011; Olaya, Ezpeleta, de la Osa, Granero, & Domenech, 2010) and witnessing violence more generally (Wiederman, Sansone, & Sansone, 1999). Furthermore, not all studies of self-harm have found a link with emotional abuse (Noll, Horowitz, Bonanno, Trickett, & Putnam, 2003). Our findings in this section must be viewed not as a finding of prevalence of abuse to children or self-harm of children, but as an analysis of mother's actions and court responses upon learning of these events.

This analysis also did not investigate how state statutes were applied to the custody cases. While many of the responses from the court were likely a result of a disbelief that IPV perpetration is relevant to fathering or a disbelief of mothers' reports, as was suggested in our previous research with this sample (Rivera, Sullivan, & Zeoli, 2012; Rivera, Zeoli, & Sullivan, 2012), it is possible that some of the court responses that women believed put their children in danger were based largely on legal requirements. An examination of state laws as they are applied to child custody disputes in cases involving violence must be undertaken to determine how specific laws impact safety.

Victimized women and children must be allowed opportunities to heal from the abuse they have experienced and to remain free from future abuse. Courts can prevent abuse from occurring by heeding mothers' concerns, considering prior behaviors by both parents, considering children's desires and concerns, and crafting custody and visitation agreements that maximize the children's and their mothers' safety. Such orders should be monitored periodically to assess if they are indeed working as intended. Women who experience intimate partner violence can suffer emotional, psychological, and physical health consequences (Campbell, 2002; Campbell et al., 2002) as can their children from witnessing the abuse (Campbell & Lewandowski, 1997; Carpenter & Stacks, 2009; Holt, Buckley, & Whelan, 2008; Roustit et al., 2009). When family courts decree that assailants have the right to remain in children's lives and, by extension, their mothers', opportunities to heal may not be present, and assailants can continue their abusive and controlling tactics. This research showed that many assailants did just that. However, it also showed that women act strategically to minimize violence toward themselves and their children.

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## Appendix A

Prompts used to assess intimate partner violence before and after separation:

- You mentioned on the phone that your ex-husband was controlling or violent. If you don't mind, could you please describe some of his controlling or violent behaviors, or reasons why you feared for your safety?
- Did he ever use physical force against you? In other words, did he ever hit, slap, kick, punch, shove or otherwise physically hurt you?
- Were there other things that he did, actions that did not physically hurt you, that made you fear for your safety?

Prompts used to assess women's perceptions of whether family court supported their efforts to gain safety for themselves and children:

- Tell me about what happened during the court case, including your perceptions of the process.
- Were any specific safety arrangements made for you during the court process and did these arrangements make you feel safer?
- Do you feel like the process you went through was reasonable given concerns for your safety?
- If you told any court official about abuse, what was the reaction of the court official? Were your concerns taken seriously, documented, and followed up on?
- What factors do you think [*court personnel*] took into account in making the final custody decision?
- Do you feel like you were listened to and that your safety and the safety of your child/ren were taken into account in the court process and custody decision?
- Was your or your child/ren's safety addressed during the court case?

Prompts used to assess violence and women's responses to violence after separation and divorce:

- Could you tell me how custody and visitations are going so far?
- Have you ever feared for your or your child's safety because of your ex-husband?
- Has your ex-husband threatened you or harmed you during visitation or exchanges?
  - [*If yes*]How? What have you been able to do to try to stop this from happening in the future?
- Has your ex-husband threatened or harmed your child/ren during his time with them or exchanges?
  - [*If yes*]How? What have you been able to do to try to stop this from happening in the future?
- How safe do you believe your children are during their time with their father?
- Since the relationship ended, have you had to call the police because of your ex-husband?

- In order to feel safer, some women get a restraining order. Do you currently have a restraining order?
  - *[If yes]* Have you had a restraining order in the past? Has he ever violated the order? Do you feel safer, less safe, or about the same since you took out the restraining order?
- Have your children been emotionally harmed during time spent with their father or exchanges?
  - *[If yes]* How? Have you been able to do anything to try to stop this from happening in the future?
- How concerned are you, if at all, that your ex-husband will threaten or harm your child/ren in the future? Why do you say that?
- Have you heard of or are you aware of any instances where he used drugs/alcohol in the presence of your child/ren (before, during, or after separation)?
  - *[If yes]* How? Have you been able to do anything to stop this from happening in the future?
- Do you have any ongoing fear or concerns for your own safety due to contact with your ex-husband?
- Do you have any ongoing fear or concerns for your child/ren's safety due to contact with their father?
- Have you or your children gone anywhere for help regarding the situation between you and your ex-husband (before, during, or after separation)?
  - *[If yes]* Where? How helpful have these services been? What problems, if any, did you encounter?
- Do you feel like your safety concerns are being met or acknowledged by the court? Why do you say that?

**Table 1**

Fathers' harm to children post-divorce and mothers' strategies to protect them (n=10)

Fathers' harm or likely harm to children	Mothers' strategies to protect children			
	Avoid family court (n=2)	Family court provides no support (n=5)	Family court provides support after extreme harm (n=2)	Family court is supportive (n=2)
Physical harm (n=3)		Kim, Jesy		Vanessa
Emotional abuse precipitating self-injury (n=2)			Jennifer, Meaghan	
Neglect (n=3)	Kathleen	Christina		Meredith
Likely future physical harm (n=4)	Kathleen, Carole	Carole, Karen		Vanessa
Likely kidnapping (n=2)	Carole	Carole		Vanessa

**Table 2**

Assailants' abusive tactics post-relationship and women's strategies to limit contact with their assailants (n=16)

Assailants' abusive tactics	Women's strategies to limit contact			
	Requested restraining orders/Court orders (n=9)	Third party/won't see at exchanges (n=3)	Informal ways to limit contact (n=8)	Called police/police report (n=6)
Emotional abuse only (n=5)	Rebecca, Jennifer	Meredith	Rebecca, Kathleen	Jennifer, Lisa
Physical abuse (n=9)	Shelby, Paige, Mim, Carole, Vanessa	Shelby	Shelby, Meaghan, Kim, Soma, Tawny	Paige, Mim, Carole, Vanessa
Stalking (n=5)	Tamara, Mim, Jesy, Carole, Vanessa	Jesy	Tamara	Mim, Carole, Vanessa