

**Domestic Violence and Child Support:
Strategies to Address Economic Abuse**

20th Annual AB 1058 Child Support Training

Aug. 30, 2016

Fariba Soroosh, Supervising Attorney, Self Help Center/Family Law Facilitator's Office, Santa Clara County Superior Court

Commissioner JoAnn Johnson, Ventura County Superior Court

Steve Baron, MFT, Director, Santa Clara County Family Court Services – Ret. Adjunct Faculty, Santa Clara University – Ret.

**The DV survivor may appear this way
in court -
Leslie Morgan Steiner
author of *Crazy Love***



**But this may be her
internal state**



Financial Abuse

United States Department of Justice

Making or attempting to make an intimate partner financially dependent by **maintaining total control over financial resources, withholding her access to money**, or forbidding her attendance at school or employment, or undermining it.

<http://www.ovv.usdoj.gov/domviolence.htm>

The Impact of Financial Abuse

Barbara Hart, "The Legal Road to Freedom"

- "...Battered women and their dependent children are often economically compelled back into relationships with batterers...."
- "...The most likely predictor of whether a battered woman will permanently separate from her abuser is whether she has the economic resources to survive without him...."

Another Way to Continue the Abusive Controlling Dynamic



And harm them too.



AMERICAN JUDGES ASSOCIATION *"The Voice of the Judiciary"*

- **Financial Blackmail:** A batterer often controls the victim's finances, denying access to money. Financial abuse may range from not allowing the victim to earn money to preventing education or access to work. If the victim is currently working, the abuser will make threats to destroy the means of earning a living.

Domestic Violence, Intimate Partner Violence as COERCIVE CONTROL

- The central goal of DV, also known as "battering," "intimate terrorism," and coercive control," is usually not the infliction of violence and fear for their own sake. Those are typically tactics to obtain & maintain...

- **POWER, CONTROL, & DOMINATION**

Re-presenting Battered Women: **Coercive Control** and the Defense of Liberty *

By **Evan Stark**, Ph.D, MSW
Professor, Rutgers School of Public Affairs and Administration

- The **COERCIVE CONTROL** model was developed to encompass the **ongoing and multifaceted** nature of the abuse which research shows is experienced by the 60% to 80% of victimized women who seek outside assistance from shelters, police, courts, or other sources of assistance.

Coercive Control defined

- An **ongoing pattern of domination** by which (typically) male abusive partners interweave physical and sexual violence with intimidation, sexual degradation, isolation, and **CONTROL**.
- The primary outcome of coercive control is a condition **of entrapment** that can be hostage-like in the harms it inflicts on dignity, liberty, autonomy, personhood as well as to physical & psychological integrity.
- (Also see *Trauma & Recovery* by Judith Herman)

Once threat or violence occurs,

- it's only necessary to use violence or explicit or implicit threats of violence occasionally to reinforce fear and add power to the emotional abuse of which financial abuse and deprivation are often a part.

Coercive Control & Financial Abuse

- The essence of abuse is rooted in a partner's control over basic necessities such as **MONEY**, food, housing and transportation, ... and access to health care.
- **Financial exploitation** extends from denying victims credit cards or money, **INCLUDING CHILD SUPPORT**, for necessities.

“Coercive Control” and Gender

- Because coercive control most commonly involves straight, cisgender men abusing straight, cisgender women, the coercive control that can occur in same-sex couples and in relationships involving a transgender partner(s) is often invisible or dismissed as “not really abuse.”

UK: The Telegraph

28 November, 2014

- “**New domestic violence law will outlaw coercive control**... the Home Secretary, is expected to announce new powers allowing the police to prosecute those who are guilty of psychological and emotional abuse.
- It means for the first time men who control their partners through **threats or by restricting their personal or FINANCIAL freedom**, could face prison in the same way as those who are violent towards them...”

GOV.UK: "Government to create new domestic abuse offence" contin.

- "Coercive and controlling behaviour can include ...refusing them access to money and determining minute aspects of their everyday life...."

Serious Crime Act 2015, 2015 c. 9, PART 5 - Domestic abuse, Section 76

- "...A person (A) commits an offence if— A repeatedly or continuously engages in behaviour towards another person (B) that is **controlling or coercive**,...at the time of the behaviour, A and B are personally connected, ... the behaviour has a serious effect on B, and, ...A knows or ought to know that the behaviour will have a serious effect on B...."

The Exploitation of the Child Support Process to Maintain Abuse and Coercive Control

- **WHY** does the abuser do it?
- To deplete the victim/survivor financial and emotional resources to get her to come back. And failing that...
- To Punish ("DESTROY") her in revenge for what he perceives to be rejection/abandonment which is psychologically intolerable to him.

Domestic Violence in the Affluent Community
Ruth Patrick, M.A., Director
WomenSV
A Program of the Domestic Violence Intervention Collaborative




Website: www.womensv.org
 Email: womensv2200@gmail.com
 Phone: 650-996-2200

**Child Support & Family Courts:
 The Legal Battleground of Continuing Abuse**



“When a couple divorces (or child support is litigated), **the legal system** may become a **symbolic battleground** on which the male batterer continues his abuse.”
Kara Bellew, Silent Suffering: Understanding Domestic Violence in Affluent Communities, Women’s Rights Law Reporter, Winter, 2005

Affluent abusers...

frequently appear to apply 3 templates to their personal relationships, particularly as they enter the legal arena during divorce:

- Business
- Chess
- **WAR**

As reported by numerous WomenSV clients: Abuser declares “WAR!”

- Threats include, as reported by clients: **“I will DESTROY you!”... physically, professionally, personally, financially. “You will have... NOTHING!”**
- Powerful affluent abusers draw from 2 playbooks they also apply to business:
- **The Art of War** by Lao Tzu and **The Prince** by Machiavelli.

The Child Support and Family Courts as viewed by the abuser



- Just more weapons in the arsenal to be tactically used and exploited to pursue the control, punishment, and wearing down of the victim/survivor... often with little if any awareness or concern for the impact on the child.

Abuser’s Tactics, examples:

- Non-compliance with child support orders
- Seeking child custody as punishment, revenge or as bargaining chip to get survivor to relent on child support.
- Initiating and extending ongoing litigation, continuances, settlement processes to deplete victim/survivor’s emotional and financial resources and undermine employment.
- Non-appearances, refusal to sign important docs.

**The Goal of War:
Surrender/Defeat of Survivor**

- Victims often become emotionally and financially depleted and exhausted and may succumb to the unrelenting pressure and settle whatever the price.
- They may surrender child support or custody or time with the child in a desperate attempt to get some relief from this otherwise unresolvable problem.

But is there any other evidence to support this view?

- **“MANAGING SECRECY AND DISCLOSURE OF DOMESTIC VIOLENCE IN AFFLUENT COMMUNITIES”**
Megan L. Haselscherdt, Ph.d., Asst. Prof.
Auburn University
Journal of Marriage & the Family, under review

Haselscherdt exploratory research

- First of all:
- “...The broader literature... indicates that violence and control continue for some women after they leave... and that **postseparation risks may be greater for mothers who must maintain contact with abusive former partners due to their children....**”

Haselscherdt on Pre-Divorce Financial Abuse/Coerced Debt

- "...Financial abuse was ...pervasive and reportedly involved obtaining sole access to mortgages and mother's income and inheritance through forgery of her signature on documents and bank accounts; doling out allowances for basic necessities; and, maxing out credit cards in her name...."



More on "Coerced Debt" as Financial Abuse

- "COERCED DEBT: THE ROLE OF CONSUMER CREDIT IN DOMESTIC VIOLENCE," Essay, by Angela Littwin, California Law Review August 2012
- Copyright (c) 2012 California Law Review, Inc. California Law Review, Inc. (CLR) is a nonprofit corporation. CLR and the authors are solely responsible for the content of their publications."

Financial Abuse, "Coerced Debt"

- "...a new form of domestic violence has developed, one which has not yet been recognized and which needs to be addressed: financial abuse through consumer credit... **violent partners have begun using debt as a means of exercising abusive control**, making the consumer credit system an unknowing party to domestic violence. This abuse is known as coerced debt."

**Financial Abuse,
“Coerced Debt”**

- “Coercive Control is the situation in which coerced debt can flourish.”

**Financial Abuse,
“Coerced Debt”**

- “There appear to be three categories of actions that enable abusers to achieve dominance over a family's financial life:
 - depriving the victim of access to the family's bank accounts;
 - requiring the victim to turn over to the abuser any income she receives, and;
 - **putting the victim on an allowance.**”

**Back to Haselscherdt's research:
Sabotage Tactics**

- “... Financial and professional abuse were interconnected...If the husband could successfully sabotage the mother's professional identity and career, she would have no means to support herself or her children without his income...”

Haselscherdt contin.

- "...Through their professional connections and social networks, HS (High Status) **husbands had the financial resources and knowledge of the court system to financially and legally abuse mothers during divorce and custody proceedings...**
- According to the mothers and social service providers, HS husbands manipulated the family's finances and **hid money in secret bank accounts to avoid disclosing their net wealth...."**

Haselscherdt contin.

- "...Financial and legal abuse were intertwined in that if the HS husbands were able to drain the mothers' retainer and sabotage their court cases, mothers' would struggle to find equally powerful legal representation. Mothers with HS husbands incurred financial losses that crippled their savings, making it difficult to continue fighting for child custody and fair financial settlements...."

Haselscherdt: The Cuop D'etat - withholding support to get the kids

- "...HS husbands exerted their power and money to ingratiate their children to side with them during and after divorce proceedings. This was accomplished **by withholding child support** and manipulating or bribing children with material and monetary rewards.
- Jenny explained, "He has silenced [the children] with money. . . . [My son said,] 'If you can't beat him, you gotta' join him.'...."

Haselscherdt's "heads up": One way court may enable ongoing violence.

- "...Postseparation physical violence occurred when separating couples were either court ordered or encouraged by attorneys to remain in the marital residence until the court made decisions regarding finances and assets..."

Courts must be aware of abuser intimidation tactics

- Which can be either **OVERT**:



- Or **COVERT**:

- "Judge, I think what we have here is a failure to communicate." (What he would say when he beat her.)

Overt Intimidation Tactics

- And potential R.O. violations:
 - Waiting for her at the courthouse entrance
 - Stalking, directly or via technology
 - Character assaults including via social media.
 - False accusations
 - Vandalism

Overt Intimidation Tactics contin.

- Approaching
- Touching/assaulting
- Speaking to/contacting in any way, i.e. text, email, notes.
- Threatening
- Yelling at

Covert/Subtle Intimidation



It's all about context.

Watch for body language: "the look", 'the nod/shake of the head', leaning forward in court. The above statement was made at times of beatings. **ALL POTENTIAL TRAUMA TRIGGERS.**

Traumatic Impact of Intimidation Techniques: Watch Non-Verbal Response

- May "freeze" the victim in fear. May become non or less responsive, or surrender, stop advocating for self, or agree to abuser's demands.
- May become fearful or fearfully angry, emotionally overwhelmed, scattered in presentation, impaired cognitive functioning, poor decision making.

**But before we go any further:
Some Trauma Fundamentals**

- “Let me explain.
No...that is too much.
Let me sum up.”

**TRAUMA INFORMED CARE
GOALS**

- SAFETY first (both physical and emotional);
- Respect boundaries;
- Share control and ensure that the survivor has choices;
- Collaborate with the individual;
- Empower; and;
- Minimizing Re-Traumatization.

TRAUMA FIRST AID

- The most toxic emotion is:
 - SHAME
- The antidote is:
 - DIGNITY & RESPECT

TRAUMA FIRST AID

- The most disabling emotion is:
 - **HELPLESSNESS**
- The antidote is:
 - **EMPOWERMENT**

Please Remember

- For a DV victim/survivor, just coming to court can be traumatic.
- Facing an abusive former partner can be triggering.
- Feeling overwhelmed can impact cognitive process.

Working with Traumatized Litigants: Fundamentals

- **First, actively & reflectively listen until client feels understood.**
- **Take more time and GO SLOWER, and make sure they are understanding you correctly.**
- Use summarizing statements.
- **Be supportive.**
- Setting limits is fine, firmly & respectfully.
- All of this helps the client emotionally re-regulate the client, and helps them think, problem solve, and plan more effectively.

American Judges Association

- *Domestic Violence & The Courtroom*
- *Knowing The Issues... Understanding The Victim*

1: Take time to carefully listen

- Your demeanor demonstrates to the victim that you are **concerned** about his or her circumstances and the underlying events.
- Understand that the victim may not choose to participate in the proceedings for a variety of reasons, including intimidation and fear.

2. Recognize abuse dynamics

- Denial, rationalization and minimization are used by perpetrators and survivors.
- Take advantage of all the resources available to provide comfort and safety for the victim and offer those resources at the courthouse, if possible (e.g., DV Advocates)
- Recognize that the victim may be overwhelmed by the proceedings.

3. Survivor must be informed of her or his options

- Take a proactive approach, work with community organizations, and identify resources to ensure that victims are informed of their options and have access to **SAFETY PLANNING & SUPPORT** from governmental and non-governmental advocates.

4. Recognize impact of TRAUMA on the survivor...

- The survivor may be overwhelmed with the enormity and complexity of the information. Comprehension of the available options often becomes difficult. A judge must take time to plainly explain the proceedings and **provide an opportunity for the victim to safely give input** if the victim chooses to give input.

And a “Heads UP” on Traumatic Brain Injury (TBI) in IPV Cases.

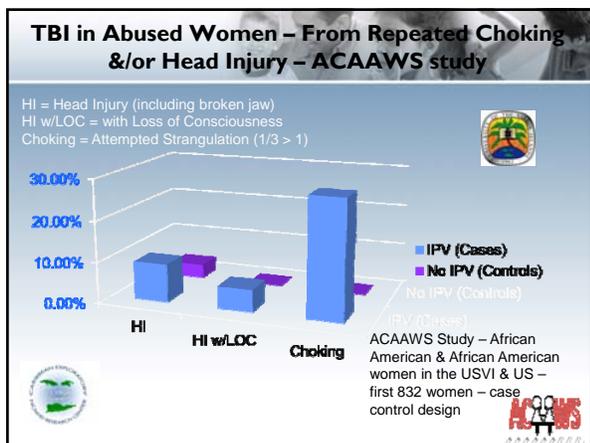
- As a result of:
 - Blows to the head, or banging the head against something, or
 - **STRANGULATION** (inappropriately described as “choking”)

“Brain Injury in Battered Women”

Valera & Berenbaum, U. of Illinois, Urbana–Champaign
Journal of Consulting and Clinical Psychology, 2003, Vol. 71, No. 4, 797–804

- Almost 3/4 of the sample sustained at least 1 partner-related brain injury and including 27% who experienced STRANGULATION-induced anoxia or hypoxia.
- 1/2 sustained multiple partner-related brain injuries.
- Further, in 57 of the women brain injury severity was associated with partner abuse severity, problems in memory, learning, cognitive flexibility and the presence of general distress, depression, worry, anxious arousal, and PTSD symptomatology.





5. And that trauma/fear may reduce ability to self-advocate

- A victim may want to present as compliant to the judge. As a result, the victim may appear very complacent in the courtroom, even when he or she does not agree with what is taking place.
- A judge needs to take the time to ask for specific details. A victim may tend to accept responsibility for things that are not his or her fault out of fear of further abuse.

5. contin.

- A victim may accept inaccuracies in the record for similar reasons. Remember, these responses are often strategies of survival.
- **Judges must take great care to prevent dangerous or unfair settlements, custody and visitation orders.**
- A judge must **make sure the court record is clear and complete.** This may include affording the victim the opportunity to state any objections in a safe setting.

6. Minimize additional intimidation

- The victim may have been exposed to years of intimidation and he or she may live daily in a context of **coercive control.**
- **Judges can also create a courtroom ambiance that promotes "zero tolerance" of domestic violence.**

6. Minimize additional intimidation contin.

- A judge can use his or her authority to the fullest extent of the law and enforce every relevant law in the case.
- For example, a judge can instruct bailiffs not to permit the litigants, family members or friends to interact in an intimidating manner in the courtroom or during a court recess. A defendant may sometimes behave in an inappropriate manner or make intimidating comments about the victim during a courtroom recess.

Encouraging Compliance With Child Support Orders

- **FIRST**, be “attuned” to the experience of the parent, **actively listen**. Remember, validation and understanding are not synonymous with agreement, and that people are often unable to listen until they experience having been heard and understood.
- Example: “I know you feel this is very unfair and unjust.”

Encouraging Compliance With Child Support Orders

- Ask parents the names of their children and to tell you a little bit about their children.
- Validate that they “must care very much about ...” and name their children.
 - Be careful not to patronize.
- Make sure they understand the nature of the orders, and continue to validate.

Encouraging Compliance With Child Support Orders

- Next, appeal to the parent's self interest.
- Example: "Even though you believe it's unfair, when you comply with the court order, you'll be demonstrating to the court, from the court's point of view, that you are a responsible and genuinely concerned parent."

Encouraging Compliance With Child Support Orders: **ACCOUNTABILITY**

- Then educate the client as to the potential consequences of failure to comply, and then
- **HOLD THEM ACCOUNTABLE with concrete and enforced consequences.**
- Don't argue. Continue to validate and communicate understanding of the parent's response, treat with dignity and respect, and continue to educate.

Thank You for insuring the law protects survivors of domestic violence and their children