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# Research Update

Judicial Council of California, Administrative Office of the Courts

November 2002

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## Domestic Violence in Court-Based Child Custody Mediation Cases in California

This research update examines the prevalence of domestic violence among parents in court-based child custody mediation cases in California in 1999. The information presented about domestic violence between the parents in these cases comes from surveys administered to parents and to mediators by the State of California Administrative Office of the Courts (AOC) as part of the 1999 Statewide Uniform Statistical Reporting System (SUSRS). The SUSRS collected data from a representative sample of court-based child custody mediation cases in all 58 counties in California. The topics covered by the parent and mediator surveys included parent characteristics, issues involved in the case, and the outcome of the mediation session. For a more detailed description of the SUSRS, see the methodology section on page 11.

The findings indicate, first, that most parents reported that violence had occurred in the relationship with the other parent. Second, parents who reported prior incidents of interparental violence often did not raise them as an issue in mediation. Finally, parents may not define all violent activities as “physical violence” or “domestic violence.” Even when parents reported that acts of interparental violence (such as the use of a weapon) had taken place, they did not always report that there had been “physical violence” in the relationship with the other parent.

Since 1999, when these data were collected, California has developed protocols for conducting mediation in any case with a history of domestic violence. State law<sup>1</sup> now mandates that Family Court Services (FCS), the agency responsible for conducting court-based custody mediation, handle domestic violence cases according to a protocol developed by the Judicial Council of California. The protocol (Cal. Rules of Court, rule 1257.2)<sup>2</sup> requires FCS to screen for domestic violence and, at the request of a party alleging domestic violence, to meet with the parties separately and at separate times.<sup>3</sup> The rule also identifies specific screening procedures and protocols for working with these cases, which are critical for identifying and addressing the safety concerns of the parents.

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<sup>1</sup> Fam. Code, § 3170(b).

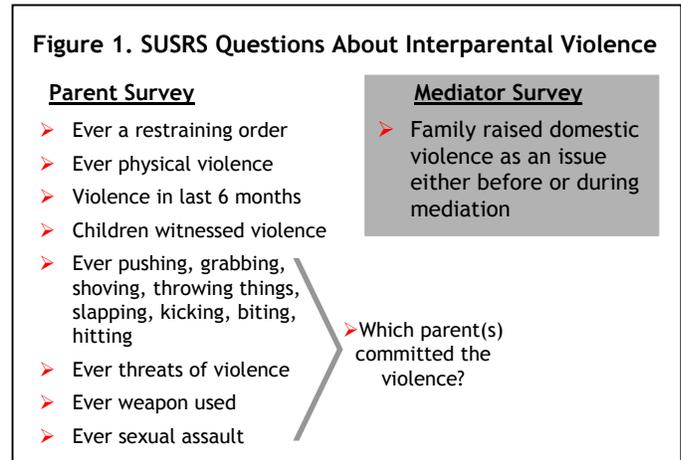
<sup>2</sup> (Effective January 1, 2002).

<sup>3</sup> The requirement is also stated in Family Code section 3181.

## The Survey Included Multiple Questions About Violence Between the Parents

The SUSRS surveys of parents and mediators include a detailed set of questions about violence in the parents’ relationship. The information collected from parents is listed under “Parent Survey” in Figure 1, and the information collected from mediators is listed in the “Mediator Survey” box in Figure 1.

- When parents reported that specific violent behaviors (pushing, grabbing, shoving, throwing things, slapping, kicking, biting, or hitting; threats; use of a weapon; and sexual assault) had occurred, they also indicated whether the mother, the father, or both parents had committed them.
- Parents were never asked on their surveys to define which of the violent activities they considered “domestic violence.” Therefore, even if parents reported that a particular act of interparental violence had occurred, they might not define it as “domestic violence.”



- Mediators and parents filled out their surveys separately; the mediators did not see the parents’ survey responses.

## At Least One Parent in Most Cases Reported Prior Interparental Violence

In 76 percent of court-based child custody mediation cases, at least one parent reported at least one indicator of prior interparental violence. See Table 1 for the percentage of cases that reported each indicator of violence.

- A *case report* of a violent behavior means that either the mother, the father, or both parents reported that it had occurred.
- More cases reported that there had been physical violence in the relationship than reported that there had been threats of violence.
- More cases reported that “pushing, grabbing, shoving, throwing things, slapping, kicking, biting, or hitting” had taken place than reported that “physical violence” had occurred. This indicates that parents may not identify all the behaviors in the list as physical violence.

**Table 1. Cases\* Reporting Interparental Violence**

Indicators of Violence Between Parents**	n	% of Cases*
<b>Total Cases*</b>	<b>2,500</b>	
At least one indicator of interparental violence	1,861	76%
Ever pushing, grabbing, shoving, throwing things, slapping, kicking, biting, or hitting	1,652	66%
Ever physical violence	1,371	55%
Ever threats of violence	1,248	48%
Ever had a restraining order	1,101	44%
Children ever witnessed violence between the parents	1,036	41%
Physical violence during the last 6 months	448	18%
Ever use of weapon, knife, or firearm	436	17%
Ever sexual assault	314	13%

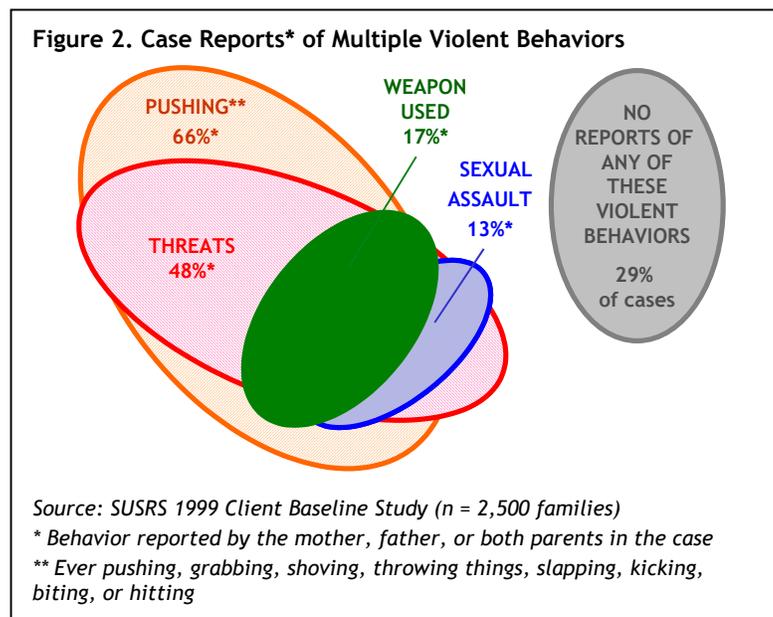
Source: SUSRS 1999 Client Baseline Study  
 \* Reported by the mother, father, or both parents in the case.  
 \*\* For which surveys were completed by at least one parent in the case.

- The percentage of cases that reported *any single* indicator of domestic violence (ranging from 13 percent reporting that there had ever been a sexual assault to 66 percent reporting pushing, grabbing, shoving, throwing things, slapping, kicking, biting, or hitting) was lower than the percentage of cases that reported *one or more* indicators of domestic violence (76 percent).

## Parents in Cases Often Reported More Than One Type of Violent Behavior

Many cases reported that more than one type of violent behavior had occurred. This could mean that they were reporting (1) multiple incidents of violence or (2) one incident that involved multiple violent behaviors. Figure 2 illustrates case reports of multiple violent behaviors. Each oval represents the percentage of cases that reported each violent behavior. For example, the largest oval represents the percentage of cases (66 percent) in which at least one parent reported pushing, grabbing, shoving, throwing things, slapping, kicking, biting, or hitting. On the survey, parents only reported whether violent behaviors took place. They did not indicate when the violent behavior occurred, the level of its severity, or the frequency of the incidents.

- Very few cases reported that only one type of violent behavior had taken place in the relationship. Eighteen percent of cases reported *only* pushing, grabbing, shoving, throwing things, slapping, kicking, biting, or hitting; 3 percent reported *only* threats of violence; 1 percent reported *only* sexual assault; and less than 1 percent reported *only* the use of a weapon.
- Very few cases reported that only threats had occurred. This could indicate that most of the time, if threats were made, actual physical violence also occurred, *or* it could indicate that parents are more likely to recall physical violence than threats.



- Ninety-two percent of cases that reported threats also reported pushing, grabbing, shoving, throwing things, slapping, kicking, biting, or hitting; 30 percent of cases that reported threats also reported the use of a weapon; and 22 percent of cases that reported threats also reported that sexual assault had occurred.
- The combination of violent behaviors reported most often was threats combined with pushing, grabbing, shoving, throwing things, slapping, kicking, biting, or hitting (this combination was reported by 26 percent of cases).

## Mothers Reported Interparental Violence More Often Than Did Fathers

Mothers, more often than fathers, reported that violence had occurred in the case. Table 2 shows the numbers and percentages of mothers and fathers who reported each indicator of violence. Differences between the percentages of mothers and fathers reporting each indicator of violence (except physical violence during the past 6 months) were highly significant (at the  $p < .001$  level).

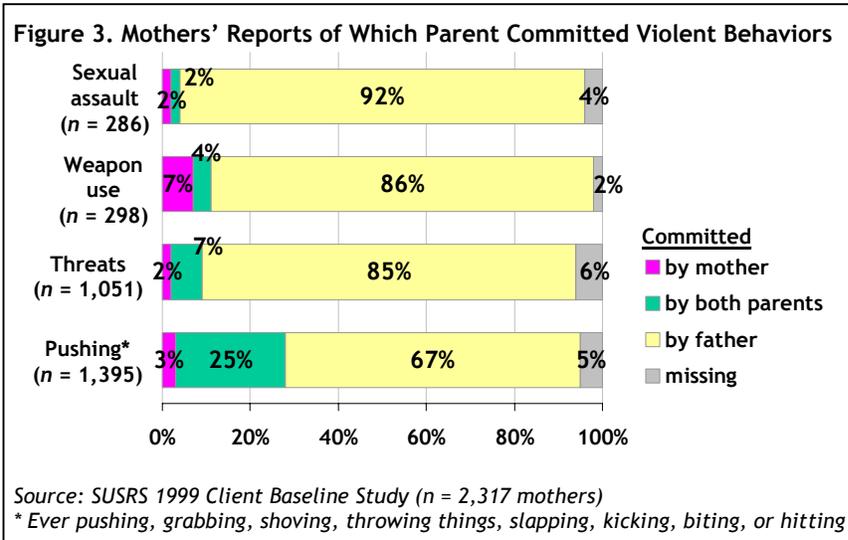
## Mothers Usually Reported That Fathers Had Committed Violent Behaviors

Figure 3 shows mothers' reports of which parent had committed violent behaviors. Each bar shows how often mothers who reported the occurrence of a violent behavior reported that they had committed it, that both parents had committed it, and that the father had committed it. For example, the sections in the bar labeled "Sexual Assault" show that, of the 286 mothers who reported that a sexual assault had occurred, 2 percent reported that they had committed it, 2 percent reported that both parents had committed it, 92 percent reported that the father had committed it, and 4 percent did not specify who had committed the act.

- Mothers most often reported that fathers had committed violent behaviors, rather than that they themselves or both parents had done so.
- Mothers most often reported that they themselves or both parents had committed pushing, grabbing, shoving, throwing things, slapping, kicking, biting, or hitting (28 percent).

Indicator of Domestic Violence	Mothers		Fathers	
	n	%	n	%
<b>Total</b>	<b>2,317</b>		<b>2,201</b>	
At Least One Indicator of Domestic Violence	1,634	71%	1,283	58%
Ever physical violence	1,191	51%	621	28%***
Ever had a restraining order	910	39%	731	33%***
Physical violence during the last 6 months	367	16%	180	8%
Children ever witnessed violence between the parents	893	39%	380	17%***
Ever pushing, grabbing, shoving, throwing things, slapping, kicking, biting, or hitting	1,395	60%	943	43%***
Ever threats of violence	1,051	45%	481	22%***
Ever use of a weapon, knife, or firearm	298	13%	172	8%***
Ever sexual assault	286	12%	39	2%***

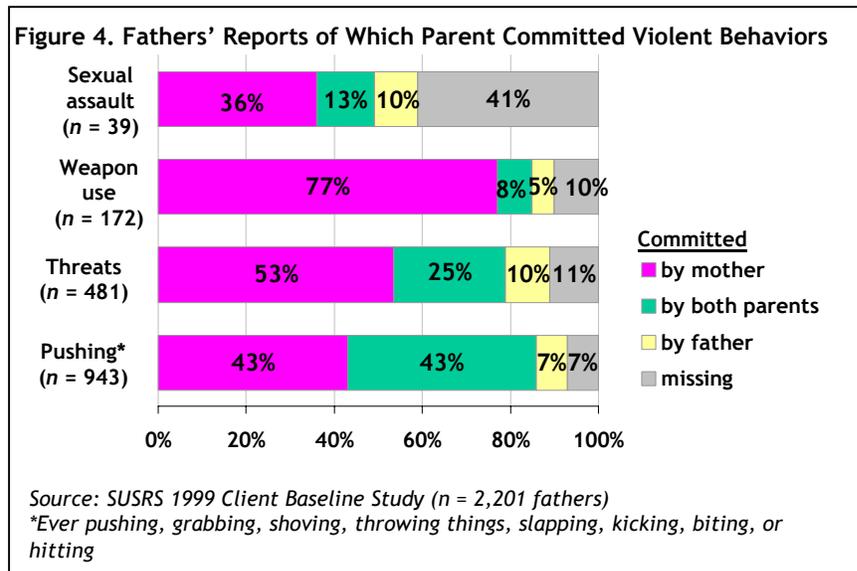
Source: SUSRS 1999 Client Baseline Study  
 \*\*\* Difference between mothers' and fathers' report significant at  $p < .001$  level



## Fathers Usually Reported That Mothers Had Committed Violent Behaviors

Figure 4 shows fathers' reports of which parent committed violent behaviors. Each bar shows how often fathers who reported the occurrence of a violent behavior reported that they had committed it, that both parents had committed it, and that the mother had committed it. Fathers, more often than mothers, reported that both parents had committed a violent behavior. Mothers' and fathers' reports about violent behavior were provided in the context of a contested child custody case. Conflict surrounding these cases could influence the reporting of violent behaviors and who committed them. However, parents filled out their surveys privately; they saw only their own responses and were told that the responses would not affect their cases.

- Forty-three percent of fathers who reported pushing, grabbing, shoving, throwing things, slapping, kicking, biting, or hitting indicated that both parents had committed it. One-quarter of fathers who reported threats had been made said that both parents had committed them.
- Fathers' responses about which parent had committed a sexual assault were frequently missing.



## Mothers and Fathers Did Not Often Self-Report Committing Violent Behaviors

When mothers and fathers reported that a violent act had occurred, they often reported that the other parent had committed it. Parents less frequently self-reported committing these violent acts. Table 3 shows the percentages of mothers and fathers who not only reported each violent behavior, but also reported that they themselves had committed it.

- The most commonly self-reported violent behavior was pushing, grabbing, shoving, throwing things, slapping, kicking, biting, or hitting. (Twenty-eight percent of

**Table 3. Gender Differences in Reports of Which Parent Committed Violent Behaviors**

Violent Behaviors (Universe is number of mothers and fathers committing each violent behavior)	% Mothers Who Self-Reported Committing		% of Fathers Who Self-Reported Committing	
	n	%	n	%
Ever pushing, grabbing, shoving, throwing things, slapping, kicking, biting, or hitting (n = 1,395 mothers; n = 943 fathers)	388	28%	471	50%***
Ever threats of violence (n = 1,051 mothers; n = 481 fathers)	96	9%	169	35%***
Ever sexual assault (n = 286 mothers; n = 39 fathers)	12		9	23%
Ever use of weapon, knife, or firearm (n = 298 mothers; n = 172 fathers)	35	12%	22	13%

Source: SUSRS 1999 Client Baseline Study  
 \*\*\*Significant difference between percentages of mothers and fathers at  $p < .001$  level.

mothers and 50 percent of fathers who reported that violent behavior reported that they committed it).

- There were significant differences (at the  $p < .001$  level) between the percentages of mothers and fathers who self-reported committing pushing, grabbing, shoving, throwing things, slapping, kicking, biting, or hitting and making threats.
- Of the mothers who self-reported committing violent behaviors, the fewest reported committing a sexual assault. Three percent of mother reports were self-reports. Of the fathers who self-reported committing violent behaviors, the fewest reported using a weapon, knife, or firearm. Twelve percent of father reports were self-reports.

### Demographic Characteristics Were Only Slightly Related to Reports of Interparental Violence

Reports of interparental violence were not significantly related to many parent demographic characteristics. (Figure 5 outlines the differences found in reports of any indicator of interparental violence). This is the widest possible index of all possible reports of violence between the parents. It was used to avoid bias that could exist for individual questions.

- The percentage of fathers reporting any indicator of interparental violence differed significantly by income level (less than \$800 per month versus \$800 or more per month) and by employment status (employed versus unemployed).
- Percentages of parents in different demographic categories (age, ethnicity, income, education level, and employment) who reported any indicator of physical violence are shown in Supplemental Tables A through E on page 10.

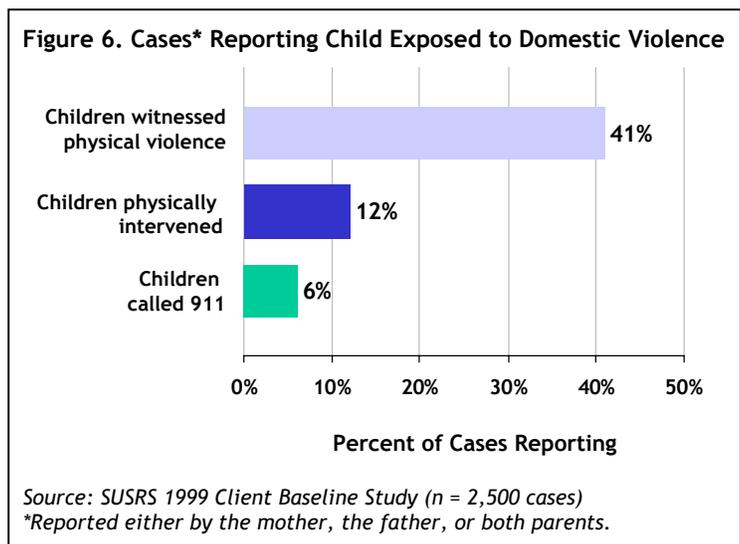
**Figure 5. Differences in Parent Reports of Any Indicator of Interparental Violence**

Parent Characteristic	Differences Found
Age	None
Ethnicity	None
Income level	Fathers only***
Education level	None
Employment status	Fathers only***

\*\*\* Significant at the  $p < .001$  level.

### Many Parents Reported Their Children Had Witnessed Interparental Violence

According to the reports of their parents (see Figure 6), many children in contested custody cases have witnessed interparental violence. All reports of children witnessing violence between their parents came from the parents' perspective; no surveys were administered to children. Parents' reports may underestimate children's actual exposure to domestic violence if parents are unwilling to report or are unaware that their children have been exposed to it.

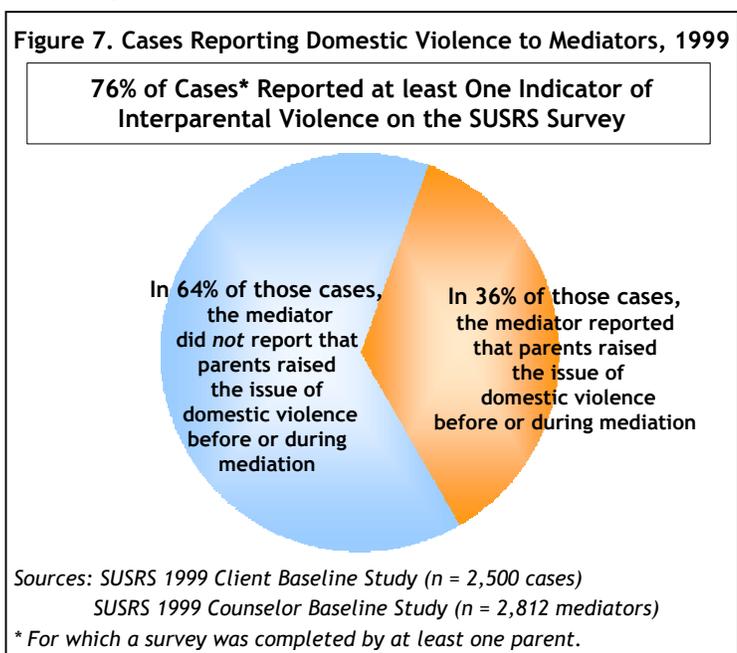


- In 41 percent of all cases, one or both parents reported that their children had witnessed physical violence between their parents; in 12 percent of cases, at least one parent reported that his or her children had physically intervened during a violent incident; and in 6 percent of cases, at least one parent reported that his or her children had called 911 during a violent incident.
- The percentages in Figure 6 were calculated for all cases, regardless of the ages of the children.
- The survey did not ask parents whether their children had been the victims of physical abuse.

## Less Than Half of Cases With a History of Interparental Violence Raised the Issue in Mediation

If parents reported prior interparental violence on their surveys, this does *not* mean that they reported it to the mediator. Mediators also did not see parents' responses to the SUSRS survey.

- In 76 percent of all cases in contested child custody mediation, at least one parent reported on the survey an indicator of prior violence between the parents. It appears that parents who reported at least one indicator of interparental violence often did not often raise issues of domestic violence with mediators.
- In 36 percent of cases in which at least one parent reported prior interparental violence, the mediator reported that the parents had raised domestic violence as an issue before or during mediation (see Figure 7).
- The pattern shown in Figure 7 was also observed for cases that reported each individual indicator of interparental violence.



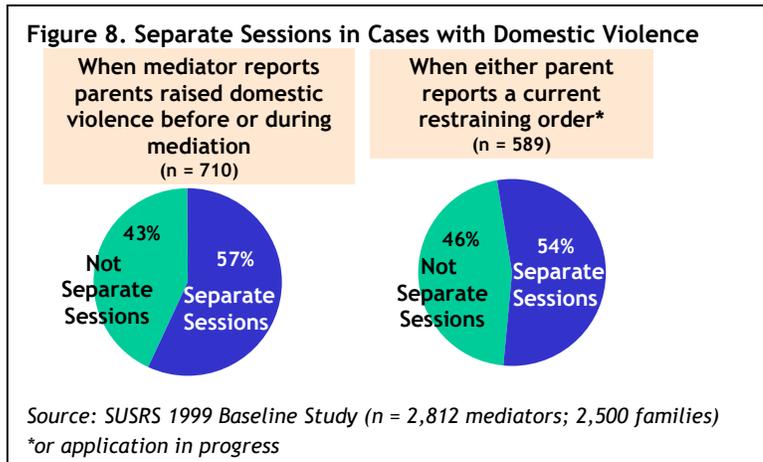
## Half of Cases With a History of Interparental Violence Received Separate Sessions

Since 1993, California law has required Family Court Services mediators to meet with parties in separate sessions when (1) there has been a history of domestic violence between the parties or a protective order is in effect *and* (2) the party alleging domestic violence has requested separate sessions.<sup>4</sup> Figure 8 illustrates the percentage of time that parents met in separate sessions (a) when the mediator reported that parents raised domestic violence as an issue before or during mediation, and (b) when either parent

<sup>4</sup> Cal. Fam. Code § 3181.

reported to researchers that there was a current restraining order or one in application between the parents.

- The parents are considered to have met in separate sessions if the mediator reported meeting either with the mother alone or with the father alone.
- Almost half of the 710 cases (43 percent) in which the mediator reported that at least one parent raised domestic violence as an issue before or during mediation did not meet in separate sessions.



- Similarly, nearly half of the 589 cases (46 percent) in which at least one parent reported a current restraining order did not meet in separate sessions.

## California Rules of Court Provide Guidance on Working With Cases That Have a History of Domestic Violence

Rule 1257.2 of the California Rules of Court identifies specific actions that Family Court Services staff must take to determine the parents' history of domestic violence and protect the safety of victims. The rule is designed to provide opportunities for the parties to inform the mediator of domestic violence as it relates to the case. It also provides steps that FCS staff should take to create a safe environment for the parties so that they may receive appropriate services. The following list outlines some key guidelines for FCS mediators that are covered in California Rules of Court:<sup>5</sup>

- Inform all parties of their right to meet in separate sessions and to have a support person attend orientation and mediation sessions. In domestic violence cases when neither party has requested separate sessions, the mediator must confer with the parties separately and privately to determine whether joint or separate sessions are appropriate.
- At intake *and throughout the process*, screen for restraining orders and safety-related issues affecting any party or child named in the proceedings. Screening procedures may include checks for restraining orders; reviews of court papers and declarations; telephone interviews; use of intake forms; and reviews of information from attorneys, shelters, hospital reports, Child Protective Services, police reports, criminal background checks, and other collateral sources. Carefully design questions to ask parents about prior domestic violence, and conduct screenings in safe conditions to elicit more accurate information.
- Discuss a safety plan with parties alleging domestic violence. Safety plans may cover safe housing, safety at the workplace, and access to financial resources.

<sup>5</sup> Unless otherwise noted, guidelines come from rule 1257.2. The full text of rule 1257.2 is available on the California Courts Web site at [www.courtinfo.ca.gov/rules/](http://www.courtinfo.ca.gov/rules/).

- Develop safety procedures for handling domestic violence cases, and make reasonable efforts to keep addresses and contact information confidential in all cases and on all paperwork.
- Terminate mediation if the mediator believes that he or she is unable to achieve a balanced discussion between the parties<sup>6</sup>.
- Make reasonable efforts to ensure the availability of safe and accessible services. For example, conduct programs in the languages of all participants, and consider minimizing contact between parties in domestic violence cases when designing facilities.
- Participate in continuing education on issues related to domestic violence and child abuse to comply with training requirements in Rule 1257.2. Prioritize training in conducting screenings and in appropriate responses to information that parents provide about domestic violence.

## Conclusions

This research update highlights the prevalence of domestic violence in child custody mediation cases and issues that may arise when screening for domestic violence in these cases:

- In most contested custody mediation cases in California, there is a history of interparental violence, regardless of the demographic characteristics of the parents. It would be helpful to compare these data to the prevalence of domestic violence among (1) groups of divorced or separating parents who did not use FCS mediation and (2) intact families with children.
- Even in cases with a history of relatively severe acts of domestic violence or restraining orders, the parents surveyed often did not raise issues of violence before or during mediation. In the future, it would be helpful to have more indicators of the severity, chronicity, and timing of the violent behaviors in the relationship.
- Parents who had a history of domestic violence often did not receive separate mediation sessions, even when the mediator reported that the parents had raised the issue before or during the mediation session.
- Parents did not always equate pushing, grabbing, shoving, throwing things, slapping, kicking, biting, or hitting with “domestic violence.” Therefore, without more prompting, they may not report to FCS staff that domestic violence has occurred in their relationship.

Rule 1257.2 of the California Rules of Court outlines steps that FCS staff must take to promote the safety of victims of domestic violence and provides guidance for working with these cases. For example, it describes procedures that should be followed to screen for issues affecting the safety of any of the parties or children in the case, to provide separate mediation sessions, and to help ensure the availability of safe and accessible services.

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<sup>6</sup> Cal. Rules of Court, rule 1257.1(e)(7)(2002).

## Supplemental Tables

<b>Supplemental Table A</b>		
<b>Age Category</b>	<b>Any Indicator of Domestic Violence</b>	
	<b>n</b>	<b>%</b>
<b>Total Mothers (n = 2,317)</b>	1,634	71%
16 to 24 (n = 372)	265	71%
25 to 29 (n = 445)	311	70%
30 to 34 (n = 470)	330	70%
35 to 39 (n = 480)	344	72%
40 to 44 (n = 274)	205	75%
45 and older (n = 120)	91	76%
Missing (n = 56)	88	56%
<b>Total Fathers (n = 2,201)</b>	1,283	58%
16 to 24 (n = 184)	113	61%
25 to 29 (n = 355)	213	60%
30 to 34 (n = 430)	235	55%
35 to 39 (n = 461)	287	62%
40 to 44 (n = 318)	195	61%
45 and older (n = 261)	160	61%
Missing (n = 192)	80	42%

*Source: 1999 Client Baseline Study*

<b>Supplemental Table B</b>		
<b>Ethnicity</b>	<b>Any Indicator of Domestic Violence</b>	
	<b>n</b>	<b>%</b>
<b>Total Mothers (n = 2,317)</b>	1,634	71%
White (n = 1,149)	816	71%
Hispanic (n = 676)	489	72%
African-American (n = 152)	105	69%
Other (n = 235)*	172	73%
Missing (n = 105)	52	50%
<b>Total Fathers (n = 2,201)</b>	1,283	58%
White (n = 1,040)	634	61%
Hispanic (n = 633)	371	59%
African-American (n = 190)	116	61%
Other (n = 223)*	130	58%
Missing (n = 115)	32	28%

*Source: 1999 Client Baseline Study*  
\* Includes Asian, Native American, and Other ethnicities.

<b>Supplemental Table C</b>		
<b>Income</b>	<b>Any Indicator of Domestic Violence</b>	
	<b>n</b>	<b>%</b>
<b>Total Mothers (n = 2,317)</b>	1,634	71%
Less than \$800/month (n = 786)	571	73%
More than \$800/month (n = 1,298)	920	71%
Missing (n = 233)	143	61%
<b>Total Fathers (n = 2,201)</b>	1,283	58%
Less than \$800/month (n = 371)	254	68%
More than \$800/month (n = 1,550)	904	58%***
Missing (n = 280)	125	45%

*Source: 1999 Client Baseline Study*  
\*\*\* Within-group difference significant at  $p < .001$  level

<b>Supplemental Table D</b>		
<b>Education Level</b>	<b>Any Indicator of Domestic Violence</b>	
	<b>n</b>	<b>%</b>
<b>Total Mothers (n = 2,317)</b>	1,634	71%
High school or less (n = 854)	598	70%
More than high school (n = 1,352)	979	72%
Missing (n = 111)	57	51%
<b>Total Fathers (n = 2,201)</b>	1,283	58%
High school or less (n = 863)	516	60%
More than high school (n = 1,223)	737	60%
Missing (n = 115)	30	26%

*Source: 1999 Client Baseline Study*

<b>Supplemental Table E</b>		
<b>Employment Status</b>	<b>Any Indicator of Domestic Violence</b>	
	<b>n</b>	<b>%</b>
<b>Total Mothers (n = 2,317)</b>	1,634	71%
Employed (n = 1,573)	1,115	71%
Unemployed (n = 653)	481	74%
Missing (n = 91)	38	42%
<b>Total Fathers (n = 2,201)</b>	1,283	58%
Employed (n = 1,848)	1,074	58%
Unemployed (n = 245)	180	73%***
Missing (n = 108)	29	27%

*Source: 1999 Client Baseline Study*  
\*\*\* Within-group difference significant at  $p < .001$  level

## Methodology

Data presented in this report come from the Statewide Uniform Statistical Reporting System (SUSRS), a series of studies conducted by the California Administrative Office of the Courts, Center for Families, Children & the Courts. The SUSRS consists of a network of discrete but interlocking studies containing representative and longitudinal data from over 18,000 child custody cases. Data were collected in 1991, 1993, 1996, and 1999. The 1999 Client Baseline Study collected information about 3,038 Family Court Services sessions (79 percent of all covered types of sessions conducted during the two-week study period). The four client baseline studies all used the same basic methodology: during a designated two-week study period, information was collected about every child custody and visitation mediation session offered in the state. For each mediation session conducted during the study period, both the parents and the mediator completed surveys.

- In most cases, both the mother and father in a family filled out a survey. Surveys were completed by parents in 2,500 cases. In 2,018 of those cases (81 percent), both the mother and father completed surveys; in 299 (12 percent), only the mother completed a survey; and in 183 (7 percent), only the father completed a survey.
- In 1999, 2,812 mediators completed SUSRS surveys. In 312 cases, mediators completed surveys but neither parent completed a survey.

For more information on the 1999 studies, see *Data Collection Methods (Center for Families, Children & the Courts, March 2001)*. [www.courtinfo.ca.gov/programs/cfcc/pdffiles/dcm99ss.pdf](http://www.courtinfo.ca.gov/programs/cfcc/pdffiles/dcm99ss.pdf)

## Levels of Analysis

Data for this report are taken from the 1999 Client Profile survey and the 1999 Counselor Report survey. The Client Profile survey was filled out by each parent before the mediation session, and the Counselor Report survey was completed by each mediator just after the session. Data are aggregated to three levels of reporting:

- **Case level (mediator report).** Percentages of cases are based on the total number of Counselor Reports collected ( $n = 2,812$  cases).
- **Parent (individual) level.** Percentages for this category are based on the total number of Client Profiles collected ( $n = 2,317$  mothers and  $n = 2,201$  fathers, representing 2,500 families).
- **Case level (parent report).** Percentages for this category are based on combined Client Profiles from mothers and fathers in a case ( $n = 2,500$  cases in 1999). When both parents reported, both responses are used. If one parent did not complete the survey, a “family” response consists of the report from one parent. A “yes” response at the case (parent) level includes instances when the mother reported yes, father reported yes, or both parents reported yes.

## Description of Selected Variables

- **At least one (any) indicator of domestic violence.** Report by parent(s) that any of the following ever occurred in the relationship: a restraining order; physical violence in the relationship; physical violence in the relationship in the last 6 months; use of a weapon, knife, or firearm; sexual assault; children witnessed physical violence between the parents; pushing, grabbing, shoving, throwing things, slapping, kicking, biting, or hitting; or threats of violence.
- **Current restraining order.** Report by parent or parents that there is a current restraining order in effect or one in application.
- **Report of violent behaviors.** Report by parent or parents that any of the following ever occurred in the relationship: use of a weapon, knife, or firearm; sexual assault; pushing, grabbing, shoving, throwing things, slapping, kicking, biting, or hitting; or threats of violence.
- **Self-reported violent behavior.** A mother is considered to have self-reported a violent behavior if she reported either that she or that both parents committed the violent behavior. A father is considered to have self-reported a violent behavior if he reported either that he or that both parents committed the violent behavior.
- **Separate sessions.** Mediator reported that he or she met with the mother alone or with the father alone.

**Statewide Uniform Statistical Reporting System  
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