

Families  
Against  
Court  
Travesties



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## Punishing the Victims

### How the Courts Re-victimize Women and Children When They Report Abuse

Earlier this year, USA Today published an investigative series titled “Florida blames mothers when men batter them - then takes away their children”. It focused on the child welfare system of Florida, exposing a well-established practice of removing children from mothers who seek help from an abusive relationship. Families Against Court Travesties, Inc. (FACTS), being committed to educating the public on these issues, is continuing the conversation with a panel of Family Court officials and litigants. In it, we discuss how protective mothers and their children are being systematically punished for reporting any type of abuse or for seeking help to leave abusive situations. <sup>1</sup>

#### What is FACTS?

Formed by a coalition of Family Court victims and activists in 2003 by the South Palm Beach County Chapter of NOW, Families Against Court Travesties, Inc. is primarily concerned that the Family Court system is harming children by treating them as property, ignoring their rights to contact with both parents, denying their parents due process, and in general not considering the children’s best interests. Some of us are victims of these injustices, some are friends and family members of victims, and some are simply devoted to healthy children and families. FACTS has volunteers who court watch in highly contested family court custody, DV and child abuse cases. We observe and write up reports. Donations allow us to help financially with some court related costs; as a 501(c)(3) corporation, donations are tax deductible.

#### What Kind of Abuse do Protective Mothers Report?

- Domestic Violence
- Child Abuse
- Child Sexual Abuse

We’re focusing primarily on Domestic Violence, but often times protective mothers will report that their children are being abused or molested by the Father and will be similarly punished.

#### What is Domestic Violence?

- According to the National Coalition Against Domestic Violence:

“Domestic violence is the willful intimidation, physical assault, battery, sexual assault, and/or other abusive behavior as part of a systematic pattern of power and control perpetrated by one intimate partner against another.”

- Also referred to as Intimate Partner Violence (IPV) it is primarily a male on female act. There are cases where the opposite is true and those cases should be taken seriously. But our focus is on women who have been abused and then re-victimized.

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<sup>1</sup> Broadcast on May 22, 2021, check with <https://pbcnow.org/> for a link.

## DV Statistics

- “Worldwide, almost one third (27%) of women aged 15-49 years who have been in a relationship report that they have been subjected to some form of physical and/or sexual violence by their intimate partner.” - World Health Organization
- “1 in 15 children are exposed to intimate partner violence each year, and 90% of these children are eyewitnesses to this violence.” - National Coalition Against Domestic Violence
- “3 – The number of women murdered every day by a current or former male partner in the U.S.” - Domestic Violence Homicide Help

## How are Protective Mothers Punished for Reporting Abuse?

- Being dismissed or disbelieved
- Being labeled “The Crazy One”
- Victim Blaming and Shaming
- “Why didn’t you leave him earlier?”
- “Well, you chose to have kids with him even though you knew he was abusive.”
- “It take two to tango.”
- Accusations of fabricating the abuse
- Accusations of Parental Alienation
- Loss of job and income
- Loss of friends and family that don’t want to get involved
- Threats of defamation lawsuits for naming your abuser
- Post-separation abuse from the abuser
- Domestic Violence by-proxy from the abuser
- Counter-parenting by the abuser
- Loss of custody through the Family Courts
- Loss of Custody through the Child Welfare System
- Endless anxiety or PTSD

## How are Children Punished in Abusive Situations?

- Being disbelieved or dismissed
- Being forced to talk about the abuse over and over again
- Being forced to live with their abuser
- Being torn away from their protective parent or main attachment figure
- Being sent to foster care where more abuse may occur
- Being manipulated or “brainwashed” by the abuser
- Being alienated from the protective parent
- The abuse continues and gets worse
- ACEs (Adverse Childhood Experiences) lead to life-long emotional and psychological problems

## USA Today series on The Child Welfare System of Florida

“Florida blames mothers when men batter them - then takes away their children”

By Suzanne Hirt, USA Today, December 16, 2020

<https://www.usatoday.com/in-depth/story-series/2020/12/16/florida-blames-mothers-when-men-batter-them-then-takes-their-children/6507973002/>

Suzanne Hirt’s Investigative series on the Florida Child Welfare System found the following to be true:

- The Florida Department of Children and Families, dependency courts and community-based nonprofits that deliver services to foster children and their parents are tasked with protecting vulnerable kids and keeping their families together whenever possible.
- DCF cited domestic violence as the reason it removed more than 3,500 children from biological parents in 2018, an increase of nearly 1,400 from 2013.
- Domestic Violence is the primary reason for 25% of removals this year.
- Florida dependency court records are confidential, which makes it impossible to understand the nuances of each case or to determine exactly why child welfare workers and judges believe an abused mother should lose her children.
- Taken together, the experiences of Protective Mothers reveal a system stacked against women who are abused. Caseworkers and judges treat them like criminals on probation, even when their children have not been physically harmed, and impose a level of scrutiny that many parents could not pass. Any failing can be used against them to remove their children or delay reunification.
- Some abusive fathers were deemed more fit or more credible than the mothers they attacked.
- Experts say Florida’s child welfare system focuses on the mothers’ behaviors rather than working to keep mothers and children safe from perpetrators. Even mothers who take the steps DCF encourages, such as calling police or fleeing to a shelter, can lose custody of their kids because agency officials use their history against them.
- Just 13% of investigators and their supervisors have a degree in social work, according to DCF data. Many are not married and don’t have children themselves. They often are fresh out of college and unfamiliar with poverty and other social conditions prevalent among the families they investigate.
- Study after study in recent decades has concluded that the nation’s child welfare system treats women unfairly.
- Mothers bear the brunt of caseworkers’ scrutiny because they are typically their children’s primary caregivers, while men – even violent men – are held to a lower standard.

## Joan Meier Study on Family Courts<sup>2</sup>

The Joan Meier study consisted of over 2,000 divorce and custody cases studied. All cases involved some sort of abuse claims from the mother...Domestic Violence, Child abuse or child sexual abuse.

Joan Meier completed an extensive study on Family Court cases in 2019 and found the following to be true:

- Courts believe mother’s claims of domestic violence 45% of the time. (517/1137 studied cases).

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<sup>2</sup> Meier, Joan S. and Dickson, Sean and O’Sullivan, Chris and Rosen, Leora and Hayes, Jeffrey, Child Custody Outcomes in Cases Involving Parental Alienation and Abuse Allegations (2019). GWU Law School Public Law Research Paper No. 2019-56; GWU Legal Studies Research Paper No. 2019-56. Available at SSRN: <https://ssrn.com/abstract=3448062> or <http://dx.doi.org/10.2139/ssrn.3448062>

- When fathers claim alienation, courts believe other's claims of Domestic Violence 37% of the time (28/76 studied cases). This comparison shows that courts are significantly less likely to credit abuse claims when fathers invoke parental alienation.
- Even when the courts believe a father is abusive, if they also believe the mother has Committed Other Alienating Behaviors not specifically labeled Parental Alienation, mothers lose custody to the abusive father 63% of the time (5/8 studied cases). So, simply being perceived as undermining a father's parenting rights, can also trump even proven abuse by a father. <sup>i</sup>
- The data show that courts are excessively skeptical of child physical and sexual abuse reports, are likely overly skeptical of domestic violence claims, and sometimes award custody to known abusers. Overall, mothers reporting abuse - particularly child abuse - are losing custody at high rates.
- Overall, abuse is 1.26 times more likely to be credited without a GAL than with one (38% v 33%).
- Abuse is 1.44 times more likely to be credited by the court if there is no evaluator (38% v 30%).

## Conclusions

- All too often, society blames the victim for allowing the abuse instead of placing the blame where it belongs, on the abuser.
- Protective mothers that report domestic violence or abuse, and take steps to leave their abusers, may have no good options available to them. They have to choose between a bad situation and an even worse situation. THEY CANNOT WIN.
- There is a clear systemic gender bias when it comes to Domestic Violence. Abusive men are innocent until proven guilty. Female victims have to prove beyond a shadow of a doubt that their abuser is guilty and, even if she can, it may not matter. But the opposite is often true for women. Women are considered guilty until proven innocent. They have to jump through hoops to prove that they're not "failing to protect" or alienating children from their fathers.

## Solutions - How can we protect victims of abuse?

- Educate judges on Domestic Violence
- Changes in legislation that put the child first in custody issues, instead of the parents.
- Changes in legislation that protect victims of Domestic Violence
- Changes to the Child Welfare System that prioritize keeping children with their healthy parents and not in Foster Care.
- Access to mental health services for victims and children
- Get the legislature to add a resolution for providing mandatory electronic recordings of proceedings in Family Court child custody cases.

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<sup>i</sup> Example: Here, the study narrowed down even further what happens when the accused father counter claims with "Parental Alienation". Then the study narrowed down what happens when the courts actually believe the mother's abuse claims but also believe the mother is alienating the child in some way, even WITHOUT the father claiming "parental alienation". There were only 8 of those cases within the 2,000 studied. And 5 of those cases still gave custody to the abusive father. It is a small number, but when taken in the over-all context of the study it shows how hard it is for a woman to be believed when she claims any type of abuse. And even if she is believed by the courts, the "parental alienation" claim from the other side will likely prevail and she will lose custody.

Even if she is believed, the courts often impose the alienation label themselves and take custody away.