

FAMILY COURT CRISIS

Children at Risk

Presenters:

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- Tara Shabazz – Executive Director, California Partnership to End Domestic Violence

Family Court Crisis

Case History

IACHR Recommendations

Inter-American Commission on Human Rights
(Jessica Lenahan Gonzales v. the United States)

- Multifaceted legislation at the federal and state levels, or to reform existing legislation, making mandatory the enforcement of protection orders and other **precautionary measures to protect women from imminent acts of violence**, and to create effective implementation mechanisms.

IACHR Recommendations

- Adopt multifaceted legislation at the federal and state levels, or reform existing legislation, including **protection measures for children** in the context of domestic violence.

IACHR found the US failed its due diligence obligation to protect, investigate, and remedy human rights violations against women and children.

Divorces/Custody in California

- Approximately 200,000 divorces per year
- 60% of divorcing families have children
- Only 15% of custody cases are disputed
- Disputed cases often include allegations and evidence of domestic violence, child abuse, and/or substance abuse
- Less than 2% are child sex abuse cases

Family Court Crisis

- Family courts are not designed to adjudicate violent or sexual crimes
- Mental health professionals investigate
- 70% of identified batterers receive unsupervised contact or full custody
- 90% of identified molesters receive unsupervised contact or full custody
- Appeals are prohibitively expensive

Family Court Crisis

Research by Geraldine Stahly, PhD

- 399 national participants, all mothers
- Approximately 40% of cases from California
- 90% of mothers are domestic violence victims
- 80% of children witnessed the violence
- 75% of children named father as perpetrator
- 59% of children had evidence of abuse
- 50% of fathers had criminal records

Family Court Crisis

- 66% of mothers were advised not to mention domestic violence or child abuse
- 78% of judges and 63% of evaluators ignored or minimized child abuse
- 70% of mothers lost custody after going to family court to protect the children
- Two thirds of mothers lost custody based on evaluator's recommendation

Family Court Crisis

- Mothers spent on average \$100,000 each
- 27% of mothers filed for bankruptcy
- 78% of cases are still in progress
- 86% of children continue to report abuse
- 59% of mothers have stopped reporting abuse fearing termination of contact with child

Recommendations

To effectively protect battered mothers and abused children from further human rights violations, we recommend the implementation of specialized domestic/family violence courts that are integrated into criminal courts in all counties.

- Cases with allegations of violence, sexual abuse, and substance abuse would be permanently placed in these specialized courts.
- Courts must err on the side of caution and child safety when a child reports a violent or sexual crime by a parent.

Recommendations

Recommendations to ensure child safety and due process:

- Facts and evidence must be submitted on a standard investigative report format containing separate sections for completion by law enforcement officers, domestic violence advocates (risk assessment), and substance abuse experts;
- A litigant who lacks funds must be provided an attorney if the opposing litigant has an attorney;
- All hearings must be recorded by a court reporter or videotape;
- Outcome data must be maintained and made available;
- All cases in which a child is placed with a parent whom the child identifies as violent or sexually abusive must be reviewed at no cost to litigants.