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Defining the Boundaries of Child Neglect

When Does Domestic Violence Equate With Parental Failure to Protect?

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Child maltreatment does not exist in isolation from other forms of family violence. Notably, research supports the connection between wife abuse and child maltreatment, and research on the possible consequences to children exposed to domestic violence has influenced a redefinition of child maltreatment legislation and policy. Recently, some states have considered and passed legislation making witnessing of domestic violence, per se, a form of criminal child abuse. This article explores conceptual discontinuities in official definitions of child maltreatment in relation to domestic violence failure to protect matters by drawing on data from legislative reviews, child protective services, and individual-level definitions. Implications for policy, practice, and research are addressed.

Keywords: *domestic violence exposure; child witnessing; child neglect; failure to protect; child welfare*

Often, the various types of child maltreatment do not exist in isolation from other forms of family abuse, violence, and disorder. Past research has firmly established that marital violence and child physical abuse are linked in complex ways (Appel & Holden, 1998; Aron & Olson, 1997; Edleson, 1999; English & Marshall, 1999; Jouriles, Murphy, & O'Leary, 1989; Lyon, 1999; Shepard & Raschick, 1999), and estimates of the overlap range from 30% to 60% of cases where either child maltreatment or domestic violence is occur-

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ring (Edleson, 1999). Ross's (1996) analysis of the 1985 National Family Violence Survey found that in families where there had been almost weekly episodes of wife beating, the probability of child abuse by the male batterer was a virtual certainty. Of late, research on the possible serious consequences to children from exposure to domestic violence has influenced child maltreatment definitions and policies on child endangerment (Edleson, 1999; Holden, Geffner, & Jouriles, 1998; Margolin, 1998; Wolak & Finkelhor, 1998) that have fueled controversy and resulted in a class action lawsuit against child protective services (CPS) in New York City. At the heart of the controversy are policies and practices that would define childhood exposure to adult domestic violence, net of other abuse and neglect, as automatic maltreatment under the law (domestic violence per se laws) and that would hold mothers accountable for the exposure. A major purpose of this article is to consider the basis for such practices and to examine the definitions of child maltreatment categorizations that undergird related current law, policy, and practice.

Some may regard the presence of domestic violence in a family as synonymous with emotional abuse or neglect of a child or as no different from family situations where there is a presumed failure to protect the child from physical or sexual maltreatment by another. Recently, some states have considered legislation that makes the witnessing of domestic violence per se a form of criminal child abuse (Schechter & Edleson, 1999; Shepard & Raschick, 1999). However, there is a need to determine whether this legislation actually helps children, punishes the batterer, or if, in fact, it is being used inappropriately against battered women, and to what extent that occurs.

The definition of *failure to protect* as a particular form of child maltreatment, typically encompassed by the child maltreatment category of neglect, has been broadly and often vaguely defined. Statutes and policies are in flux due to the complexities of the issue and uncertainty about the best response when domestic violence is perceived as a major threat to the child. There is little research on the consequences for women and children when CPS steps in to investigate households where allegations have been made of domestic violence-related failure to protect. As awareness of the overlap between wife abuse and child maltreatment has grown, child welfare agencies and battered women service providers are just now attempting to bridge their historical tensions and advocacy differences to address the complex problems posed by the co-occurrence of wife battering and child maltreatment (Aron & Olson, 1997). Resolving these matters is challenging because agencies must learn to balance the safety and well-being of children with that of their mothers, despite different priorities of advocacy and varying paradigms of client engagement (Fleck-Henderson, 2000).

The major purpose of this article is to conceptually analyze factors that can influence a paradigm of domestic violence–related failure to protect and to identify the problems that are inherent in such definitions as viewed from the levels of law, system practices, and the individual. We draw on data from various sources for illustrative purposes, including legislative updates and an ongoing child maltreatment study that we are conducting, to examine the following: (a) official definitions of child maltreatment, particularly, domestic violence–related failure to protect; (b) CPS definitions of failure to protect; and (c) individual-level definitions of domestic violence–related failure to protect issues. Finally, we consider implications for policy, practice, and research.

OFFICIAL DEFINITIONS OF CHILD NEGLECT AND DOMESTIC VIOLENCE–RELATED FAILURE TO PROTECT

Most agree that neglect means a failure to provide for the basic needs of children. One area of seeming consensus is that neglect is an act of omission (e.g., failure to provide adequate medical care for the child) rather than an act of commission of abuse (e.g., Zuravin, 1999), and all but a dozen states criminalize omissions of care in their child abuse and neglect laws (Matthews, 1999). The maltreatment category that pertains to maintaining a safe environment for the child, or a lack thereof, is probably the least clear-cut element in attempts to define or legislate neglect. Charges that a parent has failed to protect a child from some type of danger, such as violence in the home, frequently exemplify the lack of clarity in this concept and related legal practices. Protection of the child from danger and harm in the home might seem, on the surface, to be one of the most basic parental responsibilities. In fact, research finds deleterious consequences to children from exposure to domestic violence (Wolak & Finkelhor, 1998). However, there is no consensus on what constitutes a threshold of dangerousness in children's exposure. This illustrates a gray area in establishing domestic violence–related failure to protect as a type of maltreatment, because research has not yet provided definitive answers on determining a sufficient threshold of exposure to constitute harm to children.

Patterns of abuse can also vary widely, as can the moderating factors and the effects on children (Grych, Jouriles, Swank, McDonald, & Norwood, 2000; Hughes & Luke, 1998). Moreover, defining exposure to domestic violence, per se, as emotional abuse or as domestic violence–related neglect may be seen as an example of confounding cause with effect. Likewise, poverty influences parental ability to provide for the basic needs of children. Yet, a

number of state laws specifically exclude poverty-related neglect from their definitions of criminal maltreatment (thereby disentangling cause from effect). There are other analogous situations in which recognizably harmful factors are overlooked in defining the risks to children or not charging parents with maltreatment, including the use of corporal punishment and parental substance abuse.

Often, it seems that there are more questions and contingencies than there are simple answers with regard to the general concept of failure to protect. Should law and policy only be concerned with those situations where one parent fails to protect the child from physical abuse by another but ignore the cumulative injurious effects of emotional insults? Should the defining criteria reflect or preclude causes, such as poverty, parental disability, substance abuse, or domestic violence? Should the definition reflect behaviors, such as actions of the parent or the parental failure to act, or should the ultimate standard reflect the effects or consequences for the child, such as evidence of actual, imminent, or potential long-term injury to the child? These questions illustrate some of the broad conceptual dilemmas that are inherent in establishing standards for law and policy. We next examine current, relevant legislative issues and trends related to failure to protect issues, and then we consider the implications of a specific example of a state statute for child maltreatment and domestic violence intervention standards.

How Do States Define Abuse and Neglect? Official Definitions

The problems of conceptual vagueness that exist around definitions of neglect and definitions of failure to protect are demonstrated by legislation and state child protection laws. Federal legislation, specifically the Child Abuse Prevention and Treatment Act (CAPTA) (1974) and its amendments, provides broad definitions of abuse and neglect that are open to varying interpretations by the states. According to English (1998), CAPTA sets only minimum standards for states and leaves the states with the specifics of definitions, criteria, and procedures for establishing abuse and neglect. When official definitions of abuse and neglect are narrowly or specifically defined, the laws favor the presence of demonstrable harm or imminent risk to the safety of the child. In contrast, broader, often vague, definitions of abuse and neglect, such as those indicated by CAPTA legislation, are likely to encompass the potential harm of cumulative risk incurred by chronic abuse and neglect and harm that may not be observable (English, 1998). English noted that were it not for the concept of endangerment, broadly defined, parents could inflict endless acts of physical abuse, such as repeatedly kicking a child down the steps, as long as there was no demonstrable injury. Applying this

line of thinking to situations of domestic violence–related failure to protect is problematic, in part, because we lack conclusive standards for intervention; yet, legislative changes are occurring.

Changes in legislation. We reviewed national legislative updates on family violence for a recent 3-year period (National Council of Juvenile & Family Court Judges, 1997, 1998, 1999). Our review indicated a growing trend to legislate domestic violence committed in the presence of a child. Recent legislation has taken the form of enhanced criminal penalties for domestic assaults committed in the presence of a child, but these are mainly used as leverage in prosecuting the batterer for domestic violence (Whitcomb, 2000), and the effects on sentencing seem more symbolic as most are still misdemeanor offenses.

Four states have adopted laws redefining domestic violence in the presence of a child as child abuse (Alaska, Georgia, Utah, and Minnesota), and there are variations in the laws. For example, in Georgia and Utah, domestic violence exposure, per se, is criminal child abuse. Utah's 1997 law stipulated the need for a prior incident report of domestic violence or an act of serious domestic violence such as a homicide attempt or serious injury. Nevertheless, the law is said to be infrequently applied to women.

It has often been observed that de jure and de facto practices differ, and some studies illustrate these differences. For example, a survey of 90 prosecutors from around the country found that they reported a low chance of prosecution for a failure to protect a child from exposure, per se, but about 80% reported at least some chance that they would prosecute if there was a failure to protect the child from abuse, or if the mother was the abuser. However, the presence of specific statutes on domestic violence–related failure to protect increases the likelihood of investigation and prosecution (Whitcomb, 2000). The ramifications of such specific legislation are also illustrated by Minnesota's experience in the following discussion.

The Minnesota example. Minnesota has reverted to an original statute, adopting a practice standard that focuses on identifying those cases in which there is repeated assault and witnessing by a child. Minnesota has been at the forefront of domestic violence policy and, as noted above, has attempted to rewrite its statutes to create specific penalties for committing domestic violence in the presence of a child. In August of 1999, the Minnesota state statute on domestic violence and neglect changed. The new law provided specific language on what CPS would assess in regard to committing domestic violence in the presence of a child, including, for example, the following:

Neglect means that the parent or other person responsible for the care of the child: (iv) subjects the child to ongoing domestic violence by the abuser in the home environment that is likely to have a detrimental effect on the well being of the child. (Neglect or Endangerment, 2000)

In April 2000, Governor Ventura repealed the new law, and CPS went back to using a previous statute (Neglect or Endangerment, 2000). The August 1999 law revision was viewed as very broad and concerned many CPS workers, domestic violence advocates, and community members for several reasons. First, the law would cost the state of Minnesota millions to implement due to the increase in referrals and additional workers needed to assess newly mandated cases. Second, the repealed language indicated that the parent who was the victim of domestic violence would be found neglectful if she or he remained with or moved back in with her or his abuser. The statute is under revision, and for now, it appears that Minnesota CPS is mandated to use the previous statute. Currently, in Minnesota, CPS will investigate only when the parent (either parent) "endangers the child's mental or physical health," when the parent engages in "repeated domestic assault," or when the child "witnessed repeated incidents" of domestic violence (Reporting of Maltreatment, 2000). According to a Minnesota CPS supervisor, the agency is required to consider the safety of the child when determining action (M. Wells, personal communication, October 27, 2000).

Conceptual and Empirical Meanings of *Witnessing* Domestic Violence

One of the problems with per se laws, or per se elements of law, such as in the repealed Minnesota statute, is that the concept of *witnessing* has often been vaguely defined. Similarly, studies on the effects of witnessing on the child show highly variable effects (Edleson, 1999; Shipman, Rossman, & West, 1999), depending on how the concept was measured; the presence of single, sequential, or dual perpetrators; the gender of the offending parent (Appel & Holden, 1998); and other mediating or moderating factors such as mental health problems of a family member, family stresses, or resources. Although it may be important to discern whether the child has been exposed by witnessing or by hearing parental fights, this distinction was missing from many early studies, and current researchers opt for the more encompassing terminology of *childhood exposure* to domestic or intimate partner violence (Wolak & Finkelhor, 1998). Another concern is the rarity of pure types of abuse and neglect among maltreated children and, most likely, among "exposed" children. Children may be simultaneous victims of multiple forms

of maltreatment that are not detected. Current studies show that there are a wide range of behavior problems among children exposed to abuse in their families (Cummings, Pepler, & Moore, 1999; Groves, 2002; Hughes & Luke, 1998; Lehmann, 2000), and it is more than likely that the extent of problems is greatest when the child experiences multiple types of victimizations. Still, many of the confounds noted above, including underreporting by parents, and children, themselves, raise questions about our ability to establish any simple cause-effect analysis (Edleson, 1999) and to know the extent and nature of related problems.

In the next section, we examine the incidence of domestic violence-related failure to protect as defined by CPS, and we consider CPS system responses to failure to protect allegations.

CPS DEFINITIONS OF DOMESTIC VIOLENCE-RELATED FAILURE TO PROTECT

New Hampshire CPS Study Sample

Little is known on the U.S. incidence of failure to protect allegations, or on the extent to which cases of child maltreatment are substantiated based solely or even mainly on the presence of domestic violence-related failure to protect. Our New Hampshire data from an ongoing CPS study in two counties of the state were collected for the purpose of a substance abuse-related child maltreatment study. These data also provide information of the extent to which co-occurrence (domestic violence and child maltreatment) and domestic violence-related failure to protect are defined as such by CPS and how the system responds initially. To examine these issues, descriptive and bivariate analyses were conducted on intake and assessment record data on 407 New Hampshire families referred to CPS for investigation. In addition, qualitative analyses were conducted on a subsample of 100 cases to examine the elements of child witnessing, CPS response and interpretation of the problem, and CPS assessment of the child's views of the experience.

Incidence of domestic violence-related failure to protect. A descriptive analysis, displayed in Table 1, shows that among the 407 families studied to date, 36% (145 families) of the intake allegations or caseworker assessment notes mentioned domestic violence as a risk factor. This rate of co-occurrence is considerably less than one would anticipate, based on previous studies. Of those 407 referrals under assessment, only 25 specifically identified failure to protect as a category of maltreatment, or approximately 6% of

TABLE 1: New Hampshire Child Protective Services Incidence of Domestic Violence and Failure to Protect Categorizations (N = 407)

| Category | n | Incidence Rate (%) |
|--|-----|--------------------|
| Domestic violence | 145 | 36 |
| Failure to protect | 25 | 6 |
| Domestic violence with failure to protect ^a | 12 | 8 |

TABLE 2: Victimization Types for Domestic Violence (DV)–Identified and Non-DV-Identified Cases (N = 407)

| | DV Absent (%) (n = 262) | DV Present (%) (n = 145) | χ^2 | Significant |
|----------------|----------------------------|-----------------------------|----------|-------------|
| Physical abuse | 13.0 | 41.8 | 47.990 | $p < .001$ |
| Neglect | 61.8 | 34.2 | 31.330 | $p < .001$ |
| Sexual abuse | 4.4 | 1.9 | 0.129 | <i>ns</i> |

NOTE: Each row represents a separate 2 × 2 analysis for victimization type and the identification of domestic violence.

all the study participants. Looking only at the proportion of referrals where domestic violence was identified, we found that just 8% of the domestic violence–identified families were regarded as failing to protect a child. Among that small sample of cases, most consisted of allegations of neglect against the mother (8 out of 12), rather than using the failure to protect designation.

Domestic violence and maltreatment types. Further understanding of the factors influencing CPS views is provided by data in Table 2 that illustrate the types of maltreatment found in conjunction with domestic violence in CPS samples. It should also be noted that the presence of these categories is not mutually exclusive. Multiple types of victimizations can be present. It can be seen that physical abuse allegations were several times more common among families where domestic violence was identified compared to those where it was not, and the difference is highly significant. Also, although allegations of neglect are present in about a third of families with domestic abuse, this is more typical of non–domestic violence–identified families.

CPS dispositions in domestic violence–related failure to protect. The results in Table 3 when domestic violence is absent show no significant difference in the ways that CPS defines and processes referral dispositions by

TABLE 3: Referral Dispositions by Domestic Violence (DV) and Failure to Protect (FTP) Categorizations (N = 407)

| | <i>FTP Absent (%)</i> | <i>FTP Present (%)</i> |
|-----------------------------------|-----------------------|------------------------|
| DV absent ^a (n = 262) | | |
| Unfounded/closed | 87.1 | 84.6 |
| Open case/court substantiated | 7.2 | 0.0 |
| Voluntary services | 5.6 | 15.4 |
| DV present ^b (n = 145) | | |
| Unfounded/closed | 88.0 | 58.3 |
| Open case/court substantiated | 9.8 | 16.7 |
| Voluntary services | 2.3 | 25.0 |

a. $\chi^2 = ns$.

b. $\chi^2 = 15.40$, $df = 2$, $p < .001$.

the presence of failure to protect allegations in families where the domestic violence is non-identified. However, when domestic violence is present, resolutions of referrals are quite different when there has been a domestic violence-related failure to protect allegation. Although the numbers are very small, and caution is needed in generalizing from these results, it can be seen that voluntary services are about 10 times more likely to be offered in the domestic violence-identified failure to protect than in situations where no failure to protect concerns have been raised. Also, the vast majority of all assessments are closed unsubstantiated in this New Hampshire sample, regardless of the allegations. This is no different than the situation for the vast majority of maltreatment complaints investigated by New Hampshire CPS and many other states. Only a small proportion of all complaints result in substantiated, open cases.

Qualitative Analysis of Children's Domestic Violence Exposure and CPS Response

We conducted a qualitative case review analysis of 100 New Hampshire CPS cases where domestic violence was identified. The results presented here provide some relevant insights into the elements of child witnessing, CPS response and interpretation of the problem, and CPS assessment of the child's view of the experience.

The stereotypical view of the witnessing phenomenon is one of a child watching a fight between the mother and a male adult where there is both verbal and physical abuse, and the child is emotionally traumatized by the event (Tomison, 2000). However, as other research has indicated, and as supported by our data, witnessing may be far more complex than the latter scenario. In

fact, witnessing may include just hearing the violence, itself quite distressing, or seeing the aftermath of the violence in the mother's visible injuries. Abusing partners can use a child as a physical weapon against a spouse. Forcing the child to watch or participate in assaults, interrogating or involving the child in spying on his or her mother, or telling the child that his or her mother is to blame for all the fights because of her behavior are other examples of witnessing (Edleson, 1999; Tomison, 2000). We found many of the same elements of witnessing in conducting our case review of the incident narratives. In addition, some narratives mentioned the fears children had for their own lives or the lives of their parents. One child in our study witnessed his mother's suicide attempt. A quarter of the children witnessed a parent or parents being arrested and taken away by the police. A case vignette from the current investigators' child maltreatment study illustrates the traumatic intensity of violent events.

An 11 year old witnessed her mother being wrestled to the ground and punched repeatedly in the face, her baby sister being held hostage in the line of fire, and her mother's boyfriend cursing and her mother screaming for him to stop. She also witnessed the police arriving and her mother's boyfriend running off. Then the child accompanied her mother to the hospital and saw her mother's injuries attended to. The child witnessed a host of traumatic events, not just the violence but all the events connected to it as well.

The record data on which the above vignette was based do not document any history of the mother's caregiving capacity at other times or the impact on the child other than her fears that the boyfriend would kill her mother and baby sister. There is no specific documentation or indication of the severity of the violence other than "it happens a lot." Knowledge of the extent of the exposure could be important to decision making. Yet, we do not know the severity of past incidents, the mother's attempts to protect, or how the mother has defined the experiences of the children. Further assessment of the points noted could assist CPS in improved decision making about the safety of mothers and children, and about the services needed.

The qualitative review also found that only a quarter of children interviewed by CPS workers acknowledged the presence of abuse in the home, and approximately half of the latter group said that they felt safe (Natoli, 2002). More research is needed that systematically examines the self-reports of children as well as how CPS incorporates the reports of children into their case decision making.

New Hampshire CPS interpretations. We also conducted a qualitative review of current New Hampshire study cases in which domestic violence

was identified in the assessment, but failure to protect was not specifically documented. Our analysis found that the categorization and response to the issues vary by the CPS worker. Often, the case notes revealed multiple types of alleged victimizations occurring in the family and repeated exposure to domestic violence. The major difference between these study cases and the ones in which failure to protect is specifically mentioned appears to be whether there is demonstrable harm that a child is currently being abused or whether the abuser has been incarcerated or otherwise left the home. It appears that New Hampshire is not using a per se rule in categorizing exposure as maltreatment, and there is no state statute specific to a domestic violence category of failure to protect. In fact, New Hampshire CPS has a program in place in which there is a formal partnership between the state child protection agency and battered women advocates. All CPS district offices now have domestic violence experts collaborating on site, and this program may be affecting the types of dispositions for domestic violence cases, such as the use of voluntary over court-mandated services.

INDIVIDUAL-LEVEL DEFINITIONS OF DOMESTIC VIOLENCE-RELATED FAILURE TO PROTECT

Factors Defining Parental Views

At the level of the individual, there is very little literature on how battered women view or define their children's experiences in the household. Yet, their views and experiences as mothers are critical to our understanding and the effectiveness of interventions. Undoubtedly, parental views may be shaped by experiences in their own families of origin, including whether the family environment was nurturing or violent. There is substantial research supporting the multigenerational effects of violent socialization (e.g., Kaufman Kantor & Jasinski, 1998). A history of victimization in the family of origin may have direct as well as indirect linkages to parental maltreatment of children. For example, childhood victimizations are associated with adult psychological distress, including depression and drug and alcohol abuse (Kaufman Kantor & Asdigian, 1997). These problems also share a complex etiology that is exacerbated by life circumstances such as poverty and the accumulation of stressors. Victimization (past and current) are traumatic events that may result in interpersonal deficits such as feelings of powerlessness, diminished self-esteem, and self-defeating interpersonal strategies (McGrath, Keita, Strickland, & Russo, 1990).

On a more positive note, anecdotal evidence suggests that many women can and do take action once they realize their children are being negatively affected by domestic violence. Yet, little empirical research documents the effectiveness of such insights or knowledge on women's behaviors that might guide practice. Clinical experts maintain that many battered women have internalized models of caregiving that predate the abuse that are healthy and clear and they can act out of this place (Stephens, 1999). However, further research on the dynamics of parenting among abused women and parenting behaviors of mothers and fathers in abusive homes is needed.

Parenting problems for battered women. Battered mothers can get trapped in psychological processes that contribute to their difficulties protecting their children or buffering the effects of the abuse. They may fail to provide the nurturance needed by a child or physically abuse the child due to their own childhood experiences, or as a corollary to ongoing abuse by their intimate partner. Another potential dynamic underlying a woman's lack of nurturance is that she may blame a child for having characteristics of her abusive partner and then project adult motives and behaviors onto the child (Stephens, 1999). The mother may also project her own self-hatred, often fueled by the abuser, onto the child and treat the child as her "bad self," thereby not protecting the child.

Battered women may experience some psychological snares involving the batterer's role in their children's lives that become Herculean to overcome. The most common trap is the explanation "but he's their father" provided by battered women, the conviction that the batterer loves the children in the face of substantial evidence to the contrary, and the belief, often true, that the children love the batterer. These are among the common reasons that women choose to stay for the sake of their children (Stephens, 1999). That children do bond with their abusive caretakers is real, and if a woman is at all ambivalent about leaving, this may tip the scale away from taking action (Stephens, 1999). Women may fail to recognize the impact of the abuse on their children and are often dismayed when they finally hear from their children what it was really like for them.

Clearly, some battered women do abuse their children, and they must be held accountable. However, even in these instances, certain dynamics must be understood as to how the events are defined and perceived by women. It should also be noted that although battered women are twice as likely as non-battered women to abuse a child, male batterers are three times more likely to be identified as the perpetrator of the physical child abuse. Male batterers commit the vast majority of the most injurious assaults on their children (American Humane Association, 1994; Edleson, 1999); yet, there has been

little attention paid to their parenting roles. Defining failure to protect in terms of women's behavior may be an error in attribution, which is affected by an underlying bias, and all too frequent truth in our society, that women are the primary parents.

IMPLICATIONS FOR RESEARCH, POLICY, AND PRACTICE

Prescriptions for future policy and practice need to clarify the extent and the nature of the problem. A review of legislative changes found that only a few states have adopted laws redefining domestic violence in the presence of a child as child abuse, or a failure to protect the child from exposure *per se*. Furthermore, our review indicates that the national incidence of allegations of child maltreatment that include a complaint of child endangerment due to witnessing or exposure to parental domestic violence is still largely unknown. Also unknown is the extent to which CPS workers, around the country, document failure to protect in their case observations or the extent to which children are removed temporarily or parental rights terminated solely due to domestic violence-related failure to protect. However, study data from New Hampshire indicated that 36% of CPS intake allegations or caseworker assessment notes mentioned domestic violence as a risk factor. Failure to protect as a category of maltreatment was rarely used; we found a rate of 6% among the 407 study participants. Among the referrals where domestic violence was identified, just 8% of the domestic violence-identified families were regarded as failing to protect a child, and in the latter group, most consisted of allegations of neglect against the mother (8 out of 12). Thus, it would appear that among families in New Hampshire, defining domestic violence in a maltreatment sample and defining exposure as maltreatment are relatively uncommon events.

Defining Neglect and Domestic Violence-Related Failure To Protect

The category of failure to protect is potentially very broad, and further careful definition is needed as a basis for empirical investigation, policy, and practice. Still, there are a number of unanswered questions. Would all parents who expose their children to domestic violence be complicit in a failure to protect? Is it fair to say that parents are aware of the consequences of exposure to domestic violence, and therefore, exposure *per se* is a fair criterion of neglect? Where is the line drawn? These kinds of difficult issues have heretofore hindered adequate definitions and measurement of neglect and poten-

tially hindered interventions and decisions by CPS and the courts that are in the best interest of children and their parents. If we are to adequately assess and intervene in cases of domestic violence–related failure to protect, then we must first agree on the conceptual principles underlying our assumptions.

Regarding exposure to domestic violence as per se child maltreatment confounds the causes and effects of neglect. It also minimizes the difficult circumstances encountered by battered women and the obstacles experienced in leaving violent relationships. Determinations of parental fitness need to consider that a number of different patterns of violence may be present in the family, including situations where children are the targets of violence and situations that may mitigate against harmful consequences.

There is also some inherent danger in putting the emphasis on conceptual clarity of our definitions if we sacrifice the developmental needs of the child in the process. An important caveat to this line of thinking is that even though particular parental acts or omissions are not criminalized, as in the presence of domestic violence or poverty, this should not justify social inaction toward families or children.

Implications for Research

There are still many unknowns before we can adequately answer the question about when domestic violence in a family can be equated with child neglect. Clear definitions of neglect and a precise understanding of how domestic violence and child maltreatment overlap are needed to adequately understand and address this problem. We also need to know the extent to which domestic violence–related failure to protect results in different consequences for the child and the longitudinal consequences of varying types of exposures; this may be very relevant for particular research, clinical assessment, or placement decisions. We need to establish those situations in which domestic violence causes neglect and abuse and establish the appropriate perpetrator. In particular, future research is needed so that we can make an objective determination of the threshold of severity for exposure to domestic violence and therefore the threshold needed for intervention. There is also a need to investigate battered women's perceptions of their children's experience of family violence and the ways in which children's self-reports influence decision making by CPS and the courts.

Implications for Policy and Practice

Using preliminary case review data from New Hampshire as an example suggested that CPS workers use the criterion of demonstrable harm to the

child rather than looking just at exposure, *per se*. In our view, CPS standards for intervention in the best interests of the child need to take into account the frequency and severity of parental violence, parental and child injury, and parental ability to nurture, along with the mother's experience of domestic violence and her attempts to protect her children. CPS should also take into account whether multiple forms of victimization are present. When domestic violence is just one of multiple types of victimization occurring in a family, the scales may be tipped against the child. Detailed screening for domestic violence in the family and careful appraisal of the child's psychological well-being and the mother's well-being should be part of the CPS standard assessment in all alleged maltreating families.

The New Hampshire data suggested the practice of providing voluntary services for families where a domestic violence-related failure to protect has been identified occurs more often than court-mandated removal, and this is to be commended. Removal of the child from the parent, even an abusive parent, can be traumatic for a child, and there is still the possibility of children experiencing multiple placements and lingering in foster care despite changes in federal regulations (National Council on Child Abuse & Family Violence, 2002).

The example of Minnesota illustrated that implementing *per se* legislation may be overwhelming and costly to a state. Nevertheless, we need to examine how institutional responses such as attitudes and policies affect the problem. In addition, we need to take heed of battered women's perceptions and experiences in attempts or nonattempts to protect their children from abuse. Helping professionals better understand the distance between their theories and assumptions and the actual experience of battered women is a basic necessity. Although there are no easy answers for responding to these complex issues, communities must find a way to provide for the needs and safety of battered women and their children that shares accountability with the parents and hold batterers accountable.

Despite the co-occurrence of child maltreatment and domestic violence, the service sectors that treat these problems often operate in independence. Child protective workers primarily focus on children, and battered women services focus on domestic violence. Systems issues such as the narrowing of the gateway into CPS to its services, increasing numbers of unsubstantiated cases, and early closure of cases may affect the growing numbers of maltreated children in domestically violent homes (English, 1998). An encouraging sign is that numerous collaborations between CPS and domestic violence advocates are emerging. Furthermore, collaborations are directed toward strengthening community partnerships across law enforcement, the

judiciary, and health care institutions (Schechter & Edleson, 1999). Collaborative approaches to family violence involving partnerships between the judiciary, domestic violence coalitions, and CPS, notably the Greenbook Project (Kracke, 2001), are now being implemented and evaluated in six community sites around the country. These efforts are notable because they are attempting cross-system changes to improve responses to battered women and their children, to increase batterer accountability, and to improve linkages to community resources. The efforts are also notable because the relationship between research, policy, and practice ultimately has the potential for halting the cross-generational transmission of violence.

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