"Shared Parenting" Places Ideology Over Children

by Barry Goldstein and Veronica York

Just as custody courts developed responses for domestic violence at a time when no research was available, early proponents of shared parenting sought to experiment when there was no research about shared parenting. Initially, parents seeking shared parenting did so voluntarily, in situations where they were able to communicate and cooperate. There is now legitimate research that found co-parenting benefits children only under the best circumstances. This requires the arrangement to be voluntary; an ability to communicate; neither parent is afraid of the other; and they live nearby. There is other legitimate research that found shared parenting is harmful to children because of the constant disruptions. There is no valid research supporting shared parenting without the necessary favorable circumstances. Unfortunately, this is a mistake courts frequently make.

Most custody cases, like other litigation, are settled more or less amicably. The problem is the 3.8% of cases that require trial and often much more. Court professionals have been taught to use a high conflict approach that assumes the parents are angry with each other and acting out in ways that harm the children. The research found 75-90% of these cases are really domestic violence cases that involve the most dangerous abusers. These are men who believe she has no right to leave, and who seek to use custody disputes to regain control. These are the last cases where shared parenting should be considered, but courts that have been slow to integrate important scientific research or use a multi-disciplinary approach, have trouble recognizing abuse in these cases. The use of shared parenting increases the bias to minimize or deny abuse in order for the case to be eligible for co-parenting.

The use of shared parenting has been encouraged and promoted by three groups based on their preferences and personal benefits, divorced from the well-being of children. Male supremacist groups support shared parenting because otherwise the safe, protective mother would have a strong advantage. Court professionals promote shared parenting because it creates the need for lucrative services, particularly to help hostile parties communicate. Court officials like shared parenting because they must respond to overcrowded dockets, and believe shared parenting is the only compromise both parties can be pressured to accept. In domestic violence cases, the abuser would never agree to anything reasonable, so they need to pressure and sometimes threaten the victim to settle cases. In my articles, I often need to explain problems that occurred after victims were pressured to accept co-parenting with their abuser.

Shared Parenting was Never Intended for Domestic Violence Cases

Most people, including court professionals, are unaware custody courts are having severe problems trying to respond to cases involving domestic violence or child abuse. Many protective mothers believe the courts are corrupt because the decisions and process are so unfair and catastrophic. While there is corruption with the cottage industry, courts are making harmful decisions because of their failure to use evidence-based research and unintended bias. Court officials would vehemently deny the system works poorly, but the factors that influence courts demonstrate their denials are wrong.

There is something undeniably wrong with a system in which a theory based on no research; but only the belief that sex between adults and children can be acceptable; and twice rejected by the American Psychiatric Association because of the lack of supporting research; has more influence over courts than two studies from the most credible sources, that go to the essence of what courts need to decide in custody cases involving possible domestic violence or child abuse.

Domestic violence is about control, including financial control. This means that in most contested cases the abuser controls most of the financial assets. Unscientific alienation theories were concocted and continue to be used to help cottage industry professionals make large incomes helping abusive fathers. The cottage industry lobbied to include alienation in the DSM which is the compendium of all valid mental health diagnoses. I am not aware of any other court that continues to consider a theory twice rejected by the leading professional association.

The ACE (adverse childhood experiences) Studies are peer-reviewed medical research from the Centers for Disease Control and Prevention. ACE found that children exposed to domestic violence, child abuse and other traumas will live shorter lives and face a lifetime of health and social problems. Most of the harm is not from any immediate physical injuries, but from living with the fear and stress abusers cause. Clearly, this knowledge goes to the essence of the well-being of children.

The Saunders Study is peer-reviewed scientific research from the National Institute of Justice in the US Justice Department. Saunders found court professionals need knowledge of specific subjects that include screening for domestic violence, risk assessment, post-separation violence and the impact of DV on children. Professionals without this knowledge tend to focus on the myth that mothers frequently make false reports and unscientific alienation theories. These mistaken approaches lead to recommendations and decisions that harm children. Saunders recommends a multi-disciplinary approach that would include experts in domestic violence and child abuse when those subjects are important to the custody decision.

I think it is significant that ACE is used by medical doctors to diagnose and treat patients, by therapists to treat patients, by schools to help traumatized students, and by health officials to improve public health. In contrast, the only purpose of alienation theories is to help abusive fathers gain custody. Without ACE, courts inevitably minimize domestic violence and child abuse and without Saunders, courts rely on the wrong experts and so disbelieve true reports of abuse. ACE and Saunders demonstrate that many standard court practices are mistaken. This is not neutral in the sense it applies to both parents. All the mistakes from failing to consider ACE and Saunders tilt courts in favor of abusive fathers and towards risking children. Significantly, the National Council of Juvenile and Family Court Judges seeks to train other judges about ACE and Saunders.

The research differs on whether shared parenting is helpful or harmful in cases involving two good and loving parents. Decisions in these cases are less consequential because either parent or both parents will do their best for their children. Cases involving possible domestic violence or child abuse are very different. I interviewed medical doctors working with the ACE Research for my Quincy book. I asked them the most important question for courts to consider in these cases. When a child has been exposed to multiple ACEs, is there something we can do to save the child from the awful consequences? We can save these children, but standard court practices, particularly when promoting shared parenting prevent the responses the doctors said are necessary to save children from the awful consequences. Saunders found abusers use decision-making to block needed treatment and especially therapy because they are afraid the child will reveal his abuse. When courts require unprotected visitation without requiring the abuser to change his behavior, the child cannot heal and is doomed to a shorter, less healthy life. These contested cases are often the last chance to save the child.

Stop Using Shared Parenting in Abuse Cases

The combination of high conflict approaches and shared parenting is dangerous and too often deadly. High conflict creates a false equivalency between victims and abusers. Courts typically immediately demand co-parenting and take risks before they have time to consider the evidence of abuse or the critical context. Many court professionals immediately start promoting and pressuring for shared parenting. Victims are routinely punished if they object to cooperating with their abusers. Victim's lawyers often tell clients not to raise abuse issues and not to object to dangerous arrangements. This results in courts making harmful decisions without ever learning about the history of abuse. This approach also serves to silence children who are exposed to the abuser. In the process, the importance of primary attachment is minimized and in some cases breast feeding is short-circuited to make sure the abuser has a "fair" amount of the child's time.

Court professionals have repeatedly been told that children do better with both parents in their lives. This is true but is based on having two safe and loving parents. This is often not true in contested custody cases. Children need their primary attachment figure more than the other parent and the safe parent more than the abuser. When children have two good parents, they certainly benefit from a relationship with both parents. There is no valid research that children do better with 50-50 than say 70-30 or some other division.

The original idea behind shared parenting was made in total good faith. Unfortunately, it is often used for harmful purposes that bad-faith actors seek to hide. Male supremacist groups promote shared parenting as a first step towards taking children from their best parent. This is based on the ideology of "father's rights" and a strong desire to avoid child support. The use of shared parenting often limits the needed inquiry about the history of abuse.

The biggest problem with shared parenting is that it is routinely used in inappropriate cases. Saunders found it should never be used in domestic violence cases. Even in the rare instances that a mother makes a false report, this is not the kind of case where parties are able to communicate effectively. Shared parenting was never meant for abuse cases, but with present outdated practices, courts are destroying children's lives to promote an ideology and sense of entitlement.

Courts and legislatures need to address the failure of custody courts to integrate evidence-based research and consider the specialized expertise about domestic violence and child abuse that would help courts avoid dangerous mistakes. Until the present problems with the courts' approach to the most consequential cases can be fixed, the last thing legislatures should focus on is expanding co-parenting arrangements that are already dangerously overused.

Some legislatures have recognized the serious problems discussed in this article. They have passed piecemeal solutions that would help children if they were properly implemented. The problem is that judges are often comfortable with familiar outdated practices and defensive about their mistakes. Repeatedly, we have seen courts work around instead of with the piecemeal reforms. Legislatures that want to protect the children in their states must support comprehensive legislation to create needed reforms. The legislation should specifically tell courts to stop using the outdated practices that harm children. The legislation must make the health and safety of children the first priority. The use of the word health requires courts to use the ACE Research because otherwise judges cannot recognize the full range of health risks. The legislation must promote the integration of important research like ACE and Saunders. The legislation must promote a multi-disciplinary approach that Saunders recommends. The legislation should provide for an early hearing limited to abuse issues to avoid distraction with less important issues and tactics. The legislation must also provide training in domestic violence as recommended in Saunders for judges and preferably other court professionals. The legislative solution is called the Safe Child Act. It is the comprehensive solution to court decisions that too often take away our children's last chance for a full and healthy life. When legislators are ready to respond to the custody court crisis, it is much better for them to finally solve the problem rather than make it worse by further expanding shared parenting that is already overused.

Barry Goldstein is a domestic violence author, speaker, advocate and expert witness. He is the author of six books concerning domestic violence and child custody. Barry is the author of the Safe Child Act which is a comprehensive plan based on current scientific research that can fix the broken court system and make family courts safe for children.

After a 20-year sales and marketing career in the Television Industry, Veronica York felt a passion and calling to make a career change. Due to her own experience with a "high conflict" custody battle that started in 2018, she realized that the best interest of children was not the priority in the family court system. Veronica has advanced training in family law mediation, writes articles and performs speaking engagements on the topic of contested custody in domestic violence and child abuse cases. She also does training for family court professionals on the misuse of parental alienation and the tactics of Post Separation Abuse during a divorce.