

Vera Institute of Justice

Criminal Justice Issues and Prisoners' Rights

<https://www.vera.org/blog/victims-of-domestic-violence-need-greater-system-support>

Public Facing Advocacy Writing

As October's Domestic Violence Awareness Month comes to an end, we can reflect on how far we've come since the early 1970s when shelters gave women the option to leave abusive partners, but separation was considered the only viable option. Today, women who experience domestic violence have Family Justice Centers, specialized domestic violence courts, supervised visitation centers, more knowledgeable judges and lawyers with specialized training, and more.

Yet, while more resources exist for battered women, the legal system has also begun to hold women, especially mothers, to impossibly high standards in our legal system. In family court, a battered mother often does not feel free to expose the abuse that she and possibly her children are facing. When mothers allege abuse in custody cases, and seek to limit their partners' contact with their children, either through seeking supervised visitation or no contact, judges often conclude that these allegations are an effort to alienate the abuser from his children. This is accepted with minimal required evidence, as family courts often do not have rigorous evidentiary standards. A [very high percentage](#) of battered mothers lose custody of their children to their abuser, and an increasing number of battered mothers are not seeking the help they need.

What about civil court? Police officers, lawyers, advocates, etc. often suggest that a protection order is a great resource for victims experiencing violence. A friend could disclose her abuse, without alleging abuse to her children nor seeking custody. Is that a better alternative? Probably not. There is still widespread belief among the judiciary and the family bar that protection orders are used as tools and bargaining chips in custody proceedings. Additionally, Child Protective Services (CPS) can open a case against a victim of domestic violence if they hear of violence occurring in the home, including through a protection order. So even if a mother does not allege abuse against her children, [a case could be opened](#) and her parenting, relationship, etc. could be investigated as a case of child neglect. Ironically, many CPS case workers [require that victims get a protection order](#), potentially endangering their safety, as many abusive men will fault the women for being system-involved, for not being able to see their children, for their children being removed from the home, etc.

What if a woman calls the police, and the city or county wants to prosecute? Not so fast. In addition to risking CPS involvement, the woman must be 100 percent committed to testifying or risk jail time in certain instances. A city in Georgia was [recently sued](#) for fining victims of domestic violence who refused to participate in the prosecution. Additionally, a Florida judge was [recently censured and publicly reprimanded](#) after the judge belittled and humiliated and then jailed a victim of domestic violence for failing to appear to testify against her abuser, despite being the sole caretaker of a one-year-old child.

But mothers aren't just being punished for claiming they or their child have been abused; they are also being punished for not stopping abuse to their children. According to Vera's new report [Overlooked: Women and Jails in an Era of Reform](#), women in jail are the fastest growing correctional population in the country, increasing 14-fold between 1970 and 2014. One subset of women in jails is mothers being [held criminally responsible](#) for the actions of their abusers when their children are harmed or killed. These failures to protect crimes [exist in 29 states](#), resulting in jail time for up to one year in states like Minnesota to life in prison in Oklahoma. Instead of grieving the loss of their children, or even attending their funerals, battered mothers are being booked in jail to await trial and blame.

Family court, civil court, and criminal court are all trending towards denying custody of children to mothers who have been abused, yet a mother's failure to enlist these services can now be considered reckless or negligent. For a battered woman attempting to protect her children, none of these options seem helpful; they all result with her child in someone else's care, including the very person abusing her and her children.

As we take this month to reflect on how far the domestic violence movement has come, we should also consider what we need to do next to ensure that battered women and mothers can rely on the system to secure a safe future for themselves and their children. Women should not face penalties for not turning to the system nor should they be punished when they choose to ask for help.

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