

# WHEN CHILDREN WITNESS DOMESTIC VIOLENCE: EXPERT OPINION

**A summary of expert testimony from the Decision of U.S. District Judge Jack Weinstein in  
*Nicholson v. Williams*,  
Case #00-CV2229, U.S. District Court, Eastern District of New York**

This case challenged the practice of New York City's Administration for Children's Services of removing the children of battered mothers solely because the children saw their mothers being beaten by husbands or boyfriends. Judge Weinstein ruled that the practice is unconstitutional and he ordered it stopped. NCCPR's Vice President was co-counsel for the plaintiffs in this case.

During the trial several leading national experts testified about the impact on children of witnessing domestic violence, and the impact on children of being removed from the non-offending parent.

In general, the experts found that witnessing domestic violence is sometimes, but not always, harmful to children. And even when witnessing domestic violence does harm, removing the child from the non-offending parent is more harmful. Indeed, one expert testified that a removal under such circumstances "is tantamount to pouring salt on an open wound."

**Judge Weinstein's summary of expert testimony is presented below in full. Where portions appear in boldface, the emphasis has been added by NCCPR.**

The full, 183-page decision is available here: <http://bit.ly/2pL8Zrr>

## Views of Experts

### a. Effects of Domestic Violence on Children

At trial, substantial expert evidence was presented on the subject of how children are affected by the presence of domestic violence in the home. Two general topics were addressed; the effect that witnessing domestic violence has on children, and the connection between domestic violence in the household and direct abuse against the children.

**The consensus of the experts was that the children can be – but are not necessarily – negatively affected by witnessing domestic violence.** Exs. 137, 139, 141(b), 143, 149, 151, 240, Z, BB.

The experts agreed that children who witness domestic violence experience a broad range of responses. City defendants' expert Linda Spears testified that "the impact [of domestic violence on children] ranges from none to serious." Tr. 1998. Dr. Jeffrey Edelson cited three recent studies which concluded that at least half of the child participants who witnessed domestic violence had "few or no problems evident" when compared with children who were not

experiencing domestic violence, and that there was “a great deal of variability in children’s experiences and the impact of those experiences.” Ex. 170 at 3-4.

Subclass B’s expert, Betsy McAlister Groves, concluded that the existing body of research, “while documenting the seriousness of domestic violence for many children, also make[s] the point that children are affected in a wide range of ways.” Tr. 2758.

The experts cited a number of factors which may influence how an individual child responds to being exposed to domestic violence.

Dr. Edelson reports that these factors include the level of violence in families, the degree of the child’s exposure to the violence, the child’s exposure to other stressors, and the child’s individual coping skills. Ex. 170 at 3-4.

Ms. Groves testified that the degree to which a child may be affected by exposure to domestic violence is related to the child’s age (younger children are more vulnerable), the frequency and content of what the child saw or heard, the child’s proximity to the event, the victim’s relationship to the child, and the presence of a parent or a caregiver to mediate the intensity of the event. Tr. 2735-38, 2746, 2755.

The experts also agreed that how children manifest the effects of exposure to domestic violence varies widely. Ms. Groves explained that short-term effects include post-traumatic stress disorder, sleep disturbances, separation anxiety, more aggressive behavior, passivity or withdrawal, greater distractibility, concentration problems, hypervigilance, and desensitization to other violent events. Tr. 2739-40, 2751-54. Dr. David Pelcovitz, a child and adolescent psychologist, offered similar testimony:

“[A] certain percentage of children exposed to domestic violence suffer from a variety of behavior and emotional difficulties. On the emotional level they tend to be at increased risk for depression and anxiety and disruptive behavior disorders, such as conduct problems, and other issues with ... compliance with authority. On the behavioral level also there is a higher level of aggression. On the academic level there is a higher rate of academic difficulties ...[although] [s]ome children ... actually appear to be resilient and show no obvious kinds of outcomes.” Tr. 52-53.

There was some disagreement among the experts as to the likelihood and seriousness of the long-term effects experienced by children who witness domestic violence. Ms. Groves testified that the long-term effects can include a propensity to use violence in future relationships and to hold a pessimistic view of the world. Tr. 2742-43.

Dr. Evan Stark, however, offered a lengthy and wellsubstantiated opinion that children rarely experience long-term effects from witnessing domestic violence. He testified that “one of the most dramatic experiences that advocates in the domestic violence movement have had is watching problems that seem to be quite profound and clinically significant abate after a relatively short period of safety . . . and security was provided.” Tr. 1556.

He cited studies which demonstrated that, among children exposed to the most severe domestic violence, well over 80 percent, and sometimes over 90 percent, tested psychologically normal, were self-confident, had positive images of themselves and were emotionally well off. Furthermore, while children exposed to the most severe forms of domestic violence are more

likely to become violent adults or delinquents, 95 to 97 percent of the children in these situations do not become delinquent, do not develop alcohol or drug problems, and about 90 percent do not become violent adults. Tr. 1557-59.

On the question of the relationship between the presence of domestic violence in a household and direct maltreatment of children, the experts generally agreed that there is some correlation between the two.

One report cited by Dr. Edelman reviewed thirty different studies on the link between adult domestic violence and physical child abuse, and determined there was a 40% median co-occurrence in the samples studied. Ex. 170 at 7.

Dr. Stark's research at Yale New Haven Hospital revealed that "in the vast majority of cases" where a mother was battered and a child was maltreated in a home, the man who battered the mother was also the source of child abuse or neglect. Tr. 1546. **In other words, the "man hits wife, wife hits child" scenario is rare; abuse tends to flow from a single source. Tr. 1546-47.**

In a 1999 study by Jeffrey L. Edelson in which he surveyed existing research on how children respond to witnessing domestic violence, he addressed how this evidence should influence decisions about child maltreatment. In his conclusion, Edelson observed that there is **"great concern [regarding] how increased awareness of children's exposure [to domestic violence] and associated problems is being used. Concerned about the risk adult domestic violence poses for children, some child protection agencies in the United States appear to be defining exposure to domestic violence as a form of child maltreatment.... Defining witnessing as maltreatment is a mistake. Doing so ignores the fact that large numbers of children in these studies showed no negative development problems and some showed evidence of strong coping abilities. Automatically defining witnessing as maltreatment may also ignore battered mothers' efforts to develop safe environments for their children and themselves.** A careful assessment of the risks and protective factors in every family is necessary before drawing conclusions about the risks and harm to children. Ex. 163 at 866.

#### b. Effects of Removals on Children

Several expert witnesses, including Dr. Peter Wolf, plaintiffs' expert, testified about the primacy of the parent-child bond and the effect on a child if he or she is separated from a parent. He averred that the attachment between parent and child forms the basis of who we are as humans and the continuity of that attachment is essential to a child's natural development. Tr. 565-67. See also, Joseph Goldstein, Medical Care for the Child at Risk: On State Supervision of Parental Autonomy, 86 Yale L.J. 645, 649-50 (1977) ("No other animal is for so long after birth in so helpless a state that its survival depends on continuous nurture by an adult. Although breaking or weakening the ties to the responsible and responsive adults may have different consequences for children of different ages, there is little doubt that such breach in the familial bond will be detrimental to the child's well-being.").

Dr. Wolf testified that disruptions in the parent-child relationship may provoke fear and anxiety in a child and diminish his or her sense of stability and self. Tr. 565-67. He described the typical response of a child separated from his parent: "When a young child is separated from a parent unwillingly, he or she shows distress.... At first, the child is very anxious and protests vigorously

and angrily. Then he falls into a sense of despair, though still hypervigilant, looking, waiting, and hoping for her return ....” A child’s sense of time factors into the extent to which a separation impacts his or her emotional well-being. Thus, for younger children whose sense of time is less keenly developed, short periods of parental absence may seem longer than for older children. Tr. 565-65. See also Ex. 141b.

Similarly, plaintiffs’ expert Dr. Stark noted the importance of a consistent relationship with a primary caretaker to a child’s health development. Tr. 1562. **For those children who are in homes where there is domestic violence, disruption of that bond can be even more traumatic than situations where there is no domestic violence. Dr. Stark asserted that if a child is placed in foster care as a result of domestic violence in the home, then he or she may view such removal as “a traumatic act of punishment... and [think] that something that [he] or she has done or failed to do has caused this separation.”** Tr. 1562-63.

Ms. Groves testified that when a child is separated from a mother because of domestic violence, the separation is even more traumatic, because the child “is terrified that a parent might not be OK, may be injured, may be vulnerable.... They feel that they should somehow be responsible for the parent and if they are not with the parent, then it’s their fault.” Tr. 2772.

Plaintiffs’ expert Dr. David Pelcovitz concluded that removals heighten the child’s sense of self-blame, and that children exposed to domestic violence are at a significantly above-normal risk of suffering separation anxiety disorder if separated from their mother. Ex. 139. **Dr. Pelcovitz stated that “taking a child whose greatest fear is separation from his or her mother and in the name of ‘protecting’ that child [by] forcing on them, what is in effect, their worst nightmare, ... is tantamount to pouring salt on an open wound.”** Ex. 139 at 5.

Another serious implication of removal is that it introduces children to the foster care system, which can be much more dangerous and debilitating than the home situation. Dr. Stark testified that foster homes are rarely screened for the presence of domestic violence, and that the incidence of abuse and child fatality in foster homes in New York City is double that in the general population. Tr. 1596; Ex. 122 at 3-4. Children in foster care often fail to receive adequate medical care. Ex. 122 at 6. Foster care placements can disrupt the child’s contact with community, school, and siblings. Ex. 122 at 8.