

"Injustice anywhere is a threat to justice everywhere." -MLK

## RESEARCH ARTICLES

### **Adverse Childhood Experiences Study**

<https://www.cdc.gov/violenceprevention/aces/index.html>

### **Child Custody Evaluators' Beliefs About Domestic Abuse Allegations: Their Relationship to Evaluator Demographics, Background, Domestic Violence Knowledge and Custody- Visitation Recommendations**

Daniel G. Saunders, PhD; Kathleen C. Faller, PhD; Richard M. Tolman, PhD  
<https://www.ojp.gov/pdffiles1/nij/grants/238891.pdf>

### **Child Custody Outcomes in Cases Involving Parental Alienation and Abuse Allegations**

Joan S. Meier, JD; Sean Dickson, JD, MPh; Chris O'Sullivan, PhD;  
Leora Rosen, PhD; Jeffrey Hayes, PhD  
[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3448062](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3448062)

## COMMON CHILD CUSTODY PRACTICES PROVEN WRONG BY CURRENT RESEARCH

ACEs, Saunders & Meier showed that many standard court practices and beliefs are harmful to children. Considering the research would make a court's work much easier in DV custody cases by recognizing abuse and understanding the full risk. This would improve the courts' ability to protect children. Below are twenty common mistakes courts make when they fail to incorporate the current research of the ACEs, Saunders, & Meirer studies in DV custody cases.

Current Research on Domestic Violence Cases

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**TWENTY COMMON MISTAKES**

**1. FOCUSING ONLY ON PHYSICAL ABUSE:**

- ACEs say it is the fear and stress rather than physical injuries that cause most of the harm. Focusing just on physical abuse is an outdated approach.

**2. IGNORING SUBSEQUENT ABUSE TACTICS:**

- Harm is from fear and stress abusers cause. Early abuse tells victims and children what abusers are capable of; later tactics serve as reminders. Context is necessary to understand DV.

**3. ASKING VICTIMS TO JUST GET OVER IT:**

- Courts have the authority and power to force interactions with abusers but cannot remove the fear and stress. Forcing children to interact with abusers pushes fear and stress deeper inside the child where it will inevitably come out in more harmful ways.

**4. TREATING PUBLIC BEHAVIOR AS PROBATIVE OF PRIVATE BEHAVIOR:**

- With rare exceptions, abusers are skilled at being able to control their behavior in public. They treat their partners respectfully at the start of the relationship or else there would not be a relationship. Many evaluators and other professionals are often fooled by the abusers' good public behavior.

**5. THINKING SOMEONE WHO ABUSES THEIR PARTNER WOULDN'T ALSO ABUSE CHILDREN:**

- When a parent hurts their partner, they harm the child by creating fear and stress. Men who abuse a mother are 40-60% more likely to also abuse a child physically or sexually.

**6. FAILING TO FOCUS ON FEAR AND STRESS:**

- Most harm from abuse comes from fear and stress abusers cause. Courts should focus on reducing these factors. Contested custody can be the last chance to save and protect children.

**7. RELYING ON MENTAL HEALTH PROFESSIONALS FOR ABUSE ISSUES:**

- Turning only to mental health professionals has undermined the courts' response to abuse. Saunders found best practices require a multi-disciplinary approach, including specialized experts in DV.

**8. BELIEVING CHILDREN NEED BOTH PARENTS EQUALLY:**

- Children do better with both parents in their lives, but only if both parents are safe. Children need their primary attachment figure more than the other parent and the safe parent more than the abuser. When one parent has a history of DV or child abuse, it is best for the court to require the abuser to change this behavior rather than pressure the children to have unprotected visitation.

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**TWENTY COMMON MISTAKES**

**9. CONSIDERING SHARED PARENTING IN DV CASES:**

- Saunders found shared parenting is never appropriate in DV cases. Shared parenting research involved both parents with a desire to co-parent, communicate, live nearby, and absence of fear. Pushing shared parenting with parent coordinators is harmful in inappropriate cases.

**10. RELYING ON "HIGH-CONFLICT" APPROACHES:**

- 75-90% of contested custody cases are really DV cases in which abusers seek custody to regain control. "High-Conflict" approaches create a false equivalency between the parents and often punishes victims for reluctance to co-parent with an abuser. Courts need to determine the DV issue before exploring shared parenting.

**11. FAILING TO CONSIDER ALLEGED ABUSERS' MOTIVES:**

- Proper screening for DV requires determining the alleged abuser's motives instead of assuming it is love for the child. Tactics like undermining the relationship with the other parent (unless to protect the child), economic abuse, litigation abuse, blocking therapy or other needed decisions are common tactics abusers use when seeking to regain control.

**12. RELYING ON UNSCIENTIFIC ALIENATION THEORIES:**

- Parental alienation syndrome (PAS) and other alienation theories were created to help abusers deflect their wrongdoings and then gain custody. The theories were twice rejected by the American Psychiatric Association because no valid research supports them. Saunders and Meier found professionals without DV knowledge tended to focus on these unscientific theories. This has caused enormous harm to children. Courts must avoid relying on PAS.

**13. TREATING UNFOUNDED CASES AS FALSE REPORTS:**

- Child protective caseworkers are often inundated with cases but have no specialized knowledge about DV or child abuse. They often make inadequate investigations of abuse cases or treat a custody case as a reason to reject abuse reports. They also have strict time limits. Findings of unsubstantiated or unfounded abuse does not mean the reports were wrong.

**14. TREATING NO CRIMINAL CONVICTION AS PROBATIVE:**

- A criminal conviction requires proof beyond a reasonable doubt. This is far higher than preponderance of the evidence. Discrediting protective parents' or victims' reports of abuse based on lack of criminal conviction is an example of bias by holding them to a higher standard of proof.

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TWENTY COMMON MISTAKES

**15. FAILING TO HAVE RISK ASSESSMENT FOR ABUSE CASES:**

- Several types of abusive behavior are indicative of higher risk of lethality. Saunders found court professionals need, but lack, knowledge of risk assessment for DV cases. It is dangerous for unknowledgeable court professionals to make recommendations regarding DV or child abuse.

**16. OMITTING THE ACE SCORE IN ABUSE CASES:**

- Children exposed to multiple ACEs are at increased risk of facing negative health and social sequela, along with decreased life expectancy. Including ACE assessments in the best interest of children should be standard practice for courts to make informed decisions.

**17. NOT PROACTIVELY GUARDING AGAINST GENDER BIAS:**

- There is substantial research confirming widespread gender bias against women. Examples include holding women to a higher standard of proof, giving women less credibility, and blaming mothers for the actions of their abusers. Gender bias is usually unintentional and subconscious. The subject is not addressed as it should be because reports of gender bias often cause defensiveness or retaliation. Courts should keep asking what would have happened if the genders were reversed.

**18. BELIEVING THE END OF THE RELATIONSHIP ENDS ANY DV RISK:**

- DV is more than incidents occurring. It is who the abuser is. In most cases, the litigation is a continuation of the controlling and coercive behaviors. Abusers are more likely to abuse the next partner as well. Children cannot heal unless the abuse stops and behaviors change.

**19. PERMITTING "HARMFUL OUTCOME" CASES:**

- Saunders includes a section on "harmful outcome" cases. These are extreme decisions in which an alleged abuser wins custody and a protective parent, who is the primary attachment figure, is limited to supervised or no visitation. These decisions are ALWAYS wrong because the harm to the children increases risk of depression, low self-esteem, and suicide. Saunders found "harmful outcome" cases are caused by the use of flawed practices.

**20. USING SHORTCUTS IN DV CASES TO FOCUS ON IMMEDIATE ISSUES:**

- Courts often use shortcuts to save time in a crowded calendar. They may only address the immediate issue or limit each party's time. The courts intend for this to be a neutral approach, however it benefits abusers. Abusers often decontextualize their cases, such as starting the story immediately after they hurt the victim. It takes more time for the victim to explain the context and discuss research to help courts fully understand the risks the abusers present.