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Abused Mothers Keep Children in a Test of Rights and Safety

By Leslie Kaufman

In September 2002, child welfare workers, acting on a tip from a schoolteacher, arrived at a Bronx home to investigate a suspicious bruise on a 4-year-old boy. They quickly learned that the child's mother was entwined in a deeply abusive marriage, that she was living with her husband in violation of a court order to remain separate, and that the boy had been bruised before.

A year earlier, the child might have been whisked into foster care for safety. But in June 2002, a federal judge barred the city from removing children from a parent just because the parent was a victim of domestic violence, or because the parent had not acted to prevent the child from witnessing the abuse.

So the boy, whose name along with that of his mother is being withheld for their safety, stayed with his mother, and they have left the father. Today, the mother regularly dresses her son in his favorite hockey jersey, waits with him for the school bus in the morning and is living out another day in a court-ordered experiment at the dangerous and much debated intersection of child welfare and domestic abuse policies.

Those who champion the change say it has left more children in the care of a loving parent, but they acknowledge that it comes with risks as the child welfare agency is just beginning to develop the range of services needed to prevent the mothers from staying in such dangerous homes or from keeping their abusers away from them when they leave.

The Bronx mother tells that story. "I am very, very lucky to still have my son," says the mother, who thinks a different social worker might have taken him away. But, she said, her ordeal is not over. Although she has left and is divorcing her husband, he haunts her. Only last month, she said, he called and threatened to burn down the house. "When I come home at night my son still has this fear his father will come get him," the mother said, "and I have to hold him until he goes to sleep."

Domestic violence has always been a tricky problem for child welfare workers. Studies have shown, for instance, that households victimized by domestic violence can be spectacularly dangerous, even lethal, for children. And even temporary interventions – the brief removal of children or the forced treatment of the parents – can be undone as battered mothers return again and again to their abusive husbands or partners. Even the bravest of actions – a mother's permanent break – often provokes the highest risk of serious violence.

Punishing the Victim

As a result, the city has long recognized the delicate nature of these cases and increased specialized training for its workers who handle them. But in a March 2002 decision, Judge Jack B. Weinstein of United States District Court in Brooklyn found that the city's judgment calls had too often punished the victim, and that the mere fact of domestic violence was not sufficient grounds for taking children away from their mothers. The city has appealed the decision, and a hearing on extending the judge's order beyond its expiration date of Jan. 31, 2004, is scheduled for Dec. 9.

The decision arose from suits filed by three battered women; each said the city had charged her with neglect and placed her children in foster care although her only crime was to have been involved with a man who hit her and in some cases her children. In every other respect, the women argued, they were fit parents. The cases were eventually merged into a class action under the name *Nicholson v. Williams*.

The city counters that although the *Nicholson* lawsuit may have highlighted some instances of bad case practice, the child welfare agency does not as policy remove children solely because of domestic violence.

William C. Bell, commissioner of the city's Administration for Children's Services, argues that the city was and is on the cutting edge in developing services and standards for domestic violence victims long before the litigation. "The city had a reform agenda before the injunction and we have continued to implement it," he said.

But proponents of extending the injunction argue that it has shifted the focus of caseworkers in domestic abuse cases to the batterer from the victim. "In the past they were taking kids away from moms because it was an easy fix," said Carolyn Kubitschek, the lawyer for the battered women. "Now A.C.S. has been charging batterers with neglect and using family court to keep an eye on him."

Social workers cannot monitor homes around the clock, of course, but they are being trained to deal directly with local police precincts on the behalf of battered mothers. Through family court they can also file actions against the fathers to take away their legal rights to see the children or to visit their homes, and even to jail them.

As the bureaucracy recalibrates to be more sensitive to mothers, it gains new challenges. Keeping an eye on the batterer, for example, is easier said than done, as countless local police forces have learned in recent years. In addition, caseworkers are supposed to develop a safety plan for an abused mother and her children, something that advocates for abused women say most city caseworkers are not adequately trained to do.

Then there is the problem of limited resources available to even the most skilled caseworkers. Homeless shelters specializing in domestic violence victims are so overbooked that they turn away roughly half the women who apply. Other services like

specialized counseling and services intended for women from various cultures and ethnic groups are also oversubscribed.

“The good news is more kids are staying with their moms and more clinical services are being offered to these women,” said Andrew White, director of the Center for New York City Affairs at the New School, which completed a report on the impact of the *Nicholson* case in October. But, Mr. White said, “there was nowhere near the amount of counseling and other services needed to help the women change their lives and break the often repetitive cycle of domestic violence.”

The Bronx mother is just one example of complicated cases the city is now required to manage and the limits of protections it can offer. She met her husband six years ago, she said, when she was in her mid-20’s and still in a “party phase,” which included cocaine. In three months she was pregnant and in five months she was married.

The beatings started soon after she gave birth. Embarrassed to show her puffy black and blue face at the office, she lost her job. Others began to notice the abuse. After one vicious beating in 1999, her parents called the police, who arrested her husband on charges of battery. His wife was granted a yearlong order of protection from the court and went back to work. As soon as it elapsed, though, she returned to living with him. The cycle began all over again.

Watching in Hysterics

One drunken night in 2001, the mother said, her husband beat her in a public park so badly that her nose was broken. Their young son watched the entire episode in hysterics. Her parents called the police again. This time the court issued a three-year order of protection. But in violation of that order she went to live with him again.

A fast-talking fireplug of a woman with large, soft eyes, she does not seem like a passive receptacle for abuse, but, she said, that is what she was. She said her husband decided where they would live, told her where to sit when watching TV, and even ordered her to keep the bathroom door open when she relieved herself.

Asked to explain why she put up with so much, she shakes her head. She loved him, she explains, she was afraid of him, and, perhaps most important, she believed that families should stay together no matter what. “The thought of my son growing up without a father hurt me more than the beatings,” she said.

Her husband, meanwhile, was increasingly negligent or rough with their son. She said she often found her son’s diapers unchanged all day when she returned home from work. Once she found his piggy bank broken into.

In late 2001, she said, when their son went to preschool with an unexplained bruise on his face, the Administration for Children’s Services entered their lives again, opening an

investigation. But she said she was able to convince agency workers that the bruise was from an accident.

When the child showed up at school with bruises again in September 2002, his caseworker finally forced the Bronx mother to make tough decisions. In a different era, the boy might have been placed in foster care until the mother agreed to leave her husband, a punishing strategy that often backfired and could actually make the mother even more dependent on the man.

Instead, the caseworker temporarily gave custody of the boy to his maternal grandparents, but offered his mother and father an opportunity to get therapy, a condition of their getting their son back.

The mother started domestic violence counseling for the first time in her stormy relationship, but her husband refused. So in November 2002, afraid she would lose her child, the mother left her husband instead and the Administration for Children's Services awarded her custody of their son. She and the boy continue to receive counseling provided through an ethnic community group, which the mother said had made her realize that she no longer wanted to return to her husband.

Early Support Crucial

The director of the Safe Families Project for the Legal Aid Society, Lisa Kociubes, who is a social worker herself, could not speak to the Bronx mother's case directly but said the support that domestic violence victims are given early on can be critical.

"The front-loading of services is a really important part of this project and what A.C.S. is now doing," she said. "It allows the nonoffending parent to be able to achieve safety in a faster way, because it helps them overcome needs that make it difficult to leave." In some cases those needs might be new housing, immigration papers or an alternative form of income.

In the case of the Bronx mother, counseling specific to her ethnic background was the key.

But the caseworker also faces a tougher task of keeping the mother and child safe from the husband. He has continued to refuse counseling, his wife said, has threatened her over the phone, vowing to burn down the house where she and their son live, and she has seen him prowling the neighborhood with a flashlight. At court dates he has mocked her and her lawyer, calling them derogatory names, and after one family court hearing, he told her that if she did not shut her mouth, he would shut it for her, she said.

Each time, his actions have been reported as violations of the court order of protection. That swift reaction is a far cry from treatment received by many plaintiffs in the original *Nicholson* case, one of whom's husband violated his court order more than 20 times without the Administration for Children's Services' acting to help her.

Still, the Bronx husband has served no jail time despite three violations of the order of protection. In fact, he has filed countercharges against his wife, saying she falsely accused him. A trial date has yet to be set.

The Administration for Children's Services is responsible for protecting only children, but many of those who supported the *Nicholson* lawsuit want to see the agency's powers extended.

"You need to broaden the mission and hold caseworkers accountable for the safety and empowerment of the mother," said Evan D. Stark, who testified for the plaintiffs in *Nicholson* and is a member of a court-appointed panel with responsibilities to see that the injunction is carried out.

Whatever the current limits of protection offered by the agency, the Bronx mother says she is exceedingly grateful for the help she has received. She praises her caseworker from the Administration for Children's Services and her lawyer, saying they have given her the greatest gift of all: control of her life.

"They really took the time to investigate this and realize that I am the one protecting our son," she said, "and they also made me realize that my husband doesn't have power over me."

CAPTIONS: Photo: Lisa Kociubes, right, director of the Legal Aid Society's Safe Families Project, and Vicki Light, a lawyer. (Photo by Nicole Bengiveno/*The New York Times*)(pg. B3)

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