

Domestic Violence Allegations in Family Law Proceedings

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SUMMARY

Domestic violence myths and misconceptions remain pervasive in family law proceedings. As separation and custody litigation can coincide with heightened risks of escalating and lethal violence for survivors and children, there is an urgent need for courts and professionals to evaluate domestic violence allegations based on empirical evidence rather than assumptions about how a “credible” survivor should behave or report abuse. Delayed or incomplete disclosure, inconsistencies, and the absence of prior allegations should not be treated as evidence that abuse did not occur. Counter-allegations and litigation conduct should be evaluated within the broader context of the relationship and potential for ongoing coercive control. A trauma-informed, evidence-based approach is essential to assessing allegations of domestic violence and identifying and responding to safety risks of survivors and children during family law proceedings.

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DISCLAIMER

The views expressed are those of the author and do not necessarily represent the position of the University of Colorado Anschutz. This resource briefly summarizes high-level findings from available research. It is not a review of all evidence on the topic and is not intended as legal advice.

I. Introduction

Research identifies separation and the post-separation period as times of heightened risk for domestic violence escalation and is one of the strongest risk factors for lethality in abusive relationships (Hardesty et al., 2024; Spearman et al., 2024). Domestic violence varies in pattern, severity, chronicity, and degree of coercive control, and these distinctions can have different implications for post-separation risk and parenting arrangements (Hardesty et al., 2024; Jaffe et al., 2025). When former partners share children, separation may also involve continued interaction through coparenting and family law proceedings, which can provide opportunities for ongoing contact and continued abuse after the intimate relationship has ended (Hardesty et al., 2024).

Domestic violence fatality review teams examine information across multiple systems, including court records, to reconstruct the circumstances preceding domestic violence-related deaths and identify opportunities for prevention (Websdale et al., 2019). Domestic violence fatality review boards have identified the intersection of domestic violence fatalities (DVs) and family law proceedings as a recurring and consequential concern. In Colorado, of the 54 DVs reviewed for 2024, at least seven directly involved a domestic-relations case between the victim and perpetrator; five of those cases were open at the time of the fatality, and all five involved custody litigation. In 2024, five of the eight children killed as collateral DVs were children of parents in an active custody dispute at the time of fatality (Colorado Office of the Attorney General, 2025). These findings document an important overlap between family law proceedings and lethal domestic violence, underscoring the critical role family courts can play in identifying domestic violence and assessing danger for survivors and children (Spearman et al., 2023).

Colorado law (HB26-1309) now requires courts deciding parental responsibilities to make findings on the record when evidence is presented that a parent committed domestic violence, child abuse or neglect, or sexual assault. However, current evidence demonstrates that domestic violence survivors and protective parents in contested custody proceedings have ongoing concerns around how abuse is recognized and addressed by family courts (Araji, 2012). Research on custody proceedings indicates that raising allegations of domestic violence does not necessarily result in greater protection for survivors or children (Hardesty et al., 2024). In a study of custody proceedings involving families with a documented history of domestic violence, researchers identified both failures to recognize existing domestic violence and a lack of strong protective orders even when substantiated domestic violence was known to the court (Kernic et al., 2005). Improving the response to domestic violence allegations in family law proceedings is important to risk assessment and ultimately the prevention of additional DVs.

To further this work, this paper briefly summarizes existing research on domestic violence allegations in family law proceedings. While this report did not follow the methodological process of a systematic review, meta-analysis, or share new research findings, it leverages multi-year, reliable, published sources pertinent to this critical topic, including domestic violence fatality review board reports, national surveys, legal case reviews, and peer-reviewed studies. This report was also reviewed in-depth by content experts. This report is intended for courts, judicial officers, attorneys, custody evaluators, child and family investigators, parental responsibility evaluators, legislators, and survivor advocates seeking to understand the current evidence.

II. Survivors of Domestic Violence Underreport Abuse

Research consistently finds that domestic violence is substantially underreported in the U.S., rather than over-reported. Data from ten years of National Crime Victimization Surveys found that law enforcement was contacted in only slightly more than half of nonfatal domestic violence victimizations. Among those who chose not to report domestic violence to law enforcement, 32% described the matter as personal, and 19% cited fear of retaliation from their abuser (Reaves, 2017). Survey data from the National Domestic Violence Hotline found that 59% of survivors cited fear that they would not be believed as a reason for not contacting law enforcement, and two-thirds of those who did contact police reported a fear of calling again (Epstein & Goodman, 2019).

For decades, researchers across disciplines have conducted interviews with survivors, finding that these barriers to disclosing abuse may be further amplified in the custody and family court context; survivors fear that raising domestic violence allegations will be characterized as a litigation tactic, that disclosure will provoke further retaliation from the abuser, or that it will result in the loss of custody rather than any additional protection (Neustein & Leshner, 2026; Robinson et al., 2021). Further, survivors who have gone through family law proceedings describe the experience of not being believed as an invalidating, distressing form of secondary victimization that compounds the harm of the underlying abuse (Gutowski & Goodman, 2020). In a study of 214 mothers who experienced domestic violence and were involved in family court proceedings across 36 U.S. states, participants identified being believed and validated as important sources of support and described having to modify their behavior, thoughts, and emotions to navigate a system they perceived as insufficiently trauma-informed (Bradshaw et al., 2024).

III. False Allegations of Domestic Violence are Rare

One of the most persistent assumptions in family court is that individuals, particularly women, frequently fabricate or exaggerate domestic violence allegations to obtain a strategic advantage in custody proceedings. That assumption is not supported by the empirical evidence. How often domestic violence allegations are found to be “false” in family law proceedings according to researchers depends heavily on how the study defines and measures fabrication, how individual claims are evaluated, and who is doing the evaluating; the resulting estimates vary widely across the literature and can be misleading if presented without that context (Koshan, 2023). For that reason, these estimates of domestic violence fabrication frequency should be interpreted with extreme caution and are not presented here.

That said, available research on domestic violence, family violence, and related maltreatment allegations shows across multiple independent methods, settings, and samples that intentional fabrication is relatively rare. For example, a study of 120 custody-disputing families referred by family courts in several San Francisco Bay Area counties found substantial corroboration of abuse allegations through sources independent of the alleging parent’s account (Johnston, Lee et al., 2005). Further, research suggests that the absence of corroboration does not necessarily indicate fabrication, but more likely reflects structural features of domestic violence: that it is underreported; abuse typically occurs in the home, outside the presence of third-party; and, physical injuries, when inflicted, often heal before any contact with the legal system (Epstein & Goodman, 2019). In addition, domestic violence can include nonphysical forms of abuse, including threats, surveillance, financial control, and coercive control, that may not produce physical injury or other readily observable evidence (Spearman et al., 2024). A legal-policy analysis of false child maltreatment claims in custody litigation reaches the same conclusion: intentionally false allegations occur, but they are isolated, exceptional cases (Feld et al., 2021).

IV. Trauma Affects Memory, Demeanor, and Reporting of Domestic Violence

These systemic barriers to disclosure of domestic violence compound when family courts assess survivor credibility using standards that fail to account for the neurological and psychological effects of trauma from domestic violence. Post-traumatic stress disorder (PTSD) is common among domestic violence survivors (White et al., 2024) and symptoms can be associated with multiple forms of abuse, including psychological abuse (Mechanic et al., 2008). PTSD produces well-documented alterations in the way survivors recall and present events (Mattsson et al., 2021). Additionally, traumatic brain injuries, compounded by post-traumatic stress, can blunt affect and impair emotional regulation, often producing a flattened, disorganized, or incongruously calm demeanor. Strangulation is also a common form of severe physical domestic violence, and, when not fatal, is unlikely to present with observable signs or symptoms but is strongly associated with persistent cognitive and neurological impairments from the resulting hypoxic brain injury (Esopenko et al., 2024; Valera et al., 2022). It's therefore critical to understand how the physical and psychological impact of domestic violence may shape a survivor's courtroom presentation, recollection, and evidence of abuse.

Family court practice frequently evaluates survivor credibility and, in turn, whether their allegations of abuse are believed, against criteria such as internal narrative consistency, emotionally appropriate presentation, and precise recollection of detail (Epstein & Goodman, 2019). Research finds that survivor accounts of domestic violence will remain relatively consistent on core traumatic content but can be fragmented, non-sequential, and lacking peripheral detail, particularly among individuals with PTSD (Brewin & Field, 2024; Mattsson et al., 2021). These features may then be misread in family court settings as evasion or fabrication (Epstein & Goodman, 2019). In a study of 603 custody evaluators, a mother's demeanor was the most consistent predictor of evaluators' judgments about the credibility of her domestic violence allegations and their custody recommendations (Hardesty et al., 2015). This practice further decreases systems' willingness to believe survivors' claims and in turn, survivors' willingness and ability to disclose the full scope of abuse (Hardesty et al., 2015). The family court process itself can compound this dynamic: survivors often experience litigation, cross-examination, and the repeated retelling of abuse as a re-traumatizing and triggering experience, which can further affect how a survivor's account is perceived by the court (Gutowski & Goodman, 2020).

These trauma-related presentations also bear directly on patterns of recantation in legal proceedings. Survivor recantation is a documented pattern in domestic violence cases that research attributes to trauma response, fear of retaliation, and/or economic dependence; the available evidence does not support treating recantation as indicative of fabrication (Epstein & Goodman, 2019). Research suggests that a survivor's varied presentation of their experience in family law proceedings may instead reflect ongoing danger or safety-based calculations, rather than a lack of truthfulness or seriousness of the allegations (Koshan, 2023). As such, survivors who minimize or withdraw their accounts in family court settings may do so because full disclosure carries potential retaliatory consequences (i.e., continued domestic violence) and not because the underlying abuse did not occur.

V. Perpetrator Denial, Minimization, and Counter-Allegations are Common

Evidence shows that perpetrators of domestic violence commonly respond with denial, minimization, and counter-allegations to abuse allegations. Research has specifically identified the "widespread false denials and minimization of abuse by perpetrators" in legal proceedings (Jaffe et al., 2008). Yet it is survivors' accounts, and not perpetrators' denials, that courts and practitioners often subject to heightened scrutiny. The United Nations Special Rapporteur on violence against women and girls has documented a pattern across jurisdictions in which histories of domestic violence

are ignored or insufficiently scrutinized in custody proceedings (Alsalem, 2023). In addition to denials and minimization of abuse, perpetrators often respond to allegations of domestic violence in custody proceedings with strategic counter-allegations (Rivera, 1996; Slote et al., 2005).

One common strategic counter-claim is related to parental alienation. Parental Alienation Syndrome (PAS) is a purported diagnosis intended to describe situations where a child's rejection of one parent is attributed, at least in part, to intentionally manipulative, alienating behavior by the other parent (Meier, 2013). PAS is not recognized by the American Psychiatric Association (APA, 2022) or the World Health Organization (WHO) as a formal, standalone diagnosis (WHO, 2020). In 2020, WHO made the specific decision to exclude proposed language on "parental alienation" as an index/search term in the International Classification of Diseases (ICD)-11 for any tangentially related diagnostic entries, stating that parental alienation "is not a healthcare term" and noted concerns about its misuse against parents alleging abuse (WHO, 2020). PAS has also been criticized as reflecting gendered assumptions about mothers who allege abuse, including the potential for protective or help-seeking behavior to be interpreted as hostility or alienation (Lapierre et al., 2026; Meier, 2013).

Parental alienation is often conflated with PAS but is a different concept that is broadly defined as a pattern of behaviors by a parent, such as disparaging the other parent in the child's presence, restricting contact or communication, and encouraging the child to reject the other parent without legitimate justification (Harman et al., 2018). The concept of parental alienation, however, remains poorly and inconsistently measured across the research literature. A child's rejection of a parent can have many causes, such as the rejected parent's own behavior, the child's own experiences, and the broader situation the family is in (Johnston, Walters et al., 2005; Marques et al., 2020, corrigendum 2023). Accordingly, neither abuse nor alienation allegations should be treated as the sole causes of a child's resistance to contact without further thoughtful and trauma-informed scrutiny and assessment of the situation.

Some parents may engage in alienating behaviors but may do so out of legitimate concern for the child's wellbeing. Conduct that may appear obstructive or uncooperative when viewed in isolation can serve as a protective function when undertaken in response to abuse or perceived danger (Dalton et al., 2006; Lapierre et al., 2026; Nonomura et al., 2024). Yet research has documented cases in which abused mothers' help-seeking, advocacy, and efforts to protect their children were interpreted as hostility, noncooperation, or alienating behavior rather than evaluated in the context of domestic violence (Lapierre et al., 2026). Accordingly, behaviors such as limiting direct communication, seeking court protection orders, or requesting restrictions on contact should be assessed in the context of the alleged pattern of abuse and the safety concerns motivating the conduct, rather than treated as inherently coercive or alienating (AFCC & NCJFCJ, 2002; Dalton et al., 2006). This distinction is now explicit in Colorado law: HB26-1309 provides that behaviors used by a parent to protect themselves or a family or household member from harm or risk of harm presented by the other parent do not constitute domestic violence.

Recent research has documented the use of parental alienation claims to undermine or discredit allegations of domestic violence in family law proceedings and shown that perpetrators frequently raise alienation claims in cases involving allegations of domestic abuse (Alsalem, 2023). Once a counter-claim of parental alienation is raised, it can have significant consequences for how allegations of abuse are evaluated and how the reporting parent's credibility is perceived (Lapierre et al., 2026; Sheehy & Boyd, 2020). In a study of 25 domestic violence cases involving parental-alienation allegations, researchers found that the alienation label negatively shaped professionals' assessments of mothers' credibility and, in some cases, contributed to reports of abuse being discounted or reinterpreted (Lapierre et al., 2026). Another study examining custody cases involving both domestic violence and parental alienation claims found that allegations of parental alienation can shift attention away from family violence and contribute to abuse being discounted in custody decision-making (Sheehy & Boyd, 2020).

The science concerning parental alienation is far from conclusive. The available evidence thus warrants careful scrutiny of parental alienation counter-claims in cases involving allegations of abuse, particularly because such claims may shift the focus of the proceeding from whether abuse occurred to the conduct or credibility of the parent reporting it. In other words, claims of parental alienation can become a tool for victim-blaming (Lapierre et al., 2026). Legal and health professionals should therefore exercise caution when evaluating claims of parental alienation and focus instead on what can be reliably verified in each case to avoid diverting attention away from credible evidence of harm (Alsalem, 2023).

VI. Family Law Proceedings Can Be a Site of Continued Coercive Control

Family law proceedings can become a site of continued coercive control when legal processes, parenting arrangements, or required contact provide opportunities for monitoring, harassment, financial depletion, or retaliation after separation (Carter et al., 2026; Douglas, 2018; Holt, 2015; McCormack, 2025; Spearman et al., 2024). These behaviors are frequently translated into a court setting as “high-conflict” or “communication problems,” but domestic violence scholars have argued that relabeling coercive control in this way shifts the priority away from safety to focus on dispute management, often in ways that ignore the power dynamics characteristic of domestic violence (McCormack, 2025). Research on post-separation parenting has found that ongoing parent-child contact can provide opportunities for continued abuse of former partners and children (Holt, 2015). Family law proceedings therefore should be recognized as a potential mechanism through which coercive control and abuse continue and findings of domestic violence and coercive control should directly inform parenting arrangements and safety planning for survivors and children (Jaffe et al., 2025).

VII. Conclusion

Taken together, the evidence reviewed here does not support treating domestic violence allegations in family law proceedings as presumptively fabricated or strategically motivated. Delayed disclosure, inconsistencies, demeanor, protective behavior, and counter-allegations should be interpreted in the context of trauma, coercive control, post-separation abuse, and the broader history of the relationship rather than as stand-alone indicators of credibility or deception. Similarly, allegations of parental alienation or other counter-claims should not displace careful assessment of whether abuse occurred and whether a parent’s or child’s behavior may reflect safety concerns.

Judicial officers, attorneys, custody evaluators, child and family investigators, parental responsibility evaluators, legislators, and survivor advocates are encouraged to consider the empirical evidence summarized in this paper when assessing domestic violence in family law proceedings. Because separation and custody proceedings can coincide with elevated risk of serious and lethal violence, cases involving allegations or indicators of domestic violence warrant careful attention to survivor and child safety. Reducing this harm requires more than awareness and debunking of individual myths; it requires the development of a working, trauma-informed understanding of coercive control and the dynamics of domestic violence, so that the evidence can be critically and consistently evaluated to avoid relying on assumptions the research does not support.

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