

Battered Women's Resource Center
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Recommendations for Family Court Reform

Developed by Voices of Women Organizing Project (VOW) in conjunction with Connect, Harlem Legal Services, & Dominican Women's Development Center – April 2005

1. Memo for judges regarding **Parental Alienation Syndrome** (P.A.S.) - There is no empirical data to support it and therefore it doesn't meet the legal standard for evidence. The chief Judge should advise all family court judges that allegations of abuse should be investigated and to refrain from findings of PAS or alienation without clear evidence.
Purpose: when mothers either protect themselves from their batterer or report abuse during custody disputes, they are accused of not cooperating, making it up and/or alienating their child from the father. The abuse is not investigated and/or the child is not believed. The more the mother tries to protect herself and/or the child, the worse she appears to the court.
2. Need standards and clear qualifications for **Law guardians & forensics**.
Law guardians/forensics need training in child psychology & domestic violence; standards for how much time they must spend with the child before making a decision; limit number of forensic evaluations & costs; must show proof that allegations of abuse were taken seriously. Also rotate law guardians from borough to borough to ensure that they remain impartial.
Purpose: Law guardians recommendations carry a lot of weight & often they have no training or expertise in child development &/or dv; no standards for their behavior or of what an investigation should include.
3. Family Court should establish "**Standards and Goals**" similar to Supreme Court:
 - Begin a **Calendar Call** for Family Court and schedule times for cases to be heard
 - When respondent doesn't show up, the case should not be rescheduled for that person's benefit
 - The check-in time should be adhered to unless you call with good reason
 - Establish time limits as to how long cases can run
 - Limit adjournments in cases.**Purpose:** Everyone has a right to a speedy trial (especially when custody of children is at stake, or a child is in foster care). Overall, this will promote Judicial Economy and efficiency. It will save money for the courts and hence, the taxpayers.
4. **NO custody** (joint or physical) **to fathers with a history of domestic violence**. Judges are currently supposed to take a history of dv into account when deciding custody & visitation. Abusive fathers should never be given unsupervised visitation.
Purpose: When the courts give custody to the non-abusive mother in domestic violence cases, they are holding the batterer accountable for his behavior, they protect children and women, do not re-enforce abusive behavior as acceptable and reduce the opportunity for further abuse.
5. **Right to Counsel**. Divert funds from the Office of Court Administration (OCA) to institutional providers; and create a position for Domestic Violence experts to be a part of the 18B panel.
 - Use of 18B panel funds for organizations like Sanctuary and Legal Services (being done in Brooklyn and the Bronx)
 - Improve the 18B panel's understanding of DV. The 18B panel needs more funding for more training and there needs to be a mechanism for organizations with DV expertise to be on 18B panel.
 - Continuing Legal Education (CLE) should include more specialized education for DV and require 18B attorneys to attend.

Purpose: To increase the availability of qualified and available attorneys who are trained to handle dv cases.

6. **Open the Court to Outside Scrutiny:**

- Court Watch: Allow the establishment of a court watch project by an independent group that will respect confidentially
- Have an independent review process to handle complaints
- Video cases so that the record of court proceedings remains impartial and accurate. Allow parties to the proceedings to videotape (which is allowed by law if the Judge consents). Push for all court proceedings to be videotaped.

Purpose: This is to remove the veil of secrecy from court proceedings and will allow review of comments made off the record & body language.

7. **Family Court Judges** should be **elected** not appointed. Many states have elections for family court judges. Need standards for these positions and an impartial panel to certify that someone is qualified to run for this office. Qualifications should include training/practice in the areas of domestic violence and child abuse. They need to face re-election every 4 years.

Purpose: Family court judges often have no qualifications for Family court and are not accountable to the public.