

## **Custody disputes and the fear of violence**

**Elisa Reiter and Daniel Pollack | August 27, 2024**



The Jan. 16, 2024, headline couldn't be more graphic: "Catch the kid:' 1-year-old thrown from 2nd story window during custody battle in Tarpon Springs."

On July 26, 2024, an article in the New York Times reported that "two women were shot to death in a murder-suicide on the Upper East Side of Manhattan." The shootings took place within a half block of Gracie Mansion, long known as the official residence of the mayor. In broad daylight, Kathleen Leigh, 65 years old, shot Marisa Galloway, 45 years old. After shooting Galloway, Leigh pointed the gun to her own head and

fired. Videos from the area reflect that Galloway had just placed her 1-year-old daughter into a car seat in the back of her vehicle. “The authorities said Leigh was the grandmother of Galloway’s other child, a 4-year-old girl.”

Years ago, in Dallas, Texas, John Battaglia shot and killed his young daughters, Faith and Liberty. Battaglia had the girls at his home for dinner. He had just learned that a warrant had been issued for his arrest due to his harassing the girls’ mother/his ex-wife, Mary Jean Pearle. He telephoned Pearle, who heard the screams and gunshots, as well as her daughter pleading “no daddy, please don’t, don’t do it.”

Custody disputes may be so emotionally charged that they sometimes escalate to dangerous levels. It is crucial for judges, attorneys, child custody evaluators and litigants to be aware of potential signs that may indicate a higher risk of violence.

## **Warning Signs of Potential Violence**

- History of domestic violence or abuse
- Threats of harm to self, ex-partner or children
- Stalking behaviors
- Substance abuse issues
- Mental health concerns, particularly untreated conditions
- Extreme jealousy or possessiveness (coercive control)
- Access to weapons
- Recent job loss or financial stress
- Violation of existing protective orders
- Escalating verbal aggression or intimidation tactics

## **Distinguishing Situational Outbursts from Deeper Issues**

Every day, judges, child custody evaluators, and child protection services workers are asked to determine whether violent behavior is an isolated incident or a more serious problem. None of us has a crystal ball, but

here are some objective factors to consider when confronted with this challenge:

- **Pattern of behavior:** Is this a one-time occurrence or part of a larger pattern?
- **Context:** Were there specific triggers or unusual circumstances?
- **Remorse and accountability:** Does the alleged perpetrator take responsibility for their actions?
- **Willingness to seek help:** Is the alleged perpetrator open to counseling, parenting classes or anger management programs?
- **Counterclaims:** Is it possible that retaliatory claims are lodged by parties accused of abuse in an attempt to level the playing field?

## **Concerns Regarding Disbelieved Victims**

- False accusations of parental alienation may be used as a tactic to discredit legitimate concerns about abuse.
- Women reporting abuse may face skepticism, especially where there is no physical evidence.
- The complex dynamics of abusive relationships make it difficult for victims to present their cases effectively—particularly where judges limit temporary hearings to 20 minutes per side.

## **Strategies for Improvement**

- Thorough background checks and investigation of claims.
- Utilization of expert witnesses in domestic violence and child psychology.
- Implementing standardized risk-assessment tools.
- Mandating specialized training for judges and attorneys on domestic violence dynamics.

- Encouraging multidisciplinary approaches involving mental health professionals.

## **Conclusion**

In Dallas, Texas, the Faith and Liberty's Place Family Center (FLP) (named to honor the memories of Faith and Liberty Battaglia), provides a safe zone where trained professionals offer supervised child visitation and monitored exchanges, when families present with “situations involving domestic violence, dating violence, child abuse, sexual assault or stalking.” Good has come from horrific circumstances.

As the recent New York Times article reflects, concerns regarding the potential of family violence arising in custody disputes can stem from many situations—some giving little indications of past acts of violence. Judges, child custody evaluators, lawyers and mental health professionals may be experts in their given realms, but they are not mind readers. One bad act by a parent may stem from isolated and egregious circumstances. We ask judges to gaze into their crystal balls daily to determine if supervised access is mandated in a given case—and it is an onerous obligation that judges undertake as part of their duty in family courts. As Lorandos and Campbell note: “the behavioral sciences are called upon in neglect, abuse and custody determinations more than in any other area of American Law.”

Recognizing the signs of potential violence by a party to a custody dispute requires a nuanced approach. It is important to distinguish between situational outbursts and deeper issues. However, the safety of all parties, especially the safety of children, should be of paramount concern. Ongoing education, improved assessment tools, and a

willingness to consider all evidence carefully can help legal professionals and mental health professionals make more informed decisions in complex cases.

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