

From Research to Practice: A Framework for Making Appropriate Parenting Arrangements in Domestic Violence Cases

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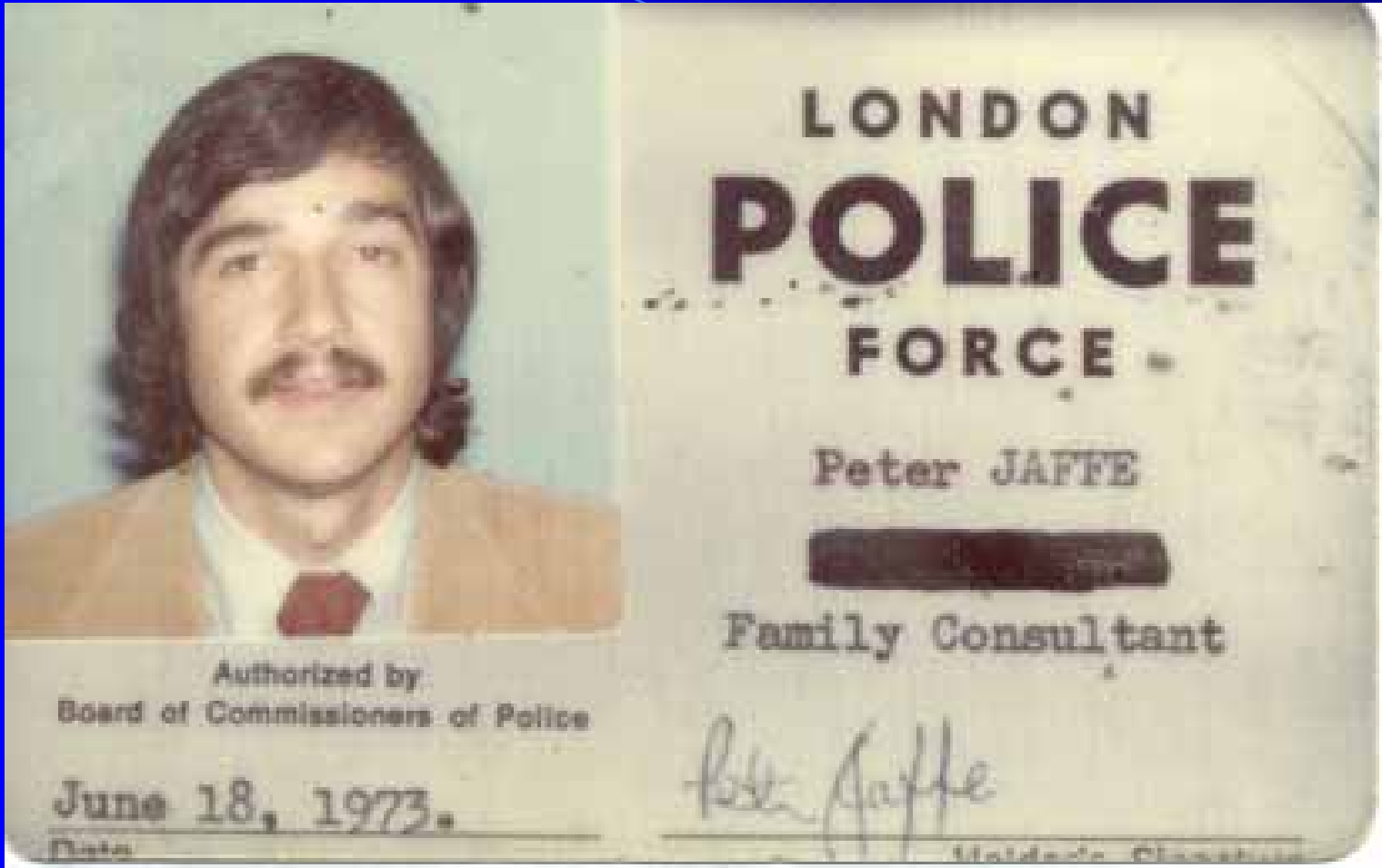
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Association of American Law Schools

Workshop on Family Law

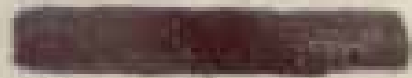
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LONDON
POLICE
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Peter JAFFE



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Authorized by
Board of Commissioners of Police

June 18, 1973.

Plate:

Holder's Classification:

Are we applying the right research findings to the appropriate cases?

Can a perpetrator of domestic violence be a good parent?

National Council of Juvenile and Family Court Judges: A Model State Code

In every proceeding where there is at issue a dispute as to the custody of a child, a determination by a court that domestic violence or family violence has occurred raises a rebuttable presumption that it is detrimental to the child and not in the best interest of the child to be placed in sole custody, joint legal custody, or joint physical custody with the perpetrator of family violence (Sec. 401)

Definition of Domestic Violence

- ◆ Domestic violence is any use of physical or sexual force, actual or threatened, in an intimate relationship
- ◆ Although both women and men can be victims of domestic violence, the overwhelming majority of this violence involves men abusing women

Domestic Violence

- ◆ Often occurs in a context where there is a pattern of assaultive and controlling behaviour
- ◆ May be physical, emotional, psychological and sexual in nature
- ◆ Can include threats to harm children, other family members, pets and property
- ◆ Violence is used to intimidate, humiliate or frighten victims, or to make them feel powerless
- ◆ May be a single act or a number of acts which may appear minor when viewed in isolation, but collectively form a pattern that amounts to abuse

Why is Domestic Violence Relevant in Custody Disputes?

- ◆ Abuse Does Not End With Separation
- ◆ Overlap Between Child Abuse and Domestic Violence
- ◆ Children's Exposure to an Inappropriate Role Model
- ◆ Undermining of Non-Abusive Parent
- ◆ New Relationships Potentially Violent
- ◆ Perpetual Litigation as Form of On-Going Control
- ◆ Extreme Cases - Homicides and Abductions

Domestic Violence



Child Custody: Specialized Assessment Needs in Domestic Violence Cases

Jaffe, P.G. & Crooks, C.V. (2004). Visitation and custody in cases of domestic violence. In J.L. Edleson & O.J. Williams (Eds.), *Parenting by Men Who Batter*. Los Altos, CA: Packard Foundation.

Danger Assessment Risk Factors

- ◆ Partner used or threatened with a weapon (20.2)
- ◆ Partner threatened to kill woman (14.9)
- ◆ Partner tried to choke/strangle woman (9.9)
- ◆ Partner violently and constantly jealous (9.2)
- ◆ Woman forced to have sex when not wanted(7.6)
- ◆ Gun in the house (6.1)
- ◆ Partner controls most/all of woman's activities(5.1)
- ◆ Drunk every day (or almost) or illicit drugs (4.1)

Campbell (2003)

Differentiated Custody Interventions in Domestic Violence Cases

Normal Conflict

- Education program
- Mediation services
- Collaborative law
- Shared parenting plan or joint custody

High Conflict

- Custody evaluation
- Therapeutic program to reduce conflict
- Litigation and Arbitration
- Parallel parenting

Domestic Violence

- Batterer's intervention program
- DV victim services
- Programs for children exposed to Domestic Violence
- Supervised visitation program
- Specialized assessors
- Court monitoring/review hearings

Jaffe, P.G. & Crooks, C.V. (2004). Visitation and custody in cases of domestic violence. In J.L. Edleson & O.J. Williams (Eds.), *Parenting by Men Who Batter*. Los Altos, CA: Packard Foundation.

Parenting Arrangements after Violence



**Nature, Frequency
& Severity of
Family Violence**



Low

→

←

High

← Evaluated Risk to Children or Caregiver →

Co-parenting

Parallel Parenting

Supervised
Exchange

Supervised
Visits

No Visitation

The Gap between Theory & Practice

- ◆ Training
- ◆ Standards
- ◆ Public attitudes & backlash
- ◆ Legislation
- ◆ Resources
- ◆ Genuine Collaboration
- ◆ Is DV a priority? Should judges specialize?
- ◆ One Family – One Judge?