

Litigation Abuse: A Form of Post-Separation Abuse

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What is Post-Separation Abuse?

'Post separation abuse continues to escalate and often, far surpasses the Domestic Violence that victims are subjected to while under the same roof as their abuser. After the relationship ends, the perpetrator sets their sights on the child(ren) to exert control and, to terrorize the healthy parent. Every high-conflict custody battle has three basic narratives: the abuser's need for control, the abuser's need to "win" and, the abuser's desire to hurt or punish the healthy parent'

One Mom's Battle, 2021

Post-Separation Abuse Wheel



What is Legal Abuse?

- Tactics of direct or indirect aggression in legal or family court settings
- Procedural harassment through misuse of court proceedings to control, harass, intimidate, coerce, and exhaust the financial and emotional resources of the safe parent
- Disregards court orders, makes false reports, deliberately causes delays in court proceedings, and makes legal threats to assert power and control over the safe parent
- Seeking a change in custody as a means of revenge, punishment, and continued control over the safe parent
- Repeated unmerited or unsubstantiated applications, and/or repeated appeals

(Clemente et al., 2019)
(Fitchand &Easteal, 2017)

Coercive Control

- **Coercive control can show up in many ways and in a variety of relationships. The way it transpires is through different tactics a perpetrator will use. Some of these include:**
- Isolating partner from support system
- Excessively monitoring partner's activity throughout the day
- Denying partner's freedom and autonomy
- Lying and gaslighting
- Name-calling and putting down partner
- Limiting partner's access to money (even their own finances)
- Turning partner's own kids against them
- Controlling aspects of partner's health and body
- Making jealous accusations
- Regulating the sexual relationship decisions
- Threatening partner's pets and/or children (Healthline)

Survey Demographics

- Data was gathered by self-selected members of a family court client advocacy organization.
- Data consisted of a total of 722 participants
 - 99% female (n= 715), 1% male (n=5), and 2 participants did not identify their sex
 - Ages ranged from 25 to 78 (Average age= 43.14) (SD = 7.14)
 - Participants predominantly self-identified as
 - Euro American (83.6%)
 - Heterosexual (93.5%)
 - Partners identified were predominantly male (97.9%) and Euro American (78.3%)

Literature

- Compared to women of all other marital statuses, separated women are more likely to experience intimate partner violence (2020).
- Tactics of abuse change post-separation and abusers use “legitimate” institutions of the law to perpetuate harm long after the resolution of the separation or custody agreement (Crosse & Millar, 2017).
- Abusers with higher socioeconomic status and negotiation skills are more likely to have with higher amounts of contact between their child(ren) in intimate partner violence cases (Forsell & Cater, 2015).
- Research has found a correlation between legal harassment and post-traumatic stress (Clemente et. al (2019).
- Abuse of the legal system has been linked to serious psychological stress, increased legal costs, exposed to harmful environments, feelings of depression and oppression, hopelessness and despair, triggering of mental health episodes, and a loss of faith in the justice system (Fitch & Easteal, 2017).

Legal Abuse of HCP

Post-separation, 58.3% of participants reported an increase in threats via email, text, letter, or other form of communication and/or via proxy (lawyer, 3rd party, family members, friends)

During mediation, participants experienced the following from their partner:

- 44.6% verbal, online, or other form of harassment;
- 37.8% filed motions or requested hearings with no legal basis

After the initial child custody/family court order, participants experienced the following from their partner:

- 45% accused them of a crime
- 40.6% called law enforcement
- 20.3% filed a civil law suit
- 45.7% took other actions

Legal Abuse of HCP (continued)

66.6% participants strongly agreed that their partner made false accusations against them for the purpose of starting the legal process again

Among the 87.9% participants who attended court with their partner

- 41% of whom, were in court for 1-3 years – 25% were in court for 5+ years
- 29% (n=135) spent more than \$100,000 in overall court fees

Among the 98.2% participants who had children with their ex-partner

- 52.7% participants described the custody agreement as Very Hostile
- 72.7% participants had attended mediation with their partner
 - Only 14% of those participants were able to come to an agreement

Legal Abuse of Legal Professionals & Family Court

- 78.6% participants strongly agreed they experienced re-traumatization or re-victimization returning to court post-child custody order
- Judges and other legal professionals didn't take into account their partners' abusive behavior 85%; Lies in court or lies in reports 83%; or Prior abuse of children 62%
- Judge presiding over the case didn't rule in line with recommendations by a psychologist (40%)
- Lawyers minimized participant's experiences (n=155), made assumptions about the case (n=155), did not believe their characterization of their partner (n=146)
- With regards to their experiences with legal professionals, participants strongly agreed/agreed
 - 65%* did not have the chance to speak
 - 70%* they were forced into litigation in order to harm them, by causing them to incur legal fees/expenses
 - 70%* exaggerated their faults and errors
 - 70% in general, felt legally ignored and that their version of the facts are ignored

Psychological & Emotional Consequences of Legal Abuse

- 66% participants reported that they had received individual, outpatient mental health treatment – 53% had received a mental health diagnosis
- Participants reported that their partner's behaviors negatively impacted their
 - Physical health 89%
 - Mental health 99%
 - Work or career 87%
 - Friendships 89%
 - Relationship with Family 81%

Conclusion & Implications

- Trauma-informed practices in Family Court
- Recognition of legal abuse as significant form of abuse
- The consequences of continued contact with the abusive parent and ex-partner
- Coordinated case management and communication between mental health, judicial, and legal professionals
- Reforming costs
- Implementation of training and screening tools for legal professionals

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