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Children Exposed to Domestic Violence: Research Suggests Resiliency Can Be Encouraged

Court personnel frequently hear from petitioners that they want a PFA order to protect their children from abuse. The adult victim may request that the child(ren) be named in a PFA order or request custody provisions. A child may be affected by being abused or seeing a parent abused. Although it is the judge's role to decide what protection a child may need, other court personnel can benefit from being aware of what research says about children and domestic violence.

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Children Exposed to Domestic Violence (cont.)

WHAT IS EXPOSURE?

Exposure to domestic violence can include seeing or hearing violent incidents, being directly involved (for example, trying to intervene, calling the police, being physically injured, or even witnessing a homicide or suicide), or experiencing the aftermath (for example, seeing bruises, observing broken furniture or feeling the tension).

As the research about children exposed to domestic violence continues to grow, there is ample evidence that children are at risk of being adversely impacted by the violence. However, **children's responses to domestic violence will vary depending on many factors:**

- age at which the child was first exposed to the violence
- child's developmental level
- severity and frequency of the violence
- child's proximity to the violence
- duration (one-time event versus long-term exposure)

REACTIONS

Reactions to domestic violence in infants and toddlers may include sleeping and eating problems, being "fussy," and being more easily startled and alarmed. Preschool-age children may regress to earlier behaviors (thumb-sucking, bed-wetting, baby-talk) and act excessively "clingy." Older children may experience nightmares, have difficulty concentrating and completing tasks, and feel depressed or anxious.



PROTECTIVE FACTORS

Developing research describes protective factors that can build resiliency in children to offset the adverse impacts of exposure to domestic violence. Some children are born with some of these traits and others have the ability to develop them. Children for whom domestic violence seems to have less lasting impacts have these factors in common:

- ability to form strong, stable relationships with others
- opportunities to express their feelings in healthy constructive ways
- opportunities to receive therapeutic services (domestic violence children's services)
- exposure to positive role models and mentors (such as teachers, coaches, and faith leaders), positive response from community systems, including law enforcement, children and youth, courts)

However, research indicates that **the #1 protective factor in helping children heal from exposure to domestic violence is the presence of a consistent, supportive, and loving adult – most often their mother.**¹



¹ Masten, A. S. (2006) PROMOTING RESILIENCE IN DEVELOPMENT, A GENERAL FRAMEWORK FOR SYSTEMS OF CARE. In R. J. Flynn et al (EDS. PROMOTING RESILIENCE IN CHILD WELFARE (3-17) Ottawa: University of Ottawa Press.



Ask PCADV: Sexual Abuse Under the PFA Act – Is a Showing of Force Required?

The Protection From Abuse (PFA) Act's definition of abuse is continually being refined. The Pennsylvania Superior Court interpreted the meaning of rape and sexual assault as it applies to the PFA Act in the case of *Boykai v. Young*, 2014 PA Super 4 (2014). The superior court found that requiring a current or former intimate partner to give in to sexual relations in order to receive financial support is considered to be both intellectual and psychological force and thus is abuse under the PFA Act.

The PFA Case

In this case, Geraldine Boykai filed a PFA petition against her husband, Ted Young, alleging that he forced her to have sex. Young began to force sex after the parties were married by overpowering Boykai. After giving birth to their child in April 2012, Boykai was medically advised not to have intercourse with her husband for six weeks. However, her husband insisted on having sex one or more times during that period. After the six weeks were over, her husband resumed his frequent daily demands for sex. When Boykai began to oppose her husband's demands, he became angry. He stopped giving her money for herself and their child and continued to try to force himself on her. Boykai testified that because she would not give in to his demands, he punished her by not feeding her, supporting her or paying the bills. After a hearing, the trial court found Boykai credible and entered a PFA order against Young, prohibiting him from abusing or contacting his wife, entering the residence and acquiring or possessing firearms.

The holding in *Boykai* clarifies that physical force is not a necessary condition to grant a PFA order based on an alleged sexual assault.

The only requirement is for the petitioner to demonstrate that sexual activity was nonconsensual.

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The Appeal

Young appealed the trial court's order, claiming that his wife did not sustain "abuse" as defined in the PFA Act. Specifically, he argued about the trial court's use of the word "rape," and stated that without physical force there cannot be a finding of abuse to support a PFA order. The superior court acknowledged that a showing of physical force had historically been required to establish the crime of rape. However, the current definition of rape includes "forcible compulsion" through intellectual, moral, emotional, or psychological force. Importantly, the superior court stated that the more relevant question is not about force but rather whether the victim consented to sexual intercourse. Force is not required to establish "abuse" under the PFA Act, said the court. "The PFA Act supports a finding of abuse regardless of whether the sexual intercourse is the result of forcible compulsion, or is simply nonconsensual." The superior court affirmed the trial court's entry of the PFA order.

What This Means

This case demonstrates that not all abuse is physical and that physical force is not a necessary condition to grant a PFA order based on a sexual assault.



Setting the Record Straight About Sexual Violence Protection Orders

Governor Corbett signed SB 681 into law on March 21, 2014. The *Protection of Victims of Sexual Violence or Intimidation Act* provides for protection orders for victims who do not have a family or household relationship with their perpetrator.

The Act does not become effective until July 1, 2015 - 14 months from now - in order to provide time for forms and processes to be developed for implementation.

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The Legal Department offers training and technical assistance for members of the judiciary, minor judiciary and court personnel regarding the Protection From Abuse (PFA) Act, case law and procedures, state and federal firearms law, minors and domestic violence, compliance with the Federal Violence Against Women Act (VAWA), and domestic violence resources, information, statistics and other materials. Staff assists counties in developing systems and protocols that respond effectively to domestic violence victims.

Judges and court personnel are invited to call with questions regarding the PFA Act, procedure, forms, enforcement, [firearms](#), [child custody](#) and domestic violence, domestic violence [information and statistics](#), domestic violence [fatalities](#), court [interpreters](#) and other domestic violence resources.

The Legal Department's attorneys and advocates have assisted Pennsylvania justice system personnel with questions about:

- Custody modification in PFA orders
- Violation of no-contact PFAs through social network web sites
- VAWA prohibitions against posting PFA records on government web sites
- ICC when defendant does not relinquish firearms as ordered
- Filing of out-of-state protection orders

Training and technical assistance is funded by a grant awarded by the Pennsylvania Commission on Crime and Delinquency, using funds originating from the U.S. Department of Justice, Office on Violence Against Women.

For Victims
If you fear for your immediate safety, call 9-1-1 or your local police.
Contact the [domestic violence program](#) in your area for free and confidential help.
Other [victim programs](#) are available to help you and your family.
Any [attorney](#) helping a domestic violence victim may contact the PCADV legal department at 888-235-

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