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“The System Had Choked Me Too”: Abused Mothers’ Perceptions of the Custody Determination Process that Resulted in Negative Custody Outcomes

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Khaw, Lyndal; Bermea, Autumn M.; Hardesty, Jennifer L.; Saunders, Daniel; and Whittaker, Angela M., ““The System Had Choked Me Too”: Abused Mothers’ Perceptions of the Custody Determination Process that Resulted in Negative Custody Outcomes” (2018). *Department of Family Science and Human Development Scholarship and Creative Works*. 9.

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“The System Had Choked Me Too”: Abused Mothers’ Perceptions of the Custody Determination Process That Resulted in Negative Custody Outcomes

Journal of Interpersonal Violence
2021, Vol. 36(9-10) 4310–4334
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DOI: 10.1177/0886260518791226
journals.sagepub.com/home/jiv



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Abstract

Intimate partner violence (IPV) is a public health problem that continues to affect abused mothers after separation from an abusive partner. In addition to the risk of ongoing control and violence by abusers, the custody determination process may present challenges for mothers who end up with negative custody outcomes (e.g., share custody with abusers or lose custody). Using constructivist grounded theory techniques, we conducted a qualitative analysis of interviews with 24 abused mothers with negative custody outcomes to understand how they perceive and make sense of the process as a whole, and how they cope with these outcomes. The custody determination process was reportedly complex and stressful, and

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most mothers did not anticipate a negative custody outcome. Mothers' perceptions and experiences followed three phases: "*trusting "the system" to protect them and their children, adapting to "the system" in search of positive outcomes, and, once custody decisions were determined, coping with the aftermath of the judicial system process, either by accepting or resisting the outcome.*" This study echoes previous calls for further training and policies that make the custody determination process less burdensome and harmful for survivors and their children.

Keywords

battered women, child custody, divorce, domestic violence, family court, qualitative research

Intimate partner violence (IPV) is a serious health, mental health, and criminal justice problem affecting more than 30% of women globally (Devries et al., 2013). In the United States, about 35% of women have experienced some form of physical violence (e.g., rape, assault) from a male partner with 24% reporting severe physical assault (e.g., beaten, choked, weapon used against them; Walters, Chen, & Breiding, 2013). IPV has lasting effects on women's health and well-being that often extend to their children (Fredland et al., 2015; Greeson et al., 2014). McDonald, Jouriles, Ramisetty-Mikler, Caetano, and Green (2006) estimate about 15.5 million U.S. children live in households with IPV, with seven million exposed to severe IPV. To protect themselves and their children, mothers often leave abusive partners and seek help. For some women, however, violence and harassment continue after separation and often center on joint children (Hayes, 2017; Toews & Bermea, 2017). For example, abusers may threaten to or pursue custody to remain present in mothers' lives (Khaw & Hardesty, 2015; Rivera, Zeoli, & Sullivan, 2012) or misuse the legal system to harass survivors (Campbell & Messing, 2017). There is also evidence of judges, custody evaluators, and attorneys minimizing or ignoring the relevance of IPV in custody or parenting-time decisions (Naughton, O'Donnell, Greenwood, & Muldoon, 2015; Saunders, Faller, & Tolman, 2016), posing continued risks to women and children (e.g., granting sole custody to abuser; Saunders, 2015). Finally, some abused women experience the court process itself as abusive (Coy, Scott, Tweedale, & Perks, 2015; Laing, 2017). Because help-seeking and supportive responses may impact women's recovery, we sought to understand how women experienced and perceived the custody determination process that had resulted in a negative custody outcome (e.g., losing

custody to the abuser, unsafe child visitation). Indeed, these mothers may be particularly vulnerable as they struggle to recover from IPV and the custody determination process (Elizabeth, 2017).

Family Court Responses to IPV and Child Custody: Outcomes and Process

Mothers who separate from abusive partners are often involved in family courts for custody determinations. Unlike other sources of help that are aimed at protecting and empowering survivors (e.g., domestic violence shelters, legal advocacy services), the primary aim of family courts relative to custody determinations is to serve the best interests of the child. In many states, custody decision making may be influenced by the general presumption that children fare best when both parents stay involved through shared custody (Shepard & Hagemester, 2013). Although most U.S. states require courts to consider IPV as a factor in assessing the child's best interest, only eight states give IPV extra weight (Saunders, 2017). Furthermore, only 23 states have a presumption against granting sole or joint custody to a parent who has perpetrated IPV (American Bar Association, 2014). Even with this presumption, Saunders (2017) reported abuser-favoring custody outcomes to be more likely in "friendly parent" states where parents are expected to maintain a good relationship between the child and the other parent. Thus, scholars and advocates remain concerned about decisions that place survivors and children at risk by requiring contact and joint decision making with abusers (Hans, Hardesty, Haselschwerdt, & Frey, 2014; Jaffe, Johnston, Crooks, & Bala, 2008; Saunders et al., 2016; Saunders & Oglesby, 2016). While survivors may label negative experiences as caused by "the system," there is a wide variation of views and responses across professions, such as on the importance of maintaining the father-child relationship (Lessard et al., 2010) and the type of custody recommendations of legal aid versus private attorneys (Saunders, Faller, & Tolman, 2011).

Research also documents incidences of secondary victimization, or any negative or indifferent treatment of an IPV victim by professionals, "who experiences such response as a further violation of their rights" (Rivera et al., 2012, p. 236). While secondary victimization has been more prominently examined in studies involving sexual assault and criminal courts, compared with IPV and family courts (Rivera et al., 2012), evidence suggests responses that constitute secondary victimization also exist in family courts (Bemiller, 2008). For example, IPV survivors may experience victim blaming, overfocusing on mothers' demeanor or mental health, minimizing IPV, disbelieving

survivors, or discouraging survivors from mentioning IPV or seeking protections or restrictions. These behaviors have been found in the divorce mediation process (Laing, 2017; Rivera et al., 2012), custody evaluation process (Saunders, Tolman, & Faller, 2013; Shepard & Hagemester, 2013), and in interactions with attorneys and other court professionals (Bell, Perez, Goodman, & Dutton, 2011). According to Rivera et al. (2012), secondary victimization may affect women's ability to recover from IPV and reduce their willingness to rely on family courts for future help, which is especially concerning for mothers who share custody with or lose custody to abusers. As such, mothers who experience secondary victimization may have fewer options for legal recourse to address future concerns related to their children's safety and well-being (Laing, 2017; for recent reviews of professionals' responses, see Ancis, 2017; Davis, 2015; Jeffries, 2016; Saunders, 2015).

Along with these negative experiences with professionals, survivors have reported ongoing abuse by former partners throughout the custody determination process. Threats to harm or take the children and exposure to IPV occur at higher rates among separated than nonseparated mothers (Forssell & Cater, 2015; Hayes, 2017). Studies increasingly report on the detrimental effects of coercive behaviors on mothers and children (Elizabeth, 2017; Katz, 2016; Pitman, 2017), including ways in which double binds (e.g., being trapped in a no-win situation) and abusers' boundary violations suppress mothers' equality and autonomy. Children report that they are left to navigate the contentious relationship between their parents, particularly as their fathers behaved increasingly hostile toward their mothers (Morrison, 2015) and are isolated from friends and relatives (Katz, 2016). Abusers also use intimidation, threats, and coercive tactics to prolong court cases (Hayes, 2017; Khaw & Hardesty, 2015; Miller & Smolter, 2011). Miller and Smolter (2011) termed these behaviors as "paper abuse" (p. 637), whereas Douglas (2018) called them "legal systems abuse" (p. 84), a form of procedural stalking where abusers have access to their former partners through legal means, allowing them to revictimize survivors.

As this review indicates, turning to family courts for assistance with custody decisions is not always a positive or supportive experience for IPV survivors. The current study contributes to this literature in several ways. First, we sought to understand the perceptions of the custody determination process from mothers who had negative outcomes. All of these women disclosed IPV and sought help from family courts to protect themselves and their children, but the outcomes were negative. How do they make sense of their experiences and perceive the process? Second, this study builds on past descriptive studies that have mostly focused on specific elements or roles within family courts (e.g., mediation, custody evaluation) with an open exploration of the

custody determination *process*. As shown in more recent studies (e.g., Coy et al., 2015; Laing, 2017), examining survivors' perceptions of the entire process helps us understand what elements may be perceived as helpful or harmful to women (Bell et al., 2011). Finally, our study extends the traditional research focus on criminal courts to family courts. We used an "inside-out" perspective, which values survivors' voices (Thomas, Goodman, & Putnins, 2015) and assumes their reports as truths. From this view, survivors' own assessments of their experiences are considered critical to creating policies or programs that adequately promote or address their needs (Thomas et al., 2015). Two research questions guided our work:

Research Question 1: How do abused mothers with negative custody outcomes make sense of and perceive the custody determination process as a whole?

Research Question 2: What strategies do mothers use to cope with their negative experiences and custody outcomes?

Method

The present study is a secondary analysis of qualitative data collected as part of a larger mixed-methods study on professionals' beliefs about IPV allegations in custody cases and survivors' reactions to custody decisions (Saunders et al., 2011). The principal investigator of the original study is part of the current research team. In the original study, interviews were conducted with 24 abused mothers with negative custody cases to understand better "the negative aspects of the custody determination process" (p. 101). Secondary data analysis allowed us to explore research questions not originally posed in the primary study (Szabo & Strang, 1997) and extend the focus to explore mothers' perceptions and experiences of the custody determination process as a whole.

Sample

The sample for the present study consisted of 24 mothers recruited in four different states on the west coast and Midwest in the United States. Two mothers declined to report their age or race. Of the 22 mothers who did, mothers were between 23 and 48 years old ($M = 37$, $SD = 7.3$). Mothers self-identified as White ($n = 11$), biracial ($n = 4$), Asian ($n = 3$), Black ($n = 3$), and Hispanic ($n = 1$). Most participants ($n = 15$; 62.5%) were married to their abusers, seven were in dating relationships, one reported two IPV relationships in which she had dated one abuser and was married to the second abuser, and one had

experienced acquaintance rape, which resulted in the conception of her child. Mothers had one to six children ($M = 2.0$, $SD = 1.3$) with the oldest or solo child being between 1 to 22 years old ($M = 12$, $SD = 5.3$). Most mothers reported ongoing post-separation violence against themselves ($n = 21$; 87.5%) and child abuse ($n = 20$; 83.3%). As a result, 13 mothers had obtained an order of protection and two had attempted to do so during the divorce or custody determination. We do not have exact information on how long the custody determination process took or how long since custody outcomes were rendered in each case. At the time of the interview, the most common custody outcome was abusers with sole physical and legal custody ($n = 8$), followed by mothers with sole physical and legal custody ($n = 4$), mothers with mixed custody arrangements (i.e., different custody arrangements for different children; $n = 4$), abusers with sole physical custody but shared legal custody ($n = 3$), mothers with sole physical custody but shared legal custody ($n = 2$), shared physical and legal custody ($n = 2$), and undetermined custody pending ongoing litigation ($n = 1$). Finally, with regard to the four mothers who had sole physical and legal custody, their abusers had unsupervised visitation and thus continued access to mothers. It should be noted that only one of the four states from which the sample was recruited presumes shared custody.

Procedure

Potential participants were recruited by staff at services utilized by mothers, primarily legal services and supervised visitation programs that included cases with or without IPV histories. However, the staff at each site were instructed to recruit only survivors of IPV. A standardized recruitment script containing a thorough description of the study was shared with each potential participant. Mothers had to meet at least one of the following participation criteria: (a) had lost physical custody of one or more children, (b) had lost and regained physical custody of one or more children, (c) had child visitation or exchanges ordered that they perceived as potentially unsafe, or (d) were ordered into mediation, couples counseling, or parenting education that they perceived as potentially unsafe. Mothers who met the criteria were invited to participate in an interview at a secure and confidential location (e.g., a private meeting space, supervised visitation center, or a shelter). Counselors and doctoral students with experience working with domestic abuse survivors conducted the interviews. Each was given feedback on a pilot interview to improve their interviewing skills.

Using a semistructured interview protocol, participants were asked about a broad range of questions including the custody decision process (e.g., "Before officially separating from your ex-partner, did [your partner] say

things to you about custody of your children?”), interactions with professionals throughout the process (e.g., “Please describe any professional help you received regarding the custody conflict with the other parent” and “What questions did the evaluator ask that you think provided the most important information to support your goals?”), post-separation abuse (e.g., “Since ending the relationship, has the other parent emotionally abused you, for example, by yelling, putting you down, calling you names, or making threats of physical and nonphysical harm?”), and custody and visitation outcomes (e.g., “Why do you think the professionals . . . made the decisions they did regarding custody?” and “What information or factors do you believe were used in the decisions?”). The full set of semistructured interview questions and their rationale are in Appendices C and D in Saunders et al. (2011). For the purpose of the current study, we focused on questions exploring mothers’ decisions and interactions with professionals in the judicial and legal system that may have resulted in their negative custody outcomes. Interviews lasted between 45 and 120 min and all participants received a US\$30 gift card for their participation (for more details on procedures, see Saunders et al., 2011). All identifying information was deleted and pseudonyms were assigned to protect the identities of participants.

Data Analysis

In the current study, data were analyzed using the constructivist grounded theory procedures outlined by Charmaz (2006). Specifically, we used grounded theory methods to identify systematically how survivors perceived the custody determination process that resulted in negative custody outcomes. First, we engaged in open coding of an initial subset of interviews ($n = 8$), where three coders individually read and open coded each transcript, then discussed each interview as a team to generate open codes (Charmaz, 2006). To capture actions and perceptions, we coded using gerunds (e.g., “interacting with court professionals,” “not being heard,” “managing mental health”). Codes from our first reading of these eight transcripts were used to create an initial codebook. A second team of two coders then independently recoded the first eight interviews using the initial codebook developed by the first team to ensure its applicability to this data. Two separate sets of coders were used to ensure our initial interpretations of the data were trustworthy. Minor discrepancies were discussed and agreed upon changes were made to the codebook (e.g., “managing mental health” was renamed “ceasing mental health treatment”).

Consistent with constant comparative analysis, we then separately applied the codebook to a second subsample of interviews ($n = 5$), adding new codes

and refining existing codes in the codebook to comprehensively reflect the data as a whole (Merriam & Tisdell, 2016). To continue constant comparisons, we then returned to the first set of eight interviews to check any new or revised codes against the data. In the next step, focused coding, we applied the codebook to the remaining 11 transcripts. For example, we attached the code “not being heard” to instances where mothers felt their concerns about safety or disclosures of IPV were not being taken into consideration. Although applying existing codes, we remained open to adding new codes and revising the codebook as indicated by the data. In the later stages of focused coding, we began combining individual codes (e.g., not being believed, not being heard) into larger categories (e.g., marginalizing experiences; Merriam & Tisdell, 2016). We continued this process until we independently reached data saturation, in which no new codes or categories were identified from the interviews (Fusch & Ness, 2015). Because we used secondary analysis and the interview protocol was not created to construct theory, our goal was not to produce a grounded theory. Rather we used grounded theory coding techniques to identify codes and theoretical constructs (e.g., “not being heard”) and to form overarching themes (e.g., trusting the system to protect them and their children) among IPV survivors with negative custody outcomes.

Results

Based on the mothers’ accounts, they saw themselves as entering, interacting with, and/or being acted upon by “the system” ($n = 16$ mothers made explicit references to “the system,” “the legal system,” or “the court system”) consisting broadly of legal and court professionals (e.g., judges, guardian ad litem, custody evaluators) as well as the legal process. Three overarching themes characterized their movement through “the system”: *trusting “the system” to protect them and their children*, *adapting to “the system” in search of positive outcomes*, and, once custody decisions were determined, *coping with the aftermath of the judicial system process* (see Table 1). These themes reflect mothers’ evolving perceptions over time and realizations about the process. First, in *trusting “the system” to protect them and their children*, mothers began the custody process assuming they (and their children) would be protected as IPV survivors. Most began this process seeking sole or full physical custody. Despite narratives reflecting on some supportive encounters, these mothers overwhelmingly described losing trust in “the system” due to their perceptions of marginalization (e.g., feeling unheard, disregarded). In response, mothers shifted toward *adapting to “the system” in search of positive outcomes*, accompanied by efforts to accommodate “the system” and manage their behaviors to minimize possible negative repercussions (e.g., being perceived as uncooperative). After custody

Table 1. Summary of Themes in Mothers' Perceptions of the Custody Determination Process.

Themes	Description	Examples
Trusting "the system"	Assuming a fair custody determination process that will protect their rights and their children	Thinking they would be protected as IPV survivors Thinking children's safety will be prioritized
Adapting to "the system"	Engaging in efforts to conform to "the system's" rules and expectations in search of positive outcomes	Perceiving that they were a part of a game with unreasonable rules Doing nothing to appease professionals' demands Monitoring their behaviors and suppressing emotions
Coping with the aftermath of the judicial system by accepting or resisting the outcome	Accepting as a means of recovery from IPV and the custody determination process Resisting by continuing the struggle and hoping to change the outcome in the future	Acknowledging that they have no control over the custody process or outcome Perceiving they have no choice but to stop engaging "the system" even if they feel wronged Willingness to continue engaging "the system" that they perceived had treated them unfairly Perceiving they have no choice but to continue engaging "the system" to preserve parent-child relationship

Note. IPV = intimate partner violence.

decisions were finalized, mothers were *coping with the aftermath* of unfavorable and potentially unsafe outcomes as well as of a process that generally left them feeling disempowered.

Trusting "the System" to Protect Them and Their Children

For most mothers, they began engaging in the custody determination process by filing for divorce and protective orders, and in some cases, reporting child abuse allegations to authorities. At this stage, mothers seemed to trust the legal and court professionals they interacted with "to guide [them] down this road" and protect their rights, especially given their status as biological

mothers and IPV survivors. Allison, a mother of two, recalled thinking “my child is a victim here of something . . . [and] I just thought the system is going to take care of us.” Most mothers reported little doubt as to whether they would get custody. As Gloria, a mother of three shared,

Whenever I hear of people’s divorces, it’s like the mom generally always had custody of the kids, and then the dad would have every other weekend and a burger night. While it wasn’t ideal [*sic*] for the dads, they knew that especially when the kids were young . . . that that was more beneficial. So no, it never really crossed my mind that I wouldn’t have custody of the kids.

Mothers initially trusted “the system” to prioritize the safety of children, especially in situations where abusers had allegedly perpetrated against their children. As Vanessa, a mother of three noted, “I think we both assumed if we ever separated, I would get custody, because [the abuser is] a registered sex offender. Who’s going to give him custody of the children, you know?” Similarly, Laura, a mother of four, thought it was a “no-brainer” to “have all my kids with me” because her former husband already had supervised visits while being investigated for child abuse. Even Katherine, a mother of four who had feared that she would lose custody because her former partner was the sole provider in the family, perceived engaging these formal systems as “the opportunity to have an out . . . which kept me and the kids safer.”

Some mothers spoke explicitly about perceiving the custody determination process as fair or impartial, given the facts and nature of their respective cases. As Laura explained, “I seriously believed that the truth would come out and that things would be revealed . . . I really thought it would be resolved in a legal, professional manner.” Mothers made similar assumptions that court-appointed professionals (e.g., guardian ad litem or custody evaluators) would perform their duties objectively. One participant, Janelle, a mother of six, expressed confidence that the court-appointed special advocate (CASA) for her case would write favorably about her character or behavior:

I was waiting to see [the CASA volunteer’s] report. And then I thought, now that he’s seen this [my case file], he can’t write anything funny. And there’s nothing funny to write about me anyway, but there’s no way that he can write something that’s going to make [the abuser] be in a good light.

According to the narratives, mothers’ initial trust in “the system” quickly eroded, as they became disillusioned by perceptions and experiences of marginalization by at least one professional in their custody determination process, whom they felt “just wasn’t on my side.” In Laura’s case, she described interactions with her assigned Friend of the Court counselor as lacking,

whereby she “never felt any sense of fairness, like ‘I’m going to advise you, and if you do this, this is going to be in the best interests for yourself or the kids.’” In addition, mothers spoke of their growing recognition that the professionals they interacted with may have misconstrued their intentions, actions, or words. For example, all but one participant ($n = 23$) shared examples of not being heard during the custody determination process because, from their perspective, professionals seemed to disregard their IPV allegations or concerns about ongoing violence. A little over half of the sample ($n = 13$) also reported not being believed or being accused of “lying” about abuse or “coaching” children to make false claims. When filing a report against her abuser for alleged child abuse, Vanessa tried to calm her young daughter’s fears by reassuring her that “by talking to [the police], she’d be helping her daddy, because what daddy did was wrong and he needs help.” This action, however, was later used against her:

They were recording it (what survivor said), and then they transcribed it, and they asked her like fifty questions to make sure she knew right from wrong, and what would happen if she was lying . . . A week after my daughter did this, she (the CPS worker) . . . wrote a letter of recommendation for [the abuser] to get custody [because] she (the CPS worker) did not believe . . . that [daughter’s] father had done any wrongdoings to her.

Thus, mothers began to feel marginalized, disempowered, and disillusioned with “the system” they had previously felt was designed to protect them. Instead, like Sandra, a mother of two explained, “The court system was very anti-women [and] very anti-mother.” She expressed how “incredibly frustrating” the custody process had been for her, as well as disbelief over her reported treatment in court: “that is not the country that I thought I lived in . . . The last time I looked, it was America. Not in (my county’s) court system.” After their disillusionment with “the system,” mothers proceeded to the next stage of adapting.

Adapting to “the System” in Search of Positive Outcomes

Recognizing that they were operating within a judicial process that might not keep them safe, mothers began to focus on what they felt they had to do to ensure safe outcomes for their children. As such, they described various ways in which they conformed or adapted to “the system” as they now understood it. For example, Gloria initially felt “really confused,” “upset,” and “angry” that she might lose custody to her abuser. She expressed feelings of desperation and willingness to comply with “the system” in her search for positive outcomes for her children:

It's like, "You're going to take my children away from me, despite the fact that he drinks, he's got steroid use, and I have all these obligations?" . . . I'm like, "What is it that you want? . . . You send my children back with me, and I will do whatever the hell you want me to do . . . I will undergo any psychological evaluations . . . any testing that you want me to do to secure the court's peace of mind, to know that I am emotionally secure to take care of my children . . . I will jump through whatever hoops you want me to do."

Similarly, Katherine described feeling forced to conform to what felt like "a game," in which the rules were unreasonable:

There was nothing for me to go on, so I had to play the game according to their rules . . . It was like I was stuck, but I had to reorganize and play the game differently. They (the system) left it up to me to . . . keep my kids safe and to keep myself safe.

Katherine's quote shows a shift in mothers' understanding of the judicial system from previously assuming "the system" was a resource that would provide protection to a new understanding: They would have to figure out what was expected of them and then conform to these expectations to keep themselves and their children safe. Allison reflected on this new understanding after observing how the guardian ad litem seemed to have considerable influence on the judge:

I feel like I [was] playing a game here. Like, we've got to get to the court at this time. We've got to get a hold of [guardian ad litem], and you've got to pound [our concerns about safety] into her head. We can't let anyone else talk to her before she goes in there, so that she can say it to the judge, because the judge is going to say what she says . . . It's like tic-tac-toe. Like, yeah, I happen to . . . get my X's and O's in the right places.

In some cases, mothers' efforts to adapt to "the system's" expectations were more passive. For example, they may have agreed to certain terms temporarily to appease professionals in hopes of more positive outcomes, or to avoid worse ones. Sharon, a mother of two, did not want her former partner to have supervised visitation. However, she reluctantly agreed because, "I had no way to fight it (in court) . . . [and], of course, you don't question it, because you're trying to kiss the guardian ad litem's butt." Another example was Bertha, who despite labeling the judicial process as "biased," complied with a list of court requests to obtain joint custody of her daughter:

I understand that at this point, you know, I'm not just gonna get 50/50. I know I have to kind of go along with . . . these court proceedings, even though it's not necessarily fair or it's not necessarily right. But, you know, that's just what we have to do right now.

Finally, several mothers were concerned that their emotional state or demeanor (e.g., appearing overly sad, angry, or upset) was under scrutiny in court or in their interactions with court professionals and was sometimes used against them. Eva, a mother of two, said the experience was like "being under the microscope." Gloria spoke of a court commissioner who "didn't think that I was emotionally stable enough to handle children" because of her obvious signs of sadness:

Basically, she (the commissioner) told me that I looked sad and I have things I need to work on, and those were better done without my children. And I wanted to jump up on her desk and say, "My children *are* my problem!" . . . I mean, quite frankly, [I thought] what the hell is wrong with you? If I come in here happy, I'm screwed. And if I come in here sad, because I haven't seen my kids for four weeks, then I'm screwed.

In response, these mothers felt that in their search for positive outcomes, they had to adapt to the process by monitoring their demeanor and suppressing any strong emotions. As Zoe, a mother of one, explained,

It is like biting my tongue because I know these proceedings are being listened to. It's one of the things that I learned. You have to keep your mouth quiet. Don't get upset. Don't swear. Don't lose your temper because they can throw you in jail. They can [hold] you in contempt [of the court].

No longer trusting "the system," mothers also became more aware of how their demeanor behaviors could be used against them by their abusers throughout the custody determination process. Indeed, more than half of the mothers ($n = 15$) shared how they changed their behaviors to avoid giving the abuser anything to use against them in court. For example, fearing that her abuser would claim her friends were a bad influence, Luisa, a mother of four, said, "I stopped hanging out with them . . . I was like, 'Okay, for my daughter, I'll stop talking to anybody [if] I have to.'" Similarly, Desiree, a mother of three,

stopped [counseling] because [abuser] was using that against me . . . So what I ended up doing was I just cut [counseling] completely off, because I knew that if they [learned I was in counseling], they really wouldn't understand that I still can take care of my child.

While it was unclear whether these mothers' changes yielded any real impact on their respective custody cases, their decisions illustrate their attempts to adapt in search of positive outcomes. Similarly, Sandra explained how she reluctantly gave in to pressure to stop breastfeeding because her abuser believed it was “. . . somehow alienating his affection, and so he was very much against that.” Despite showing compliance with these demands, her abuser claimed she “had breastfed my daughter past the arbitrary deadline and used that [in court] to have me lose parenting time.”

Overall, most mothers seemed to gain an understanding that “the system” may not necessarily protect them and their children. Thus, they reported adapting in various ways to meet what they perceived to be unfair expectations of the judicial process. In the final stage, mothers coped with the aftermath of a challenging custody process in two primary ways: accepting or resisting.

Coping With the Aftermath of the Judicial Process

Accepting (n = 13). Coping by accepting the outcomes represented mothers' intent to recover emotionally and psychologically from not only IPV but also their overall experiences with the judicial process. *Accepting mothers* acknowledged the lack of control they had over the entire process and the outcomes dealt. As such, many stopped engaging with “the system” that they felt had marginalized them and left their children more vulnerable. Laura, who was given supervised visitation but no custody, explained, “I accept the fact that I don't have control. I accept the fact that [abuser] has rights, whether somebody who has perpetrated against our kids should have rights or not. I have no control over it.” For Jina, a mother of two, sharing legal and physical custody with her abuser meant continued child exposure to IPV. She “wished” that her abuser was given supervised visitation instead, but she felt she had to accept the outcome:

It's been awful, because not only is [daughter] with him unsupervised, but she continues to witness [his] abuse to[wards] me, even at the police station. So, it continues to go on. Even though the friend of the court [wrote] the recommendation, [thinking] that he's a fit parent, the abuse still goes on . . . But because he hasn't been held accountable, and that he's been able to continue to do what he wants to do . . . no matter how many times I file police reports, they don't do anything . . . And [so], we have to live with that.

Jina's quote also reflects mothers' experiences of a breaking point, where they felt they were “done” and “just [couldn't] do this anymore” because any further efforts to engage “the system” would not be fruitful. Indeed, these

mothers perceived that they had no choice but to accept the aftermath of the custody outcome, even if they continuously felt that they had been wronged by “the system.” Sandra, whose appeal of her custody decision was denied, felt “completely stuck.” She noted,

I know that every legal system is imperfect. What frustrates me the most is that when I try to move past all of this and I try to move forward, the court system will not allow me to move forward either . . . I have absolutely no avenue where I can go to improve any of these conditions that were unfairly and unjustly opposed to me to begin with. So not only was the process unfair and did everything go wrong, but it's still going wrong . . . This court system has completely squashed any right I have as a parent. I don't think I can name you a single right that I feel that I have anymore.

Mallory, who lost custody of her child, expressed a similar sentiment. The custody determination process had taken a toll on her, she explained, but she ultimately accepted the outcome and distanced herself from a system she felt had failed her and her child:

The system's fucked me so hard. I don't believe in your system any more . . . I don't believe in the justice system anymore, and I used to, but after this divorce, nope . . . It's not there to protect you [or] to protect me, 'cause it didn't protect me, it didn't protect my son when he needed it . . . [Now] I don't think my child's safe at all, but I don't have a choice. I have to deal with it how I deal with it. I can only go so far.

Finally, several mothers were more accepting of the aftermath, acknowledging that, “it could definitely be worse.” All four mothers with sole legal and physical custody shared narratives of acceptance even if the circumstances were not ideal. For example, Desiree was granted sole legal and physical custody but with unsupervised visitation. Her former partner is still present in her life, putting her at risk for further IPV. Nevertheless, she was still accepting of the outcome, especially after experiencing a harrowing judicial process:

I think I got really lucky because knowing other women [who] have lost their . . . children because they didn't have support or representation . . . I just can see how . . . if my attorney wasn't there, how it could have been changed around. And I just think that a lot of women are losing custody battles to abusers because the abuser has money, and he has the power to change things around.

Resisting ($n = 11$). Compared with accepting, “resisting” involved the mothers' continued struggle against the abuser and to “keep yourself going,” despite

major setbacks in the process. *Resisting mothers* seemed to reject their custody outcome as the end of the process, and, instead, held out hope that a change was possible in the future. They also recognized that resisting involved ongoing efforts. At the time of the interview, Virginia, a mother of two, was still contesting custody, stating “Hopefully it will change . . . There’s nothing more important than your children that are worth fighting for.” Lindsay, a mother of one, described, “It’s like when you get yourself in such a hole, you have to work so much harder to get out of it.” Likewise, Zoe’s reaction on the day she lost custody of her daughter showed a clear sense of resistance:

I said [to abuser], “You can take everything you wanna take away from me. You took away the house, you took away this . . . [and] that, now you got my daughter. She’ll always be my daughter . . . I don’t know when . . . but I’ll get her back.”

As Zoe’s quote illustrates, mothers’ refusal to accept the outcome demonstrated their will to continue engaging “the system” that they perceived had treated them unfairly. For example, when Zoe was asked why she felt the need to continue trying to get her daughter back even after a grueling custody battle, she explained, “When you take a[n] individual and you try to break them down to the point where there’s no more spirit, then there’s something wrong and I can’t let them do that to me.” In some cases, resisting seemed to be the only option for mothers to preserve their relationship with their children. Some mothers reported deliberate acts of speaking up against court professionals or defying court-ordered arrangements, such as visiting children unsupervised when they were supposed to be supervised. For example, Eva shared an incident when a judge had warned her not to contact her son who ran away from home after the abuser obtained legal and physical custody:

He goes, “I want you to stay away from your son or I will arrest you. Contempt you to court.” And I said, “Well, I guess you’re going to arrest me. Because I’m a mother. I’m not going to do that.”

As another example of resisting, Katherine remained present during her abuser’s unsupervised visits to ensure that he did not harm her children. She explained,

I’m violating a [protection order] because you won’t mandate anything, because you won’t protect me and the kids. Who’s gonna do it if I don’t step up, if I don’t do it? Not saying that I’m trying to control the situation, but I have to. I have to for my kids.

Discussion

This study aimed to examine perceptions of the custody determination process by mothers who experienced negative custody outcomes. While there is an emphasis on studying how IPV survivors are revictimized and pathologized in the custody process (Ancis, 2017), we were also interested in mothers' strategies in reaction to the custody process and negative outcomes. Whether or not they lost full custody, all mothers were forced to have some degree of ongoing contact with their abusers. Also, even when mothers had full custody, their children were at risk due to unsupervised visits with fathers. Here, we delineate some areas for further discussion and future directions.

Most mothers spoke of their interactions with and perceptions of "the system;" although in practice, there is no single system. Every custody case in the United States includes a judge, and typically a custody evaluator or investigator, but other professionals come from a host of settings. These include nonprofit IPV agencies, private attorneys, nonprofit legal aid attorneys, other government units (e.g., child protection and criminal justice), government or private mediation, private counselors/therapists, supervised visitation monitors, and parenting coordinators. Each of these professionals may view IPV and the ideal custody arrangement very differently, for example, judges and private attorneys often differ from legal aid attorneys and domestic abuse advocates (Saunders et al., 2016). While "the system" appeared to indicate an all-encompassing set of professionals, mothers may have been referring to the judicial system (primarily judges and/or other court professionals), especially when describing negative interactions, and ultimately the negative outcome. In contrast, when mothers described *supportive* experiences, they mostly referred to interactions with specific professionals outside of the judicial system (e.g., their attorney, child therapist, and CASA). Mothers' negative impressions of "the system" may be exacerbated by the general lack of control they perceived over their custody determination process and subsequent outcomes. Cattaneo and Goodman (2010) used a "therapeutic jurisprudence" framework to explain how survivors' experiences in court can have far-reaching physical and emotional impacts. Specifically, survivors who feel disempowered by their court process felt less in control and experienced poorer health outcomes in the long run. While we do not have information on mothers' health outcomes, the narratives among both "accepting" and "rejecting" mothers reflect a perceived lack of options that drove them to ultimately accept or resist their custody outcome. Thus, it is possible that the negative connotation behind "the system" is linked to mothers' feelings of disempowerment evolving primarily from interactions with judges and other court professionals.

Results also revealed that the process of child custody determination for these abused mothers is complex and stressful, and in most cases, yielded unexpected outcomes for their families. Before or early in the process, many had placed their trust in the family court to protect their children and expressed surprise or dismay when they instead encountered negative responses from professionals. These interactions not only felt marginalizing but also resulted in situations that potentially placed themselves and their children at risk of greater harm. Negative or inadequate responses from professionals are well-documented, including cases where investigations of abuse or the best interests of the children may deviate from statutes or protocols. Some professionals do not know how to screen for IPV or when IPV is disclosed, it is minimized or ignored (Jeffries, 2016; Pepiton, Zeligowski, Geffner, & de Albuquerque, 2014; Saunders et al., 2016). Professionals may minimize IPV because of the lack of knowledge of the dynamics and effects of IPV (Saunders, 2015; Douglas, 2018; Hans et al., 2014; Pepiton et al., 2014); conversely, victim-supportive outcomes are associated with more IPV knowledge (Saunders et al., 2011; Saunders, 2017). The continuation of contact between abusers and survivors may also be furthered by each state's "best interest" standard for facilitating cooperation between the noncustodial parent and the children (Jeffries, 2016). In doing so, however, mothers' relationships with their children and their contributions as mothers are often negated or undermined (Coy et al., 2015; Holt, 2016; Laing, 2017).

Negative interactions with professionals seemed to initiate mothers' process of adapting to "the system" to gain a more favorable custody outcome. Our results concur with studies highlighting survivors' engagement in both active and "passive" strategies to cope post-separation (Bermea et al., 2017; Wendt, Buchanan, & Molding, 2015; Zeoli, Rivera, Sullivan, & Kubiak, 2013). For example, mothers in this study adapted their behaviors by conforming to the rules of what some mothers perceived as "a game." Such "passive" strategies should not be misconstrued as mothers' inaction or lack of concern for children's well-being. Rather, as studies show (e.g., Khaw & Hardesty, 2015; Wendt et al., 2015), maternal protectiveness range from physical attempts to protect children (e.g., by leaving or staying) to appeasing abusers to prevent future IPV episodes. This form of maternal protectiveness resembles the trade-offs many mothers are forced to make (Thomas et al., 2015) to be viewed more favorably by "the system," including having to compromise their health and safety. For example, managing their emotional responses in court and forgoing mental health treatment seem justified, given that mothers' mental health symptoms are occasionally used against them in custody considerations (Ancis, 2017; Hardesty et al., 2015; Saunders & Oglesby, 2016).

Finally, results suggest that mothers continue to be affected by the aftermath of the custody determination process. This finding corroborates other findings (e.g., Bemiller, 2008; Laing, 2017; Zeoli et al., 2013) that show survivors holding generally negative attitudes toward the family court and judicial systems, and feeling depressed or anxious after the custody process (Elizabeth, 2017). Due to the nature of their custody outcomes, the safety of children remains a concern. In this study, mothers seemed to cope by accepting or resisting the outcome, which parallels two forms of coping in the IPV literature (Taft, Resick, Panuzio, Vogt, & Mechannic, 2007). Specifically, "accepting" fits a disengagement coping strategy, whereby some mothers coped by alleviating the stress and avoiding negative emotions (e.g., anger) from the custody process. "Resisting," on the contrary, is an engagement coping strategy (Taft et al., 2007), whereby efforts are aimed at solving the problem and attempting to change the outcome. Coping efforts can be hindered by mandated, ongoing contact with abusers for co-parenting, further compromising survivors' ability to move on and heal from the abuse (Hardesty et al., 2015; Holt, 2016).

Although the present study adds to our understanding of the process by which mothers who have been abused experience custody determination, it has some limitations. First, some demographic and contextual information was not available (e.g., socioeconomic status, education, type of IPV). Such information could have provided some important insights into the types and degree of marginalization reported by mothers in this study. About half the sample was non-White, and future research should attend to potential process and outcome differences of custody determinations by race. Second, we were unable to perform member checking, as a draft report was not sent to mothers for verification in the original study. However, the constructivist grounded theory approach assumes there are multiple truths, and thus, the women in this study shared narratives that represented *their* lived experiences (Charmaz, 2006). Third, findings should be considered in the context of the timing of interviews; while some mothers had finalized outcomes, others were still engaged in the process (e.g., appealing). It is possible that the group we characterized as "resisting" may later succumb to the barriers reported.

Despite these limitations, this study has research and practice implications. First, it shows the need to understand further how abused mothers are generally regarded and treated by family court professionals, and to what extent these perceptions and behaviors ultimately impact custody outcomes. Historically, mothers and mothering have been unfairly targeted, where women are viewed as "neglectful" or "failed" mothers if they stayed in or returned to an IPV relationship or could not protect their children (Hughes, Chau, & Vokri, 2016; Weisz & Wiersma, 2011). Holding an abused mother

accountable for the protection of her children and subsequently penalizing her when she engages in “the system” to keep her children safe, place her at a disadvantage while allowing her abuser to gain the upper hand in court (Holt, 2016; Saunders & Oglesby, 2016). Our study echoes documented examples of abusers’ coercive tactics throughout the custody process by devaluing or attacking their partner’s contributions and roles as mothers (Elizabeth, 2017; Heward-Belle, 2017). These reports suggest a need to raise awareness about the discourses of motherhood and mothering while being in an IPV relationship, and manage the expectations placed on mothers as they attempt to leave their partners.

Several developments have helped counter the potentially harmful outcomes like the ones reported in this article. For example, the Association of Family and Conciliation Courts (2016) now has professional guidelines on IPV to help custody evaluators focus on abusers’ coercive behaviors, as well as survivors’ behaviors that may be difficult to understand. The American Professional Society on the Abuse of Children (2016) warns that failure to prove the existence of IPV and child abuse does not mean they have not occurred. The Battered Women’s Justice Project offers detailed procedures to enhance the objectivity of evaluators, mediators, and attorneys when applying the “best interest factors” (Davis, 2015). The above organizations also provide training that includes important topics like danger assessment and the reduction of unintended bias, which research shows are needed (Saunders, 2015). On the policy level, although states have increasingly considered laws that promote shared custody (Chandler, 2017), they are also passing laws that increase protections for survivors. For example, states increasingly give extra weight to IPV in the factors used to assess the best interests of the child; more states also exempt mothers from expectations to co-parent or be the “friendly parent” (see Saunders, 2015).

While progress in training and policy efforts have been made, it is paramount for research to continue documenting survivors’ perceptions, experiences, and concerns, including positive experiences and outcomes. Such research can also be used to inform policies and training efforts. Support and interventions that are not “formulaic, cookie-cutter approaches” (Ancis, 2017, p. 36) are needed. The custody process could also benefit from a greater level of transparency; at the very least, mothers should be informed about standard court procedures, potential bureaucratic roadblocks, and where to seek legal help (Bemiller, 2008). Finally, resources for promoting women and children’s health and efficacy are necessary *after* custody decisions are made. Regardless of the outcome, mothers should receive guidance on how to safeguard themselves and their families against potential intrusion from their former partners while strengthening their emotional health (Wuest, Merritt-Gray,

& Ford-Gilboe, 2004). Given the frequent recurrence of abuse and harassment toward survivors and their children after separation, safety and wellbeing checks, along with relevant referrals, seem advisable. As in the healthcare and child welfare systems, family courts might collaborate with IPV agencies to provide such services. Especially when safety and the best interest of children continue to be of concern, survivors should not be left to cope with the aftermath of a custody determination process on their own.

Authors' Note

Preliminary results were reported at the 2016 National Council on Family Relations Conference in Minneapolis, MN.

Declaration of Conflicting Interests

The author(s) declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

Funding

The author(s) disclosed receipt of the following financial support for the research, authorship, and/or publication of this article: This research was supported by a grant from the National Institute of Justice, 2007-WG-BX-0013.

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