

Flying Solo: Domestic Violence and Divorce

By Jan Warner and Jan Collins

Question: I have been the victim of physical and emotional abuse throughout my 12-year marriage. We have one child, a nine-year-old girl, who is feeling the effects. I have been to a lawyer to discuss my leaving, but he does not seem to understand the gravity of my situation. I am afraid to go to the police. Short of being killed, what do I have to do to get someone to listen to me?

Answer: Some attribute the fact that six of ten divorce cases are initiated by women because of the growing economic independence of women. Others tell us, however, that more than one-quarter of all women who begin divorce actions have been victims of domestic violence and abuse.

That's why, for an ever-increasing number of women, the issues involved in divorce become much more immediate than just dividing the assets or getting support. Avoiding injury, even death, at the hands of their spouses is the most important issue. Abused women face a dilemma: they recognize the need to leave their marriages, yet are concerned about their safety after separation.

As we have written so many times, family courts throughout the United States are overburdened, and to a large degree, underfunded - -meaning that you must convince your lawyer and he or she must convince the court that your situation deserves more than the run-of-the-mill restraining order.

Since the vast majority of all divorce cases are settled out of court, many important issues are often negotiated. But when it comes to abuse, there can be no negotiation. An abusive relationship is not conducive to joint custody or even to liberal, interactive visitation arrangements because continued contact with an abusive spouse provides opportunities for continued abuse, intimidation, harassment, and control. You must make sure your lawyer understands the gravity of your concerns. This isn't the time to be bashful. And be sure your lawyer understands that the most dangerous time for you and your child may be after you leave.

You may choose to call a local domestic violence advocate who can help you communicate with your lawyer about the seriousness of the abuse and the intimidation methods. And if these efforts also fail, find a lawyer who understands victim safety and can help you.

Although mediation is suggested, and even required by courts in some areas of the country to resolve child custody and visitation, if you are a victim of domestic violence, mediation is inappropriate and even dangerous since it offers no protection from violence and can even emphasize your husband's feelings of loss of control, which, in turn, can precipitate violence without ensuring your safety. In addition, because the playing field is not level

and because abused spouses tend to become intimidated during this process, mediation is not the vehicle of choice to solve marital issues in an abusive relationship.

Bottom Line: While things are improving, law enforcement personnel are still limited in training and authority, especially given the focus on terrorism and other matters we read about every day that soak up budget dollars. The overcrowded court system chugs along at a pace that may not be conducive to solving the problems. Judges who “see it all” every day may be disbelieving when the accused adult “looks normal” or is a community professional. That's why persistence and assertiveness – attributes that are difficult for abused spouses -- are required to get the help you need and deserve.