



National Family Justice Center Alliance
Webinar Training
CEU Accreditation
Provider # PCE 5095

Webinar Course Description

Title: "When Systems Intersect: Implications for Battered Mothers"

Criminal Court, Custody Court and Child Protection look at domestic violence differently and practitioners in each have particular messages they give to victims. The vastly differing "culture" of these systems led UK researcher Marianne Hester to call them "Three Planets". On the Criminal Court system, domestic violence is a crime and the central issue. But the same domestic assault victim is treated differently on the Child Protection and the Custody Court systems. Criminal cases might arise long before battered mothers consider separation but decisions these victims make can have significant consequences for custody months or years later. This webinar will explore some of the different cultures in each system and focus on the current beliefs guiding decision making in Custody Court. Awareness and anticipation of these beliefs can help prepare battered mothers for what they might find on the system that determines custody.

Presenters:

Stephanie Avalon, Resource Specialist, Battered Women's Justice Project

Marijka Belgum-Gabbert, Technology and Communication Director, Battered Women's Justice Project

Alexia Peters, JD, Managing Attorney, Legal Network

Welcome to the National Family Justice Center Alliance November Webinar!

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Your host today:



Gael Strack, J.D.
CEO
Family Justice Center Alliance

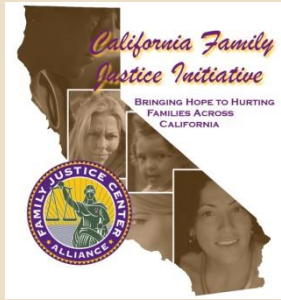


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Thank You to Our Sponsor

Thank you to the US Department of Justice,
Office on Violence Against Women
for making this training possible!

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2014 International Family Justice Conference

San Diego, April 2-4, 2014



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Advanced Strangulation Course

- Only course of its kind!
- February 4 – 7, 2014
- San Diego, CA
- This four-day course is open to multi-disciplinary professionals working with surviving victims of near-fatal strangulation
- To learn more and register, go to:
www.familyjusticecenter.com or
www.regonline.com/strangulation



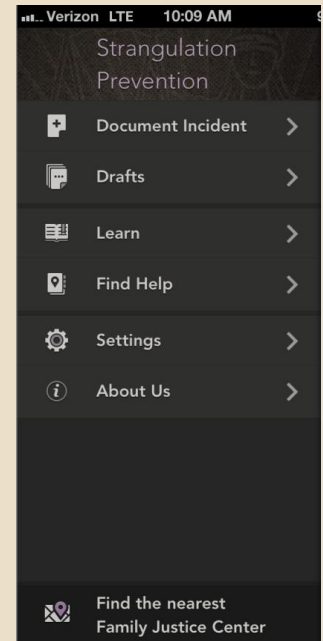
New iPhone APP

“Document It”

A Mobile App to Document Near-Fatal Strangulation Cases

The mobile application will assist professionals from ***all disciplines*** and individuals who are “choked” by an intimate partner to document multiple incidents using:

- Photo, Video, and Audio capture
- User-friendly survey of possible symptoms and injuries
- Text area to tell the story of the incident
- Signed consent for release of information; and
- Ability to send a full report to law enforcement
- Confidential storage



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Today's Presenters:



Stephanie Avalon
Resource Specialist,
Battered Women's Justice
Project



Marijka Belgum Gabbert
Technology and
Communication Manager,
Battered Women's Justice
Project



WHEN SYSTEMS INTERSECT: IMPLICATIONS FOR BATTERED MOTHERS



Stephanie Avalon and Marijka Belgum Gabbert

Battered mothers are losing custody to their abusers.



“Gender bias and myths about battered women stack the cards against them in child custody disputes. Ironically, their very attempts to protect their children may make it more likely they will lose custody to an abusive ex-partner.”

Daniel G. Saunders, When Battered Women Lose Custody: Dangerous Parents or Systems Failure?



RATES AT WHICH ACCUSED AND ADJUDICATED BATTERERS RECEIVE SOLE OR JOINT CUSTODY

Compiled by Joan S. Meier, Esq.

Empirical Evidence on the Custody Crisis facing Battered Mothers

Violence Against Women, Volume 11, Number 8,
August 2005



Technical assistance provided by BWJP via 800
number

Polling Question

What is your job?

- ☐ A. Advocate
- ☐ B. Attorney
- ☐ C. Law Enforcement
- ☐ D. Other

Polling Question

In what court system do you primarily work?

- ☐ Criminal Court
- ☐ Custody Court
- ☐ Child Protection
- ☐ Protection Order Court
- ☐ Not in a court setting

Beliefs Guiding My Advocacy Work

- Start by believing women.

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- Women are the experts of their own lives.

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- Battering is a social problem stemming from gender oppression.

Beliefs Guiding My Advocacy Work



- Start by believing women.
- Women are the experts of their own lives.
- Our work with women is a partnership.
- Battering is a social problem stemming from gender oppression.
- Raising the consciousness of the women we work with is important to eventually ending oppression.

Poll Question

I agree that these beliefs guide my advocacy work?

- ☐ Start by believing women.
- ☐ Women are the experts of their own lives.
- ☐ Our work with women is a partnership.
- ☐ Battering is a social problem stemming from gender oppression.
- ☐ Raising the consciousness of the women we work with is important to eventually ending oppression.

“Advocating for Battered Mothers in Custody Disputes” attempts to

- Make visible how gender oppression operates in custody courts, and
- Prepare advocates to develop support networks with survivors to better anticipate and survive the abuses generated by this oppressive system.

Judy and Jim

- Judy is a victim of domestic assault whose partner, Jim, was arrested last night. She was holding her youngest child, a baby of 2 months, in her arms when her partner threw her down on the bed and struck her across her face. The couple's 3 year old was in the room when this happened. Judy also has an older child (9) from a previous relationship who was in another room. Judy has a black eye as a result of the assault. This was not the first assault but it was the first time visible injuries resulted. The day after this happened Judy noticed a red streak in the eye of her 2 month old baby.

Coercively Controlling
Male Partner

Criminal Court Planet

Planet

A



CRIMINAL COURT

**Battering
is the focus**

Coercively Controlling Male Partner

**Planet
A**



Criminal Court Planet

- Domestic violence is a crime
- Judy is the victim who is told:
 - “Nobody deserves to be hit”
 - “It’s not your fault”
 - “It will only get worse”
 - “Jim needs to be held accountable”
 - “We are here to help you”
 - “Exposure to DV hurts kids”
- Jim is the offender, defendant, batterer
- Prosecutors will encourage no contact
- Proof must be “beyond a reasonable doubt”

CHILD PROTECTION PLANET

Mother Failing to Protect



CHILD PROTECTION
Battering viewed
through Child
Safety lens

Planet B

CHILD PROTECTION PLANET

- Domestic violence is a child safety issue
- Child is the victim
- Judy hears:
 - “Exposure to DV is bad for kids”
 - “It’s your responsibility to protect your children”
 - “Get an OFP to keep Jim away”
- Files are opened in Judy’s name
- Case plan is for Judy

Mother Failing to Protect



CHILD PROTECTION
Battering viewed
through Child
Safety lens

Planet B

Custody Court Planet

Planet C



‘Good Enough’ Father

Custody Court Planet



Planet C

‘Good Enough’ Father

- Best interests of the child is the goal of the court
- Assumption of equal access
- Violence against Judy is not viewed as relevant to parenting
- Judy hears:
 - “Let’s focus on the future”
 - “Every child needs two parents”
 - “Mediation will result in better decision”
 - “You will need to co-parent”
 - “He’s still their father”
 - “The marriage may be over but parenting is forever”

Coercively Controlling
Male Partner

Life on Three Planets

**Planet
A**

CRIMINAL COURT
Battering
is the focus

Mother Failing to Protect

CHILD PROTECTION
Battering viewed
through Child
Safety lens

Planet C

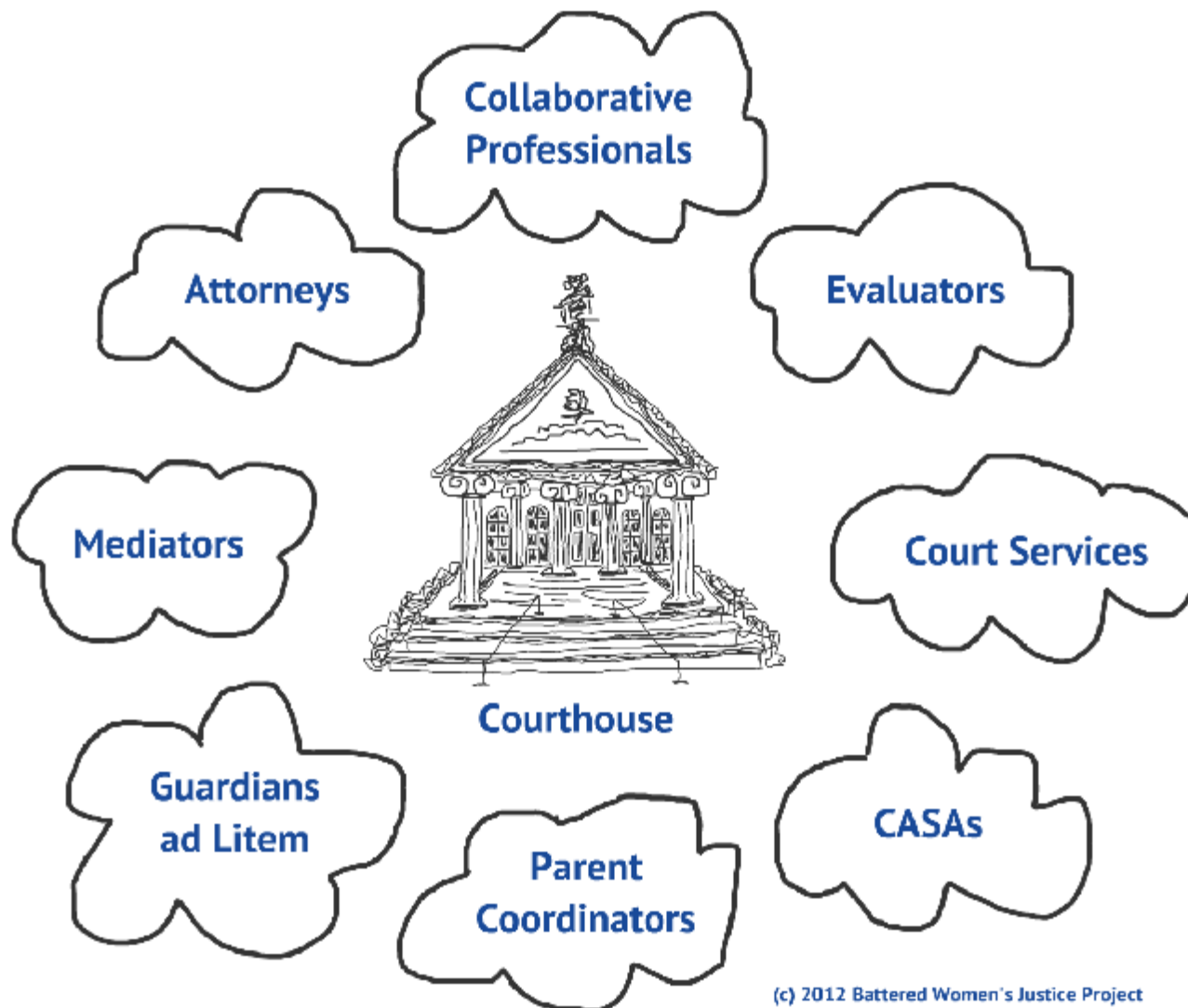
CUSTODY COURT
Battering is
Invisible

Planet B

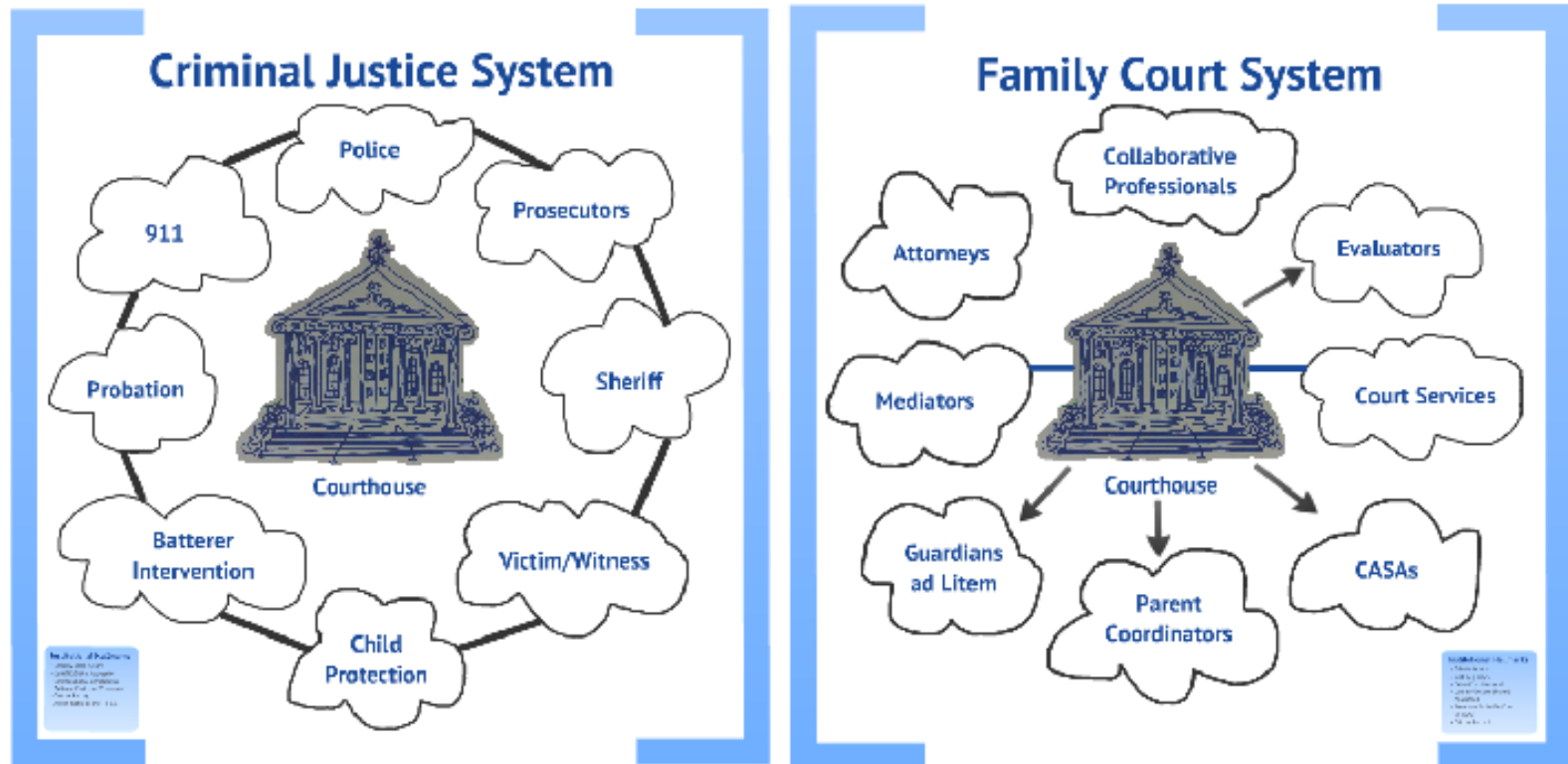
‘Good Enough’ Father

Adapted from Hester,
2004

Institutional Accountability in the Family Court System



Institutional Accountability in the Criminal Justice and Family Court Systems



(c) 2012 Battered Womens Justice Project

<http://www.bwjp.org/custody.aspx>



BATTERED WOMEN'S JUSTICE PROJECT

CHANGE JUSTICE ACCOUNTABILITY

A message to victims of domestic violence >>

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Community Response](#)[Custody](#)[Grants to Encourage
Arrest \(GTEAP\)](#)[Customized Trainings](#)[Law School
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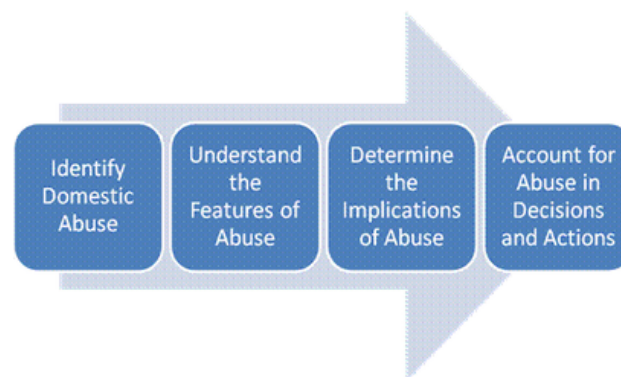
About the Custody Project

BWJP is working to improve the family court response to domestic violence through a grant from the Office of Violence Against Women. The goal of the project is to enhance safety for battered women and their children by ensuring that family court decision-making accounts for the nature and effects of domestic violence.

BWJP has developed a four-part model to help family court practitioners make domestic violence-informed decisions and take domestic violence-informed action. The model can be applied by anyone who is involved in a family court case (advocates, attorneys, guardians, evaluators, mediators and judges) at any stage of the family court process (intake, case management conference, mediation, evaluation, and trial).

For a brief history of the Custody Project and a current progress report, please [click here](#).

Conceptual Framework

 [Back to Projects Page](#)[National Custody Workgroup](#)[Major Activities](#)[Emerging Themes](#)[Advice from Battered Mothers](#)[Webinar Recordings](#)[Register for Webinars](#)[Custody Evaluators' Beliefs](#)[Related to Custody Outcomes](#)

[Click here](#) for a link to a webinar recording about this

Institutional Hallmarks

Criminal Justice System

- Largely State Actors

Family Court System

- Private Independent Actors

Institutional Hallmarks

Criminal Justice System

- Constitutional authority

Family Court System

- Discretionary Authority

Institutional Hallmarks

Criminal Justice System

- Constitutional Protections

Family Court System

- Few Constitutional Protections

Institutional Hallmarks

Criminal Justice System

- Clear Chains of Command

Family Court System

- Self Regulated Practice

Institutional Hallmarks

Criminal Justice System

- Standardized Work Practices

Family Court System

- Freedom to Re-Invent

Institutional Hallmarks

Criminal Justice System

- Work Is Mostly On the Record

Family Court System

- Work is Mostly Off the Record

Institutional Hallmarks

Criminal Justice System

- Appealable Actions

Family Court System

- Non-Appealable Actions

Institutional Hallmarks

Criminal Justice System

- Coordinated Services

Family Court System

- Non-Coordinated Services

Institutional Hallmarks

Criminal Justice System

-  Largely state actors
-  Constitutional authority
-  Constitutional protections
-  Clear chains of command
-  Standardized work practices
-  Work is mostly on the record
-  Appealable actions
-  Coordinated services

Family Court System

-  Private independent actors
-  Discretionary authority
-  Extra-constitutional
-  Self-regulated practice
-  Freedom to re-invent
-  Work is mostly off the record
-  Non-appealable actions
-  Non-coordinated services

Why Is This?

Even when domestic violence is recognized and documented, resulting Family Court decisions often fail to account for violence and control still present and still impacting the safety and well-being of mothers and children.

One Explanation:



Problematic Discourse

What is Discourse?

- The way people think and talk about something
- The concepts, theories and assumptions that **guide** our actions
- Beliefs
- Mental “short cuts”
- Created through professional, religious, political and/or social training or up-bringing

These assumptions and beliefs

- Are embedded and largely invisible
- Seem self-evident/natural to people whose decisions are guided by them
- Filter out annoying facts that don't fit

Research on discourse

- Evaluators' **beliefs** are more closely associated with their parenting recommendations than the actual nature, context and severity of abuse they observe.
- Daniel G. Saunders, *et al.*, Custody Evaluators' Beliefs About Domestic Abuse in Relation to Custody Outcomes, National Institute of Justice (2011).
- <https://www.ncjrs.gov/pdffiles1/nij/grants/238891.pdf>

More Research:

- Mothers' *demeanor* is more closely associated with evaluators' recommendations than the severity (mild v. severe), type (conflict v. coercive control), or documentation of violence.
- Jennifer Hardesty, *et al.*, The Effect of Domestic Violence Allegations on Custody Evaluators' Recommendations (2011)
- University of Illinois at Urbana Champaign

And Still More Research

- Evaluators' *knowledge* about domestic violence (awareness of risk factors and application of a power and control model) is more predictive of their parenting recommendations than: (1) the severity of abuse, or (2) the thoroughness of their investigations.
- Michael S. Davis, *et al.*, Custody Evaluations When There are Allegations of Domestic Violence (2011).
- <http://www.ncjrs.gov/pdffiles1/nij/grants/234465.pdf>

Red Flags

51

- She has a history of chemical abuse or he alleges she has.
- She has a mental health diagnosis or he alleges she has.
- There's been a history of court filings to modify parental access times/custody/visitation.

- She files a petition for a protective order at about the same time custody is being disputed.
- She alleges that he abuses the child, whether physical or sexual.
- She alleges that he abuses her.

- The child has significant developmental issues or health problems and the parents don't agree about it.
- She has had one or more relationships with abusive men.
- System practitioners view her as “difficult” regardless of whether she has a significant parenting deficit.
- The abuser has threatened that if she left he would get the kids.

Assumptions Distort Reality

What if

- The mother filed for an Order for Protection in the middle of a custody dispute.
- The default assumption of family court practitioners is:
The mother doesn't need protection but is trying to get a "leg up" in the custody proceeding.

Reality Check

□ Reality A

The mother doesn't want an order for protection but filed for one on the advice of police, child protection, or advocates.

□ Reality B

The mother experienced violence and wants protection from abuse.

Assumptions Distort Reality

- What if

The mother has sought professional help/treatment from mental health providers.

- Practitioners assume

The mother is crazy.

Reality Check: Could it be

Perhaps

- The mother is mentally ill, but it is controlled, and poses no risk to the children

Or

- Maybe the mother is not mentally ill but sought help for symptoms related to abuse or trauma.

Assumptions Distort Reality

What if

- The mother has had one or more relationships with abusive men.

The default assumption is

- The mother “asks for it” or her poor judgment is the problem.

Reality Check

Perhaps

- The mother's partners don't reveal abuse initially but it escalates over time.

Or

- The mother's partners have good qualities that she thinks outweigh the abuse.

Assumptions Distort Reality

What if

- The mother believes the child has significant developmental issues or health problems but the father does not agree.

Default assumption is

- The mother is lying about the problems or exaggerating them for some reason.

Reality Check

Could it be

- The mother is mistaken about the child's developmental or health concerns

Or perhaps

- The child does have significant problems but the father fails to recognize them.

Assumptions Distort Reality

What if there is a

- History of court filings to modify parental access times/custody/visitation.

Default assumption

- This is a “high conflict” case.

Reality Check

Perhaps

- The plans have not been workable as they fail to account for abuse.

Or maybe

- Litigation abuse is going on.

In conclusion

Beliefs, not facts, are guiding lots of decisions in custody cases

Beliefs are difficult to change but not impossible.

You can help this process of change by challenging assumptions about battered mothers

Remember

- The vast majority of battered mothers want their children to have contact with their fathers.
- Given the huge cultural beliefs about the importance of fathers, when battered mothers ask for help protecting their kids,
- Please start by believing them.

Questions

- Stephanie Avalon – savalon@bwjp.org
- Marijka – mbelgum@bwjp.org

BWJP Office – 800-903-0111, prompt 1

2014 International Family Justice Conference

San Diego, April 2-4, 2014

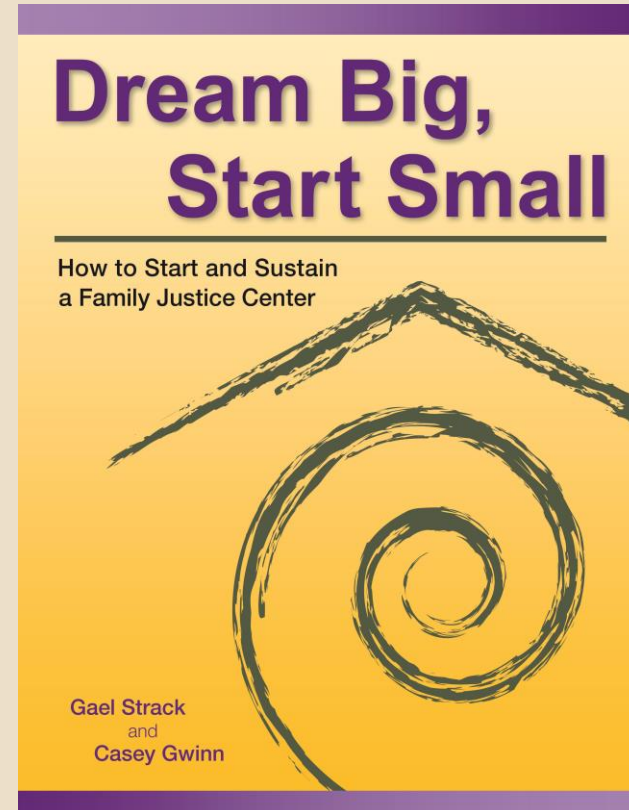
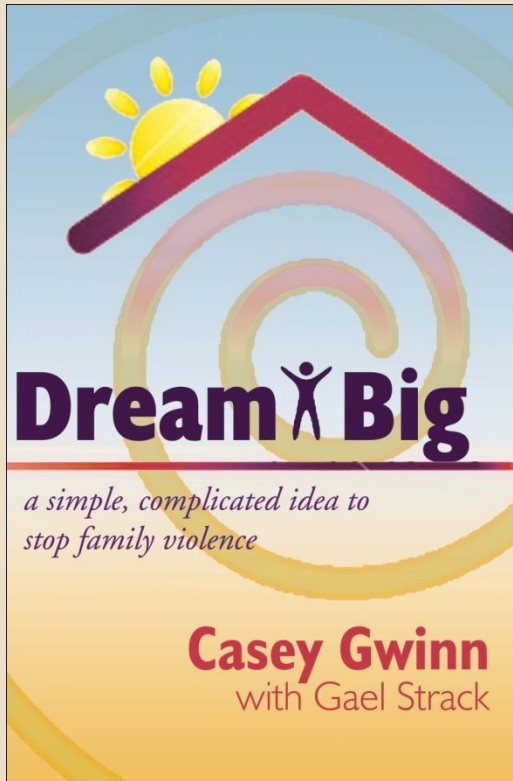


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The Why & the How



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Thank You

Thank you for joining today's presentation

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