



A SAFER APPROACH TO DECISION-MAKING IN DOMESTIC VIOLENCE-RELATED CHILD CUSTODY

DISPUTES

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INTRODUCTION

Child custody decision-making in the context of intimate partner violence (“IPV”) allegations can be controversial, unpredictable, and challenging. The family court system struggles to protect the safety and wellbeing of children and their battered parents in IPV-related child custody cases.¹ It is also concerned about protecting the rights and interests of parents who are accused of IPV and/or unjustifiably estranged from their children.² This document describes a four-pronged approach to decision-making in IPV-related parenting cases known as “SAFER.”³ The SAFER approach is designed to produce safer, more workable outcomes for battered parents and their children.

A NEW METHODOLOGY

The SAFER approach to child custody decision-making consists of four parts: (1) screening for IPV; (2) assessing the full nature and context of IPV; (3) focusing on the effects of IPV on parenting, co-parenting and the best interests of the child; and (4) responding to the lived experience of IPV in all family court recommendations, decisions, and interventions.

¹ See Kaur, M., Melara, S., Scott, E. & Vasan, A. (2013). *Family Law Remedies for Domestic Violence Across California: A Survey*. California Partnership to End Domestic Violence; Dragiewicz, M. (2012). *Gender Bias in Courts: Implications for Battered Mothers and their Children*. *Family and Intimate Partner Violence Quarterly*, 5(1):13-35.

² See Jocelyn Elsie Crowley, *Adopting ‘Equality Tools’ from the Toolboxes of their Predecessors: The Fathers Right Movement in the United States*, in *FATHERS’ RIGHTS ACTIVISM AND LAW REFORM IN COMPARATIVE PERSPECTIVE* 81 (Richard Collier & Sally Sheldon eds., 2006).

³ Many of the ideas expressed herein were developed under Award 2009-TA-AX-K025 from the Office on Violence Against Women, U.S. Department of Justice and are more fully explored in Gabrielle Davis, (2015). *A Systematic Approach to Domestic Violence-Informed Decision Making in Family Law Cases*, *Family Court Review*, 53(4):565-577. The opinions, findings, conclusions and recommendations expressed herein are those of the author and do not necessarily reflect the views of the U.S. Department of Justice.



The SAF^eR approach seems intuitive, but its implementation requires attention to information that is too often ignored. In many instances, family court professionals take shortcuts. They often skip over the intermediate steps of the SAF^eR approach (attending to the nature, context and effects of IPV) and come to quick and seemingly simple conclusions. In reality, the intermediate steps are the most crucial, yet frequently overlooked, elements of the SAF^eR analysis.

The strength of SAF^eR is that it steers practitioners away from making unfounded assumptions about IPV and people’s experience of it. Practitioners must not assume that IPV is an issue in every custody dispute. Instead, they need to find out if that is the case. Practitioners mustn’t assume that every IPV case involves serious physical harm or a long history of coercive controlling abuse. Rather, they need to explore what is actually going on. Practitioners mustn’t assume that the presence of IPV always has a negative effect on children or parenting. Instead, they need to determine whether that is so. And, practitioners mustn’t assume that every IPV case ought to result in some predetermined outcome. Rather, they must craft outcomes that address the full nature, context and implications of IPV, whatever they may be. SAF^eR guides this work.

Screening for IPV.

The first element of SAFER is to screen for IPV. It calls on family court professionals to identify whether domestic abuse is or may be an issue in the case. Like other screening functions in non-court settings, the goal of this first step is simply to explore whether there is reason to take a closer look at IPV. This first element is somewhat akin to airport security. Before entering the gate area, all passengers must pass through a metal detector or body scanner to uncover whether they might pose a threat to airline safety. Most people pass through security without incident. Sometimes, a passenger trips an alarm. The alarm might go off because that passenger left keys in his pocket, or has a metal pin in his knee – or, much less frequently, because he has a bomb stuffed down his pants. The screening device can't tell the difference. Rather, it signals to the security agent that she needs to take a closer look. It's not the screening device, but this closer look, that tells the security agent what she really needs to know. It's the same with IPV. The screening protocol (which is represented by the first element of SAFER) merely tells the family court professional that he has to do a more thorough IPV assessment.

Assessing the Nature and Context of IPV.

The second element of SAFER represents this more thorough IPV assessment. It calls on family court professionals to explore the full nature and context of any potential IPV that is detected during the screening process. The assessment is important because IPV is not a fixed or uniform condition. It is carried out and experienced differently by different people in different relationships and even at different times within the same relationship. Consequently, it's not enough to know that IPV has occurred or has been alleged. Family court practitioners

need to know what is actually going on in people’s real lives. They have to know, for instance, whether the IPV they have detected is an isolated incident or part of a larger pattern or history of abuse. They need to know whether the IPV is designed to instill fear or compliance with unilateral and self-proclaimed rulemaking authority – or whether it represents resistance to violence that has been perpetrated against that partner. Family court practitioners need to know whether the abuse they have detected includes markers of lethal danger – and/or whether it is associated with other life stressors, such as major mental health problems or substance abuse. In short, family court professionals must attempt to gain a full and complete understanding of IPV in context – to discern who is doing what to whom and why. Otherwise, they’ll end up treating everything and everybody the same, and that can endanger children and battered parents, embolden abusers, and undermine effective interventions.

Focusing on the Effects of IPV.

The third element of SAF^eR is focusing on the effects of IPV. Here, practitioners are directed to explore what the experience of abuse means for the parties and the children – both in the broadest and most narrow sense. In the broadest sense, this means discovering what it is like to live in an environment of IPV, to parent and to be parented in an atmosphere of abuse. The framework directs family court professionals to consider how IPV shapes everyday life and communication, daily responsibilities and authority in the home, and general parenting beliefs, attitudes and practices. It guides family court professionals to discern the relative needs and interests of the children and parents, to determine whose needs are satisfied and whose interests are protected. In the more narrow sense, the third element of SAF^eR asks family court professionals to determine why IPV matters – how it is relevant to the decision or action

at hand and how it is connected to the standards by which the decision or action that must be taken is to be made.

In this way, the third element of SAFER dictates a differential analysis that seeks to assess the impact of IPV in different ways depending upon what the practitioner is trying to do. If, for instance, the practitioner is trying to decide what sort of access arrangement is appropriate, the pertinent implications of IPV revolve around such things as the physical and emotional safety of the child, the capacity of the abuser-parent to recognize and respond to the child's individual needs, the degree to which the abuser-parent takes responsibility for past abuse or continues to use the child as an instrument of abuse, the extent to which the child and the victim-parent trust the abuser-parent's parenting, and so forth. If, on the other hand, the practitioner is trying to decide the parents' competence to make joint parenting decisions, the relevant implications of IPV include slightly different considerations, such as the ability of the parents to communicate in a direct, civil, constructive and child-focused manner, the willingness of the abuser-parent to support the parental authority of the victim-parent, and the abuser-parent's ability to separate his role as parent from his role as partner, among other things. Just as the standards for decision-making differ depending upon the issues to be decided, so too does the task of determining the effects of IPV.

Responding to the Lived Experience of IPV.

The fourth element of SAFER is responding to the lived experience of IPV. This is especially important because research indicates that even when IPV is detected, cases often

proceed to resolution without regard to safety, power differentials, and other effects of abuse.⁴

The goal of this last element is to respond directly to – and to correct, if possible – the harm resulting from IPV, whatever it is, and to minimize the opportunity for ongoing abuse and future unwelcomed intrusion into the lives of battered parents and children.

By way of illustration, suppose a custody evaluator performs an initial IPV screen pursuant to the first element of SAFER and learns that one of the parents has been emotionally abused by the other parent. This signals to the evaluator that she should take a closer look, pursuant to the second element of SAFER, to figure out what is actually going on. The evaluator investigates further and discovers that the emotionally-abusive parent is intentionally withholding necessary and available financial support in order to punish the victim-parent for leaving the relationship. The evaluator also learns that the child does not want to spend time with the emotionally-abusive parent. The evaluator proceeds to the third element of SAFER to determine why and how that matters. Upon inquiry, the evaluator learns that the child's basic needs are not being met, the victim-parent is anxious and depressed about finances, the child feels resentful of the abuser-parent for not supporting him, and the child feels betrayed by the victim-parent for breaking up the family. Equipped with this knowledge, the evaluator must figure out how to craft a parenting recommendation that accounts for the nature, context and effects of IPV pursuant to the fourth element of SAFER. The evaluator might consider incorporating terms into the parenting recommendation that set clear and enforceable financial obligations for the abuser-parent, impose some form of financial oversight to ensure those

⁴ Mary Kernic, Daphne Monary-Ernsdorff, Jennifer Koepsell & Victoria Holt (2005). *Children in the Crossfire: Child Custody Determinations Among Couples with a History of Intimate Partner Abuse*, Violence Against Women, 11(8):991-1021; James Bow (2006), *Review of Empirical Research on Child Custody Practice*, Journal of Child Custody, 3(1):23-50.

obligations are being satisfied on a consistent basis, support the victim-parent's health and economic self-sufficiency, and restore the child's trust in both of his parents.

When put this way, the methodology outlined above makes perfect sense. Yet, it is neither widely practiced nor self-executing. Although SAF^eR is intuitive and easy to understand, it can be very challenging to implement. Consequently, BWJP has developed a compendium of worksheets and practice guides to operationalize the SAF^eR approach. The compendium includes an initial IPV screening guide, an IPV-informed interview protocol, a tool for assessing parenting in the context of IPV, a best interest analysis, case planning guides, IPV assessment guides for mediation and early neutral evaluation, and a co-parenting assessment guide. The practice guides are available online at <http://www.bwjp.org/resource-center/resource-results/practice-guides-for-family-court-decision-making-in-domestic-abuse-related-child-custody-matters.html>.

CONCLUSION

SAF^eR is designed to transform a family court system that is poorly organized to respond to IPV into one that produces safer, more workable outcomes for battered parents and their children. The key to that effort is to follow an approach that effectively identifies if and when IPV is an issue in the case; explores the full nature and context of any abuse that is detected; examines the real-life implications of the abuse that is or has been occurring; and accounts for IPV in all parenting recommendations, decisions and interventions – all in a way that facilitates the family court practitioner's ability to act in the best interests of the child living with IPV.



EFFECTS OF IPV ON....

Autonomy



Freedom from undue pressure, duress, threats, manipulation, and/or intimidation

How comfortable are you saying what you think, raising difficult topics, disagreeing with the other person, and standing up for what matters to you?

Good faith/fair dealing



Adherence to ground rules, respect for others' needs and interests, full disclosure of relevant information, willingness and ability to explore options and share decision making, commitment to honor agreements

How confident are you that both of you will: (1) follow the rules; (2) share important information; (3) hear each other out; (4) cooperate; and (5) stand by promises and agreements?

Judgment



Parenting capacity and judgment, commitment to shared decision-making, willingness & ability to attend to children's needs

How well can you rely on the other person to make good decisions when it comes to the children, prioritize the children's needs, and share parental responsibility?

Information



Understanding of rights, issues, and options; access to relevant information; knowledge of personal & community resources

How well do you understand this process, your legal rights and options, and the things you need to know to fully and effectively participate?

Safety/Risk Assessment



- Stalking
- Sexual assault
- Abuse during pregnancy
- Threats to kill
- Strangulation
- Controlling behaviors
- Access to weapons
- Increased frequency/severity
- Child abuse
- Animal abuse
- Excessive jealousy/obsession
- Abuser's mental status
- Denial of responsibility for IPV

Is there anything about this process that makes you concerned for your own safety or for the safety of your children? If so, please say more.

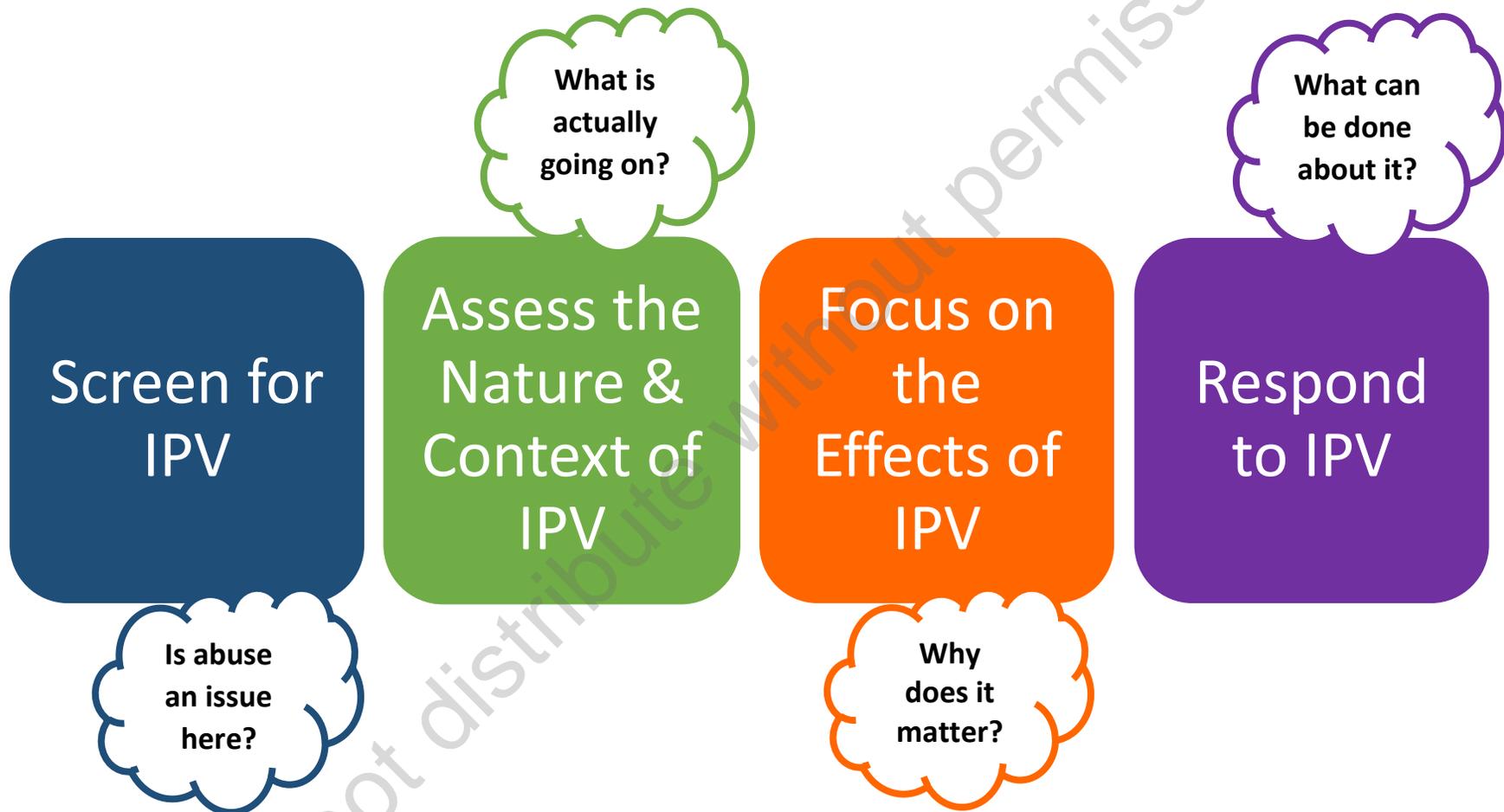
PROCEDURAL RESPONSES

- Expert co-mediator
- Legal or Advocate support
- Best interest monitor
- Document production
- Mediation prep support
- Pre-set substantive issues
- Pre-set procedural rules
- Judicial findings or orders
- Suspend/delay mediation
- Do not attempt mediation

Mediation Discussion Guide 4-13-20



SCREENING AND ASSESSMENT	NOTES	NOTES
<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Abuse of Victim-Parent <input type="checkbox"/> Physical violence <input type="checkbox"/> Sexual coercion <input type="checkbox"/> Emotional abuse <input type="checkbox"/> Economic abuse <input type="checkbox"/> Spiritual/ethical abuse <input checked="" type="checkbox"/> Control of Victim's... <input type="checkbox"/> Access to resources <input type="checkbox"/> Freedom to manage affairs <input type="checkbox"/> Immigration/work status <input type="checkbox"/> Parenting decisions <input type="checkbox"/> Social connectedness <input checked="" type="checkbox"/> Children's safety/wellbeing  <input checked="" type="checkbox"/> Abuser's parenting  	<p><i>Provide notes on the nature and context of abuse here:</i></p>	<p><i>Provide notes on safety concerns and other effects of abuse here:</i></p> <p>SAFETY:</p> <p>AUTONOMY:</p> <p>GOOD FAITH/FAIR DEALING:</p> <p>JUDGMENT:</p> <p>INFORMATION:</p>



SCREENING FOR INTIMATE PARTNER VIOLENCE

- Is IPV an issue?
- What is the abuser doing?
- What's the effect on...?
- What can be done about it?

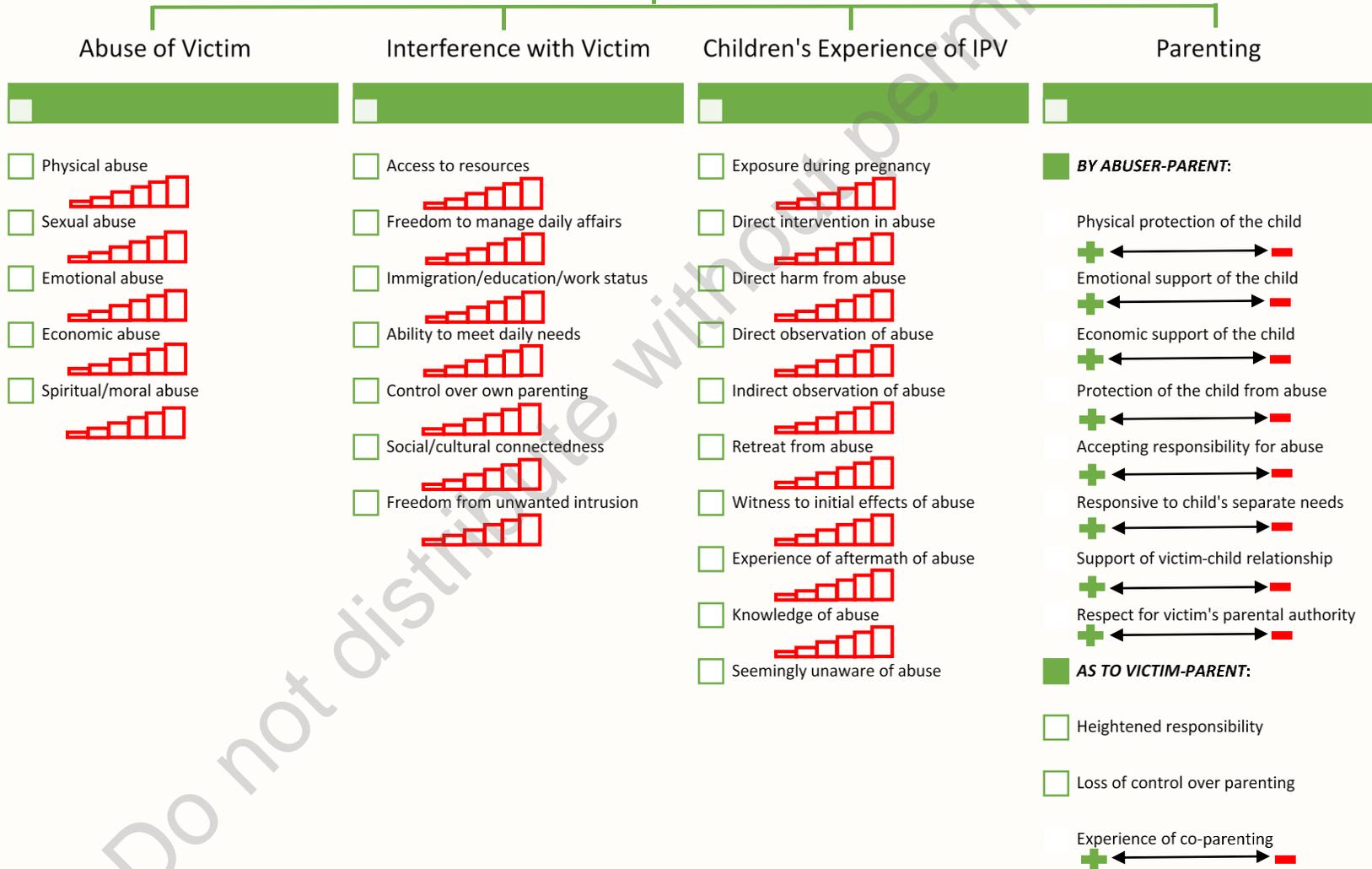
Daily Interactions

Forms of IPV

<input type="checkbox"/>	Interpersonal relations	<input type="checkbox"/>	Physical abuse
<input type="checkbox"/>	Everyday decision-making	<input type="checkbox"/>	Sexual coercion
<input type="checkbox"/>	Control of daily life	<input type="checkbox"/>	Emotional abuse
<input type="checkbox"/>	Sense of safety	<input type="checkbox"/>	Economic abuse
<input type="checkbox"/>	Parental decision-making	<input type="checkbox"/>	Spiritual/ethical abuse
		<input type="checkbox"/>	Coercive control

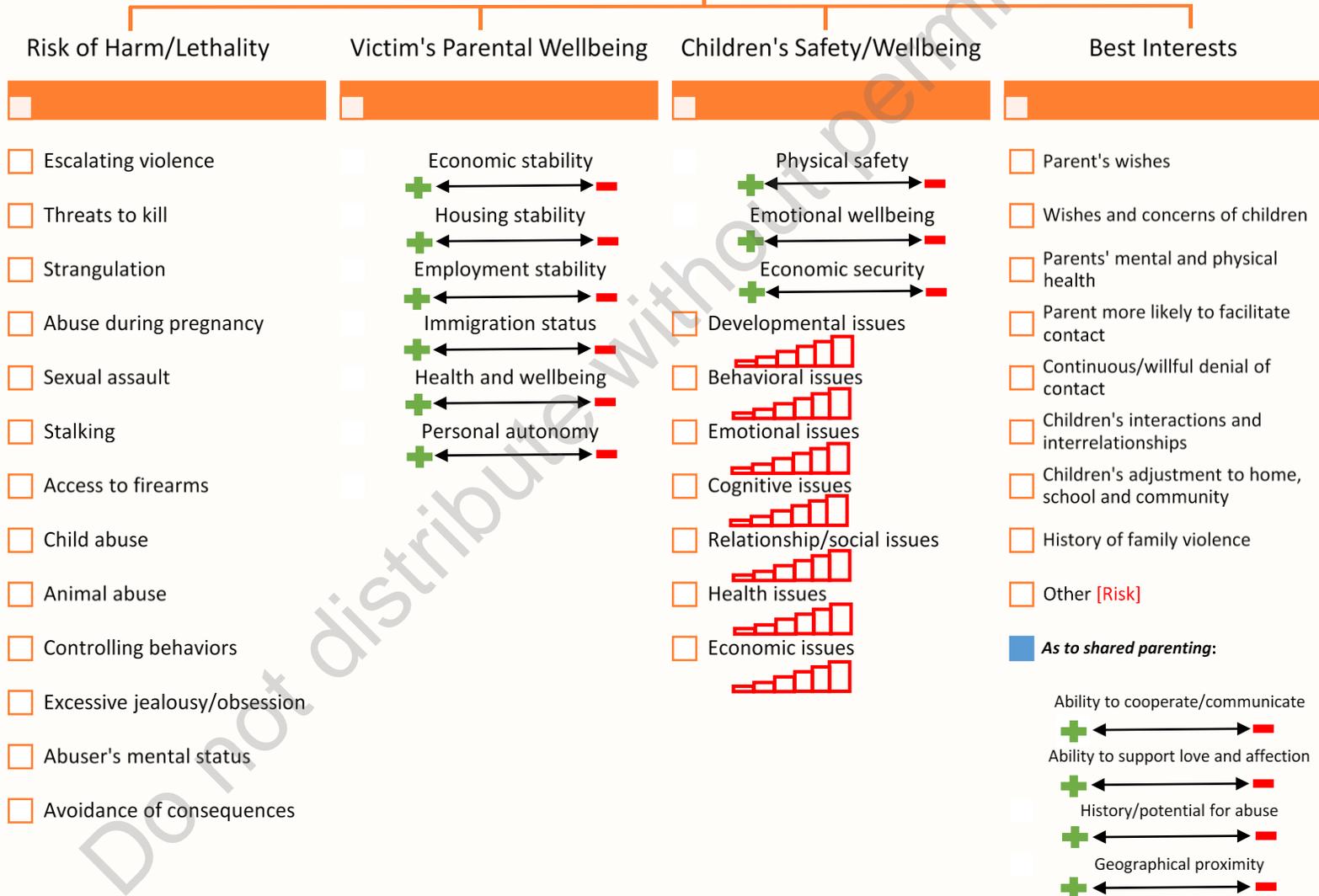
ASSESSING THE NATURE & CONTEXT OF IPV

Is IPV an issue? What is the abuser doing? What's the effect on...? What can be done about it?



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FOCUSING ON THE EFFECTS OF IPV



RESPONDING TO IPV

- Is IPV an issue?
- What is the abuser doing?
- What's the effect on...?
- What can be done about it?

Nature/Context of IPV

- Abuse of Victim?
- Interference with Victim?
- Children's Experience of Abuse?
- Abuser Parenting Deficits?
- Abuser Co-Parenting Problems?

Implications of IPV

- Risk of Harm/Lethality?
- Victim's Parental Wellbeing
- Children's Safety/Wellbeing
- Best Interests of the Child
- Shared Parenting

Options & Interventions

- Parents' wishes
- Wishes and concerns of children
- Parents' mental and physical health
- Parent more likely to enable contact
- Continuous/willful denial of contact
- Child's interactions/relationships
- Adjustment to home, school, etc.
- History of family violence
- Ability to cooperate/communicate
- Ability to support love & affection
- History/potential for abuse
- Geographical proximity

- Limit/prohibit access to victim
- Limit/monitor access to children
- Limit abuser's decisionmaking
- Establish self-executing terms
- Support victim's efforts to protect
- Strengthen child's support system
- Monitor abuser's compliance
- Set benchmarks for modification
- Other _____

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Physical/Sexual Abuse



Harm to the victim's physical safety and bodily integrity



ASSAULT

Pushing, shoving, shaking, grabbing, scratching, pulling, twisting, slapping, hitting, punching, kicking, choking, strangling, burning, stabbing

FORCE OR RESTRAINT

Holding down, pinning, kneeling on, sitting upon, tying up, binding, gagging, forcing sex, trafficking, compelling pornography, exploiting labor

DEPRIVATION

Withholding food, medicine, shelter, sleep, necessities, etc.

SABOTAGE

Disabling vehicles, tampering with utilities, setting traps, interfering with birth control, disabling medical equipment

Emotional Abuse



Harm to victim's emotional safety, security, or wellbeing



DEGRADATION

Name calling, ridiculing in public, insulting, demeaning, humiliating, dehumanizing

INTIMIDATION

Yelling and screaming, acting aggressively, displaying weapons, driving recklessly, making unfounded accusations, destroying things

THREATS

Threats to kill or harm victim, children, self, or others; threats to destroy reputation, things of value, immigration or work status, relationships, etc.

DISRUPTION

Creating unpredictability, chaos, or confusion; crazy making; obsessive jealousy; interrupting plans, work, or relationships

Economic Abuse



Harm to victim's financial security, stability, standing, or self-sufficiency



REFUSAL TO SUPPORT

Denying money, refusing to pay bills, refusing to pass title, failing to pay premiums, withholding access to credit

HIDE OR DISSIPATE ASSETS

Emptying bank accounts, hiding assets, stealing or selling property, cancelling insurance or credit cards, hiding bills or financial information

DAMAGE CREDIT/STANDING

Destroying credit, running up debt, taking out loans, forging papers, hacking into accounts, identity theft

UNDERMINE OPPORTUNITY

Refusing to work or to let victim work, trying to get victim fired, refusing to sign papers, lying to immigration, filing false claims, constantly returning to court

Spiritual/Ethical Abuse



Harm to victim's religious values or deeply held beliefs



MISUSE OF RELIGIOUS AUTHORITY

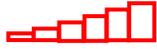
Using sacred text to justify abuse, citing scripture to gain compliance, turning religious community against victim, insulating victim within faith community, restricting help-seeking to faith community

MORAL CORRUPTION

Forcing victim into prostitution or pornography; forcing victim to use or sell illegal drugs; forcing victim to steal or pass bad checks; engaging in criminal activity over victim's objection; exposing children to negative influence

Abuse of Victim Detail

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Interference with Resources	<ul style="list-style-type: none"> • Do you have access to your own resources, like money, bank accounts, food, housing, transportation, and healthcare? • Who decides how you spend money and manage your financial affairs? 	
Interference with Daily Affairs	<ul style="list-style-type: none"> • How much freedom do you have in your everyday life to come and go as you please, manage your own time, make your own decisions, set your own priorities, interact with other? 	
Interference with Work, School, Immigration Status	<ul style="list-style-type: none"> • Is there anything that gets in your way of getting to work or school, doing your work or studying without interruption, pursuing a career or education, or succeeding at work or school? • Is there anything that gets in the way of your immigration status? 	
Interference with Ability to Meet Daily Needs	<ul style="list-style-type: none"> • Is there anything that gets in your way of eating, sleeping, keeping and maintaining a home, getting from place to place, providing for yourself, exercising, seeking medical attention when you need it, keeping up with medications, having time to yourself, keeping current on your bills and obligations? 	
Interference with Parenting	<ul style="list-style-type: none"> • Is there anything that gets in your way of protecting and caring for your children? • Do you have any concerns about your children or fears for their safety? • Has the other ever used or threatened to use the children to manipulate, control, or monitor you? 	
Interference with Social or Cultural Connections	<ul style="list-style-type: none"> • Is there anything that gets in your way of keeping in touch with your friends and family, connecting with your religious and cultural communities, practicing your faith, staying true to your cultural values and beliefs, or getting together with people who matter to you? 	
Unwanted Intrusion	<ul style="list-style-type: none"> • Has the other ever followed you, constantly checked up on you, opened your mail, examined your phone records, hacked into your email, grilled you or timed your activities, used others to spy on you, invaded your space or privacy, misused social network sites, reported you to authorities without reason or cause? 	

Interference with Victim Detail

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<p>IPV during pregnancy</p>	<p>The developing fetus experiences abuse <i>in utero</i>, where, for instance, the abuser:</p> <ul style="list-style-type: none"> •kicks, punches, terrorizes, or sexually assaults a pregnant partner; deprives a pregnant partner of food, sleep, or prenatal care 	
<p>Direct intervention in IPV</p>	<p>The child takes affirmative steps to make the abuse end, such as:</p> <ul style="list-style-type: none"> •pleading with the abuser to stop, calling for help, blocking abuser's access to victim-parent, pulling the abuser off the victim 	
<p>Direct harm from IPV</p>	<p>The child suffers verbal, physical, or emotional harm during the course of IPV, as when:</p> <ul style="list-style-type: none"> •the child gets caught in the crossfire, is blamed for IPV, is ridiculed for crying, is told they're next, is punished for intervening 	
<p>Direct participation in IPV</p>	<p>The child joins in the IPV, due to force, coercion, identification with abuser, or self-preservation:</p> <ul style="list-style-type: none"> •abuser uses child to spy, taunt, or assault victim; abuser rewards child for participating in IPV; child goes along to stay safe 	
<p>Observation of IPV</p>	<p>The child sees or hears IPV, either directly or indirectly, where, for instance, the child:</p> <ul style="list-style-type: none"> •watches an assault, observes coercive power, hears threats or pleas for mercy, observes degradation, sees intimidation 	
<p>Retreat from IPV</p>	<p>The child takes cover from IPV by:</p> <ul style="list-style-type: none"> •running away from home, hiding under the bed, using alcohol or drugs, locking him/herself in the closet, tuning out the world 	
<p>Witness initial effects of IPV</p>	<p>The child observes the immediate effects of IPV, including but not limited to:</p> <ul style="list-style-type: none"> •blood, bruises, and other injuries; ambulances and emergency vehicles; a parent being arrested; damaged property; trauma 	
<p>Experience aftermath of IPV</p>	<p>The child faces life-altering change as a result of IPV, including but not limited to:</p> <ul style="list-style-type: none"> •parental anxiety, separation or relocation, broken social ties, breakdown in trust, chaos, uncertainty, disruption to routines 	
<p>Knowledge of IPV</p>	<p>The child is told about (or overhears) conversations regarding IPV by:</p> <ul style="list-style-type: none"> •parents, extended family members, police, child protection workers, judges, lawyers, guardians ad litem, teachers, therapists 	

Physical/Sexual Abuse of Child

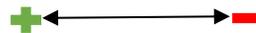
Emotional Abuse of Child

Economic Abuse of Child

Use of Child as Tool of IPV



Harm to the child's physical safety, security, and wellbeing



- ASSAULT**
Pushing, shoving, shaking, grabbing, slapping, hitting, punching, kicking, choking, strangling, burning, stabbing, having sexual contact
- FORCE OR RESTRAINT**
Abducting, sexually exploiting, using child in pornography, sex or labor trafficking, forcing child to have sex with others, keeping child from leaving
- DEPRIVATION**
Withholding food, medicine, shelter, sleep, necessities, etc.
- SABOTAGE**
Interfering with child's healthcare, education, privacy, recreation, exercise, diet, gender expression, etc.

Harm to child's emotional safety, development, security, or wellbeing



- DEGRADATION**
Name calling, mocking, shaming, criticizing, blaming, rejecting, humiliating, morally corrupting
- INTIMIDATION**
Yelling and screaming, acting aggressively, displaying weapons, driving recklessly, destroying things, demanding affection or loyalty, inducing fear or terror
- DENIAL AND THREATS**
Withholding support or affection; refusing to meet child's emotional needs; isolating child from friends; threatening to kill or harm child, self, others; threatening to leave
- DISRUPTION**
Creating unpredictability, chaos, or confusion; disrupting structure or routines; fluctuating involvement; breaking promises; violating boundaries; missing visits

Unnecessary harm to the child's economic stability or security



- DENIAL OF SUPPORT**
Refusing to pay child support, failing to pay bills or insurance premiums, withholding access to insurance cards, trading money or support for visitation
- DISSIPATION OF ASSETS**
Emptying bank accounts, hiding assets, stealing or selling property, cancelling insurance or credit cards
- INTERFERENCE**
Denying other parent access to information or resources; shutting off utilities; taking or disabling vehicles; cancelling insurance; interfering with other parent's work

Use of child to control, manipulate, threaten or harm the other parent



- THREATS & HARASSMENT**
Threatening to harm or take the child, using custody to harass other parent, using visitation to access other parent, disrupting visitation schedule to punish other parent, using child to spy or tell on other parent
- MANIPULATION**
Pitting child against other parent, encouraging or rewarding child to disrespect other parent, using child to bargain with other parent, using child to coerce or harass the other parent, degrading other parent to child, neglecting child on visits

Parenting by Abuser-Parent

Denying Impact of IPV on Child



Failure to acknowledge and repair damage from one's own abuse

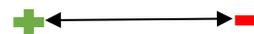


- Justifying or excusing abuse
- Blaming others for abuse
- Demanding respect for abuse
- Refusing to get help for abuse
- Refusing counseling for child
- Interfering with child's care
- Being intolerant of criticism
- Disregarding child's needs
- Refusing to apologize for abuse
- Forcing unwanted child contact
- Interfering with other parent's efforts to care for/protect child

Ignoring Child's Separate Needs



Failure to distinguish child's needs or identity separate from one's own

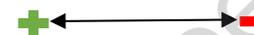


- Putting one's own needs above child's
- Thinking child's needs are identical to own's own
- Believing child thinks or feels the same way as oneself
- Believing one exclusively knows what's best for the child
- Obsessively attaching to child
- Seeing no value in other parent's contact, absent cause
- Believing, without cause, child is being poisoned by other parent
- Believing, without cause, child is just mirroring other parent
- Believing, without cause, child and other parent are conspiring

Undermining Other's Parenting Relationship



Interference with other parent's relationship or parental authority



- Refusing to follow established rules
- Violating established parenting agreements
- Withholding information concerning the child
- Disrupting child's schedule or routine
- Disrespecting other parent's new partner
- Ignoring child's allergies or illnesses
- Refusing to agree to rules or structure
- Making false claims to authorities
- Under- or over-medicating child
- Using new partner as a replacement parent
- Disparaging other parent in front of child

Relentless Harassment



Disruption of everyday life and creation of persistent instability



- Constantly disrupting child's schedule and routine
- Engaging in harassing litigation
- Repeatedly filing false reports to authorities
- Fluctuating involvement with child
- Constantly raising "technical arguments"
- Purposefully missing visits and appointments
- Constantly changing rules or expectations
- Stalking other parent or child
- Routinely cancelling and rescheduling appointments
- Habitually showing up unannounced
- Sabotaging other parent at every turn

NATURE & CONTEXT OF IPV

EFFECTS OF IPV ON....

Abuse of Victim-Parent

- Physical abuse
- Sexual abuse
- Emotional abuse
- Economic abuse
- Spiritual/moral abuse

Interference with Victim

- Access to resources
- Freedom to manage affairs
- Immigration/work status
- Ability to meet daily needs
- Social/cultural connection
- Freedom from intrusion

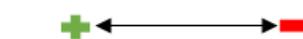
Parenting by Abuser

- Physical protection of child
- Emotional support of child
- Economic support of child
- Protection of child from IPV
- Accepting responsibility
- Responsive to child's needs
- Support of victim-child rel'p
- Respect for parental authority

Child's Experience of IPV



Co-Parenting Relationship



Safety



Look for: Stalking, sexual assault, abuse during pregnancy, threats to kill, strangulation, controlling behaviors, access to weapons, increased frequency or severity of IPV, child abuse, animal abuse, excessive jealousy or obsession, abuser's mental state, avoidance of consequences

Economic Stability



Look for: Poverty, financial dependence, inability to establish or maintain credit, inability to care for children, reliance on social welfare programs, inadequate means to achieve self-sufficiency, lack of leisure time, stress, desperation, etc.

Housing Stability



Look for: Homelessness, substandard housing, repeated moves, reliance on others for shelter, housing/health code violations, predatory leases, break-ins, evictions, address confidentiality issues

Immigration Status



Employment Stability



Look for: Persistent unemployment, low wages, excessive absences, repeated disciplinary action, depletion or loss of benefits, damaged professional reputation, poor work performance, no promotions, missed opportunities, etc.

Personal Autonomy



Look for: Entrapment, dependence, isolation, limited life choices, lack of control over personal/home life, lack of control over parenting/children, inability to meet daily needs/responsibilities, lack of personal fulfillment, etc.

Child's Safety & Wellbeing



See Worksheet on Children and IPV

Victim's Health & Wellbeing



Look for: Physical injury, medical issues, trauma, stress, anxiety, sense of self, satisfaction in life, social connections, support systems, personal resources, etc.

NATURE & CONTEXT OF IPV

EFFECTS OF IPV ON....

Abuse of Victim-Parent

Interference with Victim

Child's Experience of IPV

Exposure during pregnancy

Direct intervention

Direct harm

Direct participation

Observation of IPV

Retreat from IPV

Witness initial effects of IPV

Experience aftermath

Knowledge of IPV

Parenting by Abuser

Physical protection of child

Emotional support of child

Economic support of child

Protection of child from IPV

Accepting responsibility

Responsive to child's needs

Support of victim-child rel'p

Respect for parental authority

Co-Parenting Relationship

Child's Physical Safety

Look for: Stalking, sexual assault, abuse during pregnancy, threats to kill, strangulation, controlling behaviors, access to weapons, increased frequency or severity of IPV, child abuse, animal abuse, excessive jealousy or obsession, abuser's mental state, avoidance of consequences

Child's Emotional Wellbeing

Look for: Anxiety or restlessness, fear of being alone, nightmares or sleep disruptions, inability to focus, lack of interest, exaggerated startle response, difficulty separating from parents, etc.

Child's Economic Security

Look for: Poverty, homelessness, social isolation, exclusion from higher education or extracurricular activities, increased responsibility to work or care for younger children, etc.

Child's Health

Child's Development

Look for: Failure to meet physical or emotional milestones, maladaptive stress responses, poor sleep/awake functioning, emotional detachment, negative feelings about being loved, confident, and safe to explore the world, etc.

Child's Behavior

Look for: Self-harm, delinquency, running away, physical aggression or bullying, hyperactivity, truancy, unregulated temper, defiance of authority, regressive behaviors (baby talk, crying spells, fear of the dark, clinginess), promiscuity

Child's Thinking & Perception

Look for: Poor verbal, analytic, or motor skill development, academic underachievement, distorted memory, trouble concentrating, thinking, learning, or processing information

Child's Relationships

Empathy, trust, aggression, manipulation

Do not distribute without permission

NATURE & CONTEXT OF IPV

Abuse of Victim-Parent

Interference with Victim

Parenting by Abuser

Physical protection of child

Emotional support of child

Economic support of child

Protection of child from IPV

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Child's Experience of IPV

Exposure during pregnancy

Direct intervention

Direct harm

Direct participation

Observation of IPV

Retreat from IPV

Witness initial effects of IPV

Experience aftermath

Knowledge of IPV

Co-Parenting Relationship

EFFECTS OF IPV ON....

Child's Wellbeing

Physical safety

Emotional wellbeing

Economic security

Developmental issues

Behavioral issues

Cognitive issues

Relationship issues

Risk of Harm/Lethality

Look for: Stalking, sexual assault, abuse during pregnancy, strangulation, threats to kill, controlling behaviors, access to weapons, increased frequency or severity of IPV, child abuse, animal abuse, excessive jealousy or obsession, abuser's mental state, avoidance of consequences

Victim's Parental Wellbeing

Safety

Economic stability

Housing stability

Employment stability

Immigration status

Health & wellbeing

Personal autonomy

Best Interests of the Child

Parent's wishes

Wishes and concerns of child

Mental and physical health

Parent most likely to facilitate contact

Child's interactions/interrelationships

Adjustment to home, school, etc.

History of domestic violence

Capacity to provide care

Ability to assure basic needs are met

Willingness to accept responsibility

Need to promote continuity/stability

Relative quality of parent/child rel'ps

Parental decision-making history

Other _____

LIMIT OR MONITOR ABUSIVE PARENT'S ACCESS TO CHILD OR VICTIM PARENT:

- Limit methods of communication (no in-person, telephonic or social media contact)
- Prescribe frequency and methods of communication (email only, text only, etc.)
- Restrict length and/or content of communication (1-page, 10-minutes, scope, etc.)
- Limit access to sensitive information (addresses, account numbers, SSNs, records)
- Issue and enforce no contact orders and orders for protection
- Require neutral exchange locations (school, place of business, etc.)
- Require third party exchanges (professional, friend, family member, etc.)
- Restrict visitation to designated location (grandparent's home, public park, church)
- Restrict visitation to a geographical area (25-mile radius, in town, state, or country)
- Condition visitation on having third party present (professional, friend, family)
- Restrict what can happen during visitation (no alcohol or drugs, no weapons, etc.)
- Establish benchmarks for unsupervised access (no abuse, no threats, no violations)
- Condition access on compliance with established terms (sobriety, BIP, car seat, etc.)
- Appoint a post-visitation safety monitor to ensure visits are safe and go as planned
- Periodically monitor and conduct risk and danger assessments
- Define consequences for non-compliance with access restrictions
- Other:

MONITOR AND ENFORCE ABUSIVE PARENT'S COMPLIANCE WITH PARENTING PLAN:

- Conduct review hearings
- Establish schedule for abusive parent to demonstrate compliance with plan
- Set automatic consequences for non-compliance with parenting plan
- Appoint a compliance monitor at abusive parent's cost
- Hold abusive parent accountable for unjustified, unexcused, intentional violations
- Other:

REQUIRE ABUSIVE PARENT TO PARTICIPATE IN REMEDIAL INTERVENTIONS AND/OR

SERVICES:

- Refer abusive parent to batterer intervention for assessment and proper services
- Refer abusive parent to parenting after violence for assessment/proper services
- Other:

LIMIT ABUSIVE PARENT'S RULEMAKING OR DECISION-MAKING AUTHORITY:

- Grant sole legal custody to victim parent, with or without specified exceptions
- Grant parallel legal custody, with or without specified exceptions
- Appoint a parenting consultant to confer with abuser on all major decisions
- Appoint a parenting monitor to oversee and periodically assess abuser's parenting
- Limit abuser's ability to dispose of real or personal property or to dissipate assets
- Appoint a special master to monitor and effectuate property allocations
- Other:

SUPPORT VICTIM PARENT'S EFFORTS TO PROTECT CHILD:

- Link parental decision-making authority to parental responsibility for child's care
- Designate victim parent as the custodian of records
- Secure documents victim needs to care for and protect the child
- Secure immigration documents
- Secure health insurance for victim and child
- Provide victim parent with information about available community-based resources
- Facilitate victim parent's access to available community-based resources
- Establish self-executing parenting plan enforcement mechanisms
- Allow direct and expedited access to parenting plan enforcement mechanisms
- Establish automatic bill-paying processes for abuser's financial obligations
- Delineate reasonable house rules
- Limit grounds upon which abuser may object to the victim's parenting decisions
- Permit the victim to relocate with the child in accordance with the law
- Make relationship findings (age, existence of marriage, parent-child relationships)

STRENGTHEN CHILD'S SYSTEMS OF SUPPORT:

- Ensure that parenting plan accommodates child's interests, activities and supports
- Provide sufficient parenting time flexibility to adapt to child's age and social needs
- Structure parenting time to maintain access to child's support system
- Connect child and victim parent to available community-based resources



INITIAL DOMESTIC ABUSE SCREENING GUIDE

Basic Screening Questions:

What to Listen For:

How comfortable are you interacting with _____ now?

- Do you have any concerns, fears or anxieties that I should be aware of?
- What worries you most?

Personal Interactions

Comfortable	↔	Uncomfortable
Safe/Secure	↔	Fearful/Anxious
Self-Ruled	↔	Controlled
Connected	↔	Isolated
Respected	↔	Disparaged
Self-Reliant	↔	Dependent
Supported	↔	Undermined

When you look back over time, how were practical, everyday decisions made in your relationship?

- How did you arrive at that arrangement?
- Are you comfortable with that?
- What happened when disagreements arose?

Everyday Decision-Making (food, shelter, finances, children)

Equal	↔	Dominating
Cooperative	↔	Coercive
Responsible	↔	Irresponsible
Fair	↔	Manipulative

Is there anything that gets in your way of doing the things you want or need to do in your daily life, like:

- Managing your daily affairs
- Meeting your basic needs
- Meeting the basic needs of the children
- Fulfilling your everyday responsibilities
- Making your own decisions
- Interacting with other people

Control of Everyday Life

Self-Directed	↔	Controlled
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Has there ever been any physical violence between you and _____? If so, can you tell me about that?

Physical Violence

Very rare	↔	Every day
Very minor	↔	Very severe
No harm	↔	Severe injury

Have you ever felt so ashamed, humiliated, embarrassed or fearful by something you or _____ said or did to the other that you didn't want anyone else to know about it? If so, can you tell me about what that was like for you (without revealing specifics)?

Emotional Well-being

Safe/Secure	↔	Fearful/Anxious
Self-Respect	↔	Humiliation
Autonomous	↔	Controlled

Have you or _____ ever forced the other to do sexual things the other didn't want to do or insisted on having sex when the other didn't want to? If so, can you tell me about that?

Sexual Autonomy

Voluntary	↔	Forced
Respectful	↔	Degrading



Have you or _____ ever been concerned that the other was going to physically or psychologically harm the other, the children, or pets? If so, please explain.

Fear of Physical or Psychological Harm
(self, children, pets, others)

Not fearful ←————→ Very fearful

How are parenting time arrangements currently being worked out?

- How did you arrive at that arrangement?
- Are you comfortable with that?
- Any concerns about children or fears for their safety?

Parental Decision-Making

Equal ←————→ Dominating
 Cooperative ←————→ Coercive
 Responsible ←————→ Irresponsible
 Child-Focus ←————→ Self-Focus
 Fair ←————→ Manipulative

Physical/Sexual Abuse	Emotional Abuse	Control of Daily Life	Economic Abuse
<input type="checkbox"/> Hold, pin, restrain <input type="checkbox"/> Kneel on or sit upon <input type="checkbox"/> Tie up, bind, gag <input type="checkbox"/> Push, shove, shake <input type="checkbox"/> Grab <input type="checkbox"/> Scratch, pull hair, <input type="checkbox"/> Shave <input type="checkbox"/> Twist arm <input type="checkbox"/> Bite <input type="checkbox"/> Spit on <input type="checkbox"/> Urinate upon <input type="checkbox"/> Slap <input type="checkbox"/> Hit or punch <input type="checkbox"/> Kick or stomp <input type="checkbox"/> Strike or throw object <input type="checkbox"/> Choke or strangle <input type="checkbox"/> Burn <input type="checkbox"/> Poke, stab, cut <input type="checkbox"/> Withhold food <input type="checkbox"/> Withhold medicine <input type="checkbox"/> Disable medical equip. <input type="checkbox"/> Forced sex	<input type="checkbox"/> Insult you/put you down <input type="checkbox"/> Ridicule you in public <input type="checkbox"/> Purposely humiliate you <input type="checkbox"/> Play mind games <input type="checkbox"/> Intimidate you <input type="checkbox"/> Yell or scream at you <input type="checkbox"/> Act aggressively to you <input type="checkbox"/> Get jealous/possessive <input type="checkbox"/> Accuse you of infidelity <input type="checkbox"/> Interfere with: <input type="checkbox"/> work/school life <input type="checkbox"/> social life <input type="checkbox"/> sleep <input type="checkbox"/> healthcare/medication <input type="checkbox"/> Threaten to: <input type="checkbox"/> kill you or the children <input type="checkbox"/> kill him/herself <input type="checkbox"/> harm you or the children <input type="checkbox"/> harm person you care for <input type="checkbox"/> harm or kill pets <input type="checkbox"/> Destroy things you care for <input type="checkbox"/> Threaten you w/ weapon <input type="checkbox"/> Put your life in danger <input type="checkbox"/> Disable your car <input type="checkbox"/> Drive recklessly to scare you	<input type="checkbox"/> Follow or stalk you <input type="checkbox"/> Often check up on <input type="checkbox"/> Examine mail/email <input type="checkbox"/> Check phone calls <input type="checkbox"/> Hack into email <input type="checkbox"/> Grill you <input type="checkbox"/> Time activities <input type="checkbox"/> Use others as spies <input type="checkbox"/> Invade privacy <input type="checkbox"/> Misuse social media <input type="checkbox"/> Physically restrain <input type="checkbox"/> Forbid you to leave <input type="checkbox"/> Punish you for disobeying <input type="checkbox"/> Arrive unannounced <input type="checkbox"/> Make unwanted contact <input type="checkbox"/> Leave things to scare you <input type="checkbox"/> Make you do things you don't want to do	<input type="checkbox"/> Deny money <input type="checkbox"/> Refuse to pay bills <input type="checkbox"/> Empty bank <input type="checkbox"/> Hide assets <input type="checkbox"/> Destroy your credit <input type="checkbox"/> Deny credit access <input type="checkbox"/> Run up debt <input type="checkbox"/> Forge papers <input type="checkbox"/> Refuse to pass title <input type="checkbox"/> Destroy property <input type="checkbox"/> Steal your property <input type="checkbox"/> Sell your property <input type="checkbox"/> Shut off utilities <input type="checkbox"/> Fail to pay insurance <input type="checkbox"/> Cancel insurance <input type="checkbox"/> Cancel credit cards <input type="checkbox"/> Refuse to work <input type="checkbox"/> Refuse to let you work <input type="checkbox"/> Try to get you fired <input type="checkbox"/> Hide bills <input type="checkbox"/> Hide financial info. <input type="checkbox"/> Constantly return to court



DOMESTIC ABUSE INTERVIEW GUIDE

Adapted from *Client Screening to Identify Domestic Abuse Victimization*, Domestic Abuse Committee of the Family Law Section of the Minnesota State Bar Association, 2010; Holtzworth-Munroe, Beck & Applegate (2010), *Mediator's Assessment of Safety Issues and Concerns*; and Janet Johnston, et al., *IN THE NAME OF THE CHILD* (2d ed.), Springer Publishing Co., 2009.

1. Personal Interactions	Discussion Areas:	What to Listen For:
<p>A. Let's start by talking about your current relationship with _____.</p> <p>B. How comfortable are you interacting with _____ now?</p> <ul style="list-style-type: none"> <input type="checkbox"/> Being alone together <input type="checkbox"/> Meeting face-to-face <input type="checkbox"/> Talking by phone <input type="checkbox"/> Emailing or texting <input type="checkbox"/> Public encounters <p>C. Do you have any concerns, fears or anxieties that I should be aware of?</p> <p>D. What worries you most?</p>	<ol style="list-style-type: none"> 1. Quality of interactions <ol style="list-style-type: none"> a. Ability to express views b. Trust in other's judgment c. Reliance on other's word d. Cost of disagreement e. Post-separation changes 2. Prior separations 3. Snapshots <ol style="list-style-type: none"> a. Happiest moments b. Most worrisome moment c. Scariest moments 4. Decision-making history 5. Stressors <ol style="list-style-type: none"> a. Abuse b. Alcohol/drugs c. Physical/mental health d. Criminal activity e. Poverty 	<p style="text-align: center;">Personal Interactions:</p> <p>Safe ↔ Dangerous</p> <p>Secure ↔ Fearful</p> <p>Autonomous ↔ Controlling</p> <p>Respectful ↔ Offensive</p> <p>Honest ↔ Deceptive</p> <p>Reliable ↔ Unreliable</p> <p>Consistent ↔ Volatile</p> <p>Supportive ↔ Damaging</p> <p>Cooperative ↔ Coercive</p> <p>Equal ↔ Dominant</p> <p>Trusting ↔ Suspicious</p> <p>Open ↔ Isolating</p>
2. Access to Resources	Discussion Areas:	What to Listen For:
<p>A. I'd like to get a sense of your economic wellbeing.</p> <p>B. Do you have access to your own resources, like money, bank accounts, food, housing, transportation and healthcare?</p> <p>C. Who decides how you spend money and manage your financial affairs?</p>	<ol style="list-style-type: none"> 1. History/detail 2. Ability to meet basic needs 3. Ability to meet obligations 4. Recent changes 	<p style="text-align: center;">Economic Well-being:</p> <p style="text-align: center;">Resources Not</p> <p>Accessible ↔ Accessible</p> <p style="text-align: center;">Decisions</p> <p>Cooperative ↔ Controlling</p> <p style="text-align: center;">Finances</p> <p>Secure ↔ Insecure</p> <p style="text-align: center;">Needs</p> <p>Always Met ↔ Never Met</p>



3. Children/Parenting	Discussion Areas:	What to Listen For:
<p>A. Let's talk about your children.</p> <p>B. Do you have any concerns about your children or fears for their safety?</p> <p>C. How are parenting time arrangements currently being worked out?</p> <ul style="list-style-type: none"> <input type="checkbox"/> Division of duties <input type="checkbox"/> Parenting skills/capacities <input type="checkbox"/> Parenting concerns/conflicts <input type="checkbox"/> Children's adjustment <input type="checkbox"/> Access/exchange issues <input type="checkbox"/> Satisfaction with the plan <p>D. Has _____ ever used or threatened to use the children to manipulate, control, or monitor you?</p> <p>E. How are your children doing now?</p>	<ol style="list-style-type: none"> 1. What worries you most? 2. Capacity for joint decisions <ol style="list-style-type: none"> a. Common beliefs/values b. Parental involvement c. Trust in parental judgment d. Support of other parent e. Respect for other parent f. Nurture/support of kids g. Conflict resolution skills h. Developmental stage(s) 3. Interference with care 4. Undermining authority 5. Threats to: <ol style="list-style-type: none"> a. Take children away b. Harm children c. File CPS reports d. Deport e. Evict 6. Post-separation changes 	<p>Abuser's Parenting:</p> <p>Safe ↔ Dangerous</p> <p>Secure ↔ Erratic</p> <p>Supportive ↔ Neglectful</p> <p>Child focus ↔ Self-focus</p> <p>Skilled ↔ Not skilled</p> <p>Protective ↔ Destructive</p> <p>Children's Well-Being:</p> <p>Developmental + ↔ -</p> <p>Behavioral + ↔ -</p> <p>Emotional + ↔ -</p> <p>Cognitive + ↔ -</p> <p>Social + ↔ -</p> <p>Physical + ↔ -</p> <p>Economic + ↔ -</p> <p>Co-parenting:</p> <p>Communication + ↔ -</p> <p>Judgment + ↔ -</p> <p>Boundaries + ↔ -</p> <p>Support + ↔ -</p>



4. Control of Daily Life	Discussion Areas:	What to Listen For:
<p>A. I'd like to get a sense of how much freedom you have in your everyday life.</p> <ul style="list-style-type: none"> <input type="checkbox"/> To come/go as you please <input type="checkbox"/> To manage your own time <input type="checkbox"/> To make own decisions <input type="checkbox"/> To set your own priorities <input type="checkbox"/> To interact with others <p>Can you talk a little about that?</p> <p>B. Is there anything that gets in your way of doing the things you want or need to do?</p> <p>C. Has _____ ever:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Followed you <input type="checkbox"/> Often checked up on you <input type="checkbox"/> Examined your mail/email <input type="checkbox"/> Examined phone records <input type="checkbox"/> Hacked into email/accounts <input type="checkbox"/> Grilled you/timed activities <input type="checkbox"/> Used others to spy on you <input type="checkbox"/> Invaded your space/privacy <input type="checkbox"/> Misused social network sites <p>D. Has _____ ever physically restrained you, forbidden you from leaving, made you do things you didn't want to do, or punished you for defying his/her wishes?</p> <p>E. Has _____ ever shown up unannounced, contacted you against your will, or left something for you to find to scare or intimidate you?</p>	<ol style="list-style-type: none"> 1. Detail 2. Frequency 3. Severity 4. Intent of other's behavior 5. Meaning of behavior to you 6. Effect on: <ol style="list-style-type: none"> a. Interactions b. Relationships c. Communications d. Self/children e. Parenting skills/capacities 7. Change: <ol style="list-style-type: none"> a. Over time b. Pre/post pregnancy c. Pre/post separation 	<p style="text-align: center;">Control of Daily Life:</p> <p>Autonomy ↔ Control</p> <p>Freedom ↔ Constraint</p> <p>Support ↔ Obstruction</p> <p>Trust ↔ Jealousy</p> <p>Cooperation ↔ Coercion</p> <p>Privacy ↔ Intrusion</p> <p>Predictability ↔ Instability</p> <p>Equality ↔ Dominance</p> <p>Safety ↔ Fear/Dread</p> <p>Open ↔ Isolating</p> <p>Letting Go ↔ Stalking</p> <p>Compromise ↔ Rulemaking</p> <p style="text-align: center;">Risk Factors:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Access to firearms <input type="checkbox"/> Use/threat of weapon <input type="checkbox"/> Threat to kill <input type="checkbox"/> Step children <input type="checkbox"/> Control of daily activities <input type="checkbox"/> Violent or constant jealousy <input type="checkbox"/> Threatened/attempted suicide <input type="checkbox"/> Threat to harm children <input type="checkbox"/> Belief in capacity to kill <input type="checkbox"/> Stalking



5. Sexual Abuse	Discussion Questions:	What to Listen For:
<p>A. While it is uncomfortable to talk about these kinds of things, it's very important for me to know if ____ ever pressured or forced you to do sexual things that you did not want to do or that made you scared, uncomfortable, or ashamed. Has anything like that ever happened?</p> <p>B. Has ____ ever interfered with your decisions about birth control, pregnancy, and/or safe sex?</p> <p>C. Has ____ ever used your image, or forced or pressured you to use your own image, to engage in sexting or pornography?</p> <p>D. Is there anything else you think I should know about ____'s sexual behavior towards you?</p>	<ol style="list-style-type: none"> 1. Detail 2. In front of whom? <ul style="list-style-type: none"> <input type="checkbox"/> Children <input type="checkbox"/> Family <input type="checkbox"/> Friends <input type="checkbox"/> Co-workers <input type="checkbox"/> Public <input type="checkbox"/> Nobody – just in private 3. Frequency 4. Severity 5. Intent of other's behavior 6. Meaning of behavior to you 7. Effect on: <ol style="list-style-type: none"> a. Interactions b. Relationships c. Communications d. Self/children e. Parenting skills/capacity 8. Change: <ol style="list-style-type: none"> a. Over time b. Pre/post pregnancy c. Pre/post separation 9. Injuries 10. Medical attention 11. Hospital visits 12. Calls for help/to police 13. Arrests 14. Convictions/sanctions 15. Orders for protection 16. Protection order violations 	<p>Intimate Relationship:</p> <p>Safe ↔ Harmful</p> <p>Consensual ↔ Forced</p> <p>Mutual ↔ Dominating</p> <p>Respectful ↔ Degrading</p> <p>Trusting ↔ Jealous</p> <p>Voluntary ↔ Coercive</p> <p>Secure ↔ Anxious</p> <p>Risk Factors:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Use/threat of weapon <input type="checkbox"/> Threat to kill <input type="checkbox"/> Forced sex <input type="checkbox"/> Attempted strangulation <input type="checkbox"/> Violent jealousy <input type="checkbox"/> Assault during pregnancy <input type="checkbox"/> Threat/attempted suicide <input type="checkbox"/> Threat to harm children <input type="checkbox"/> Belief in capacity to kill <input type="checkbox"/> Stalking <input type="checkbox"/> Illegal drug use <input type="checkbox"/> Alcohol dependency <p>Response to Sexual Abuse:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Fight <input type="checkbox"/> Flight <input type="checkbox"/> Freeze



6. Physical Abuse	Discussion Areas:	What to Listen For:
<p>A. Let's turn to your personal safety, both now and in the past. Has ____ ever used or threatened to use physical force or abuse against you or the children?</p> <ul style="list-style-type: none"> <input type="checkbox"/> Hold, pin down, restrain <input type="checkbox"/> Kneel, stand or sit upon <input type="checkbox"/> Tie up, bind, gag <input type="checkbox"/> Push, shove, shake, grab <input type="checkbox"/> Scratch, pull hair, shave hair <input type="checkbox"/> Twist arm <input type="checkbox"/> Bite <input type="checkbox"/> Spit on <input type="checkbox"/> Urinate upon <input type="checkbox"/> Slap <input type="checkbox"/> Hit or punch <input type="checkbox"/> Kick or stomp <input type="checkbox"/> Strike w/ or throw object at <input type="checkbox"/> Choke, strangle <input type="checkbox"/> Burn <input type="checkbox"/> Poke, stab, cut <input type="checkbox"/> Withhold food/medication <input type="checkbox"/> Disable medical equipment <p>B. What's the worst thing ____ has ever done to you?</p> <p>C. What's the scariest thing ____ has ever done to you?</p>	<ol style="list-style-type: none"> 1. Detail 2. In front of whom? <ul style="list-style-type: none"> <input type="checkbox"/> Children <input type="checkbox"/> Family <input type="checkbox"/> Friends <input type="checkbox"/> Co-workers <input type="checkbox"/> Public <input type="checkbox"/> Nobody – just in private 3. Frequency 4. Severity 5. Intent of other's behavior 6. Meaning of behavior to you 7. Effect on: <ol style="list-style-type: none"> a. Interactions b. Relationships c. Communications d. Self/children e. Parenting skills/capacity 8. Change: <ol style="list-style-type: none"> a. Over time b. Pre/post pregnancy c. Pre/post separation 9. Injuries 10. Medical attention 11. Hospital visits 12. Calls for help/to police 13. Arrests 14. Convictions/sanctions 15. Protection orders 16. Protection order violations 	<p style="text-align: center;">Physical Violence:</p> <p>Very rare \longleftrightarrow Every day Very minor \longleftrightarrow Very severe No harm \longleftrightarrow Major injury</p> <p style="text-align: center;">Risk Factors:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Increase frequency/severity <input type="checkbox"/> Access to firearms <input type="checkbox"/> Use/threat of weapon <input type="checkbox"/> Threat to kill <input type="checkbox"/> Avoidance of arrest for DV <input type="checkbox"/> Forced sex <input type="checkbox"/> Attempted strangulation <input type="checkbox"/> Violent jealousy <input type="checkbox"/> Assault during pregnancy <input type="checkbox"/> Threat/attempted suicide <input type="checkbox"/> Threat to harm children <input type="checkbox"/> Belief in capacity to kill <input type="checkbox"/> Stalking <input type="checkbox"/> Illegal drug use <input type="checkbox"/> Alcohol dependency <p style="text-align: center;">Response to Physical Abuse:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Fight <input type="checkbox"/> Flight <input type="checkbox"/> Freeze



7. Emotional Abuse	Discussion Areas:	What to Listen For:
<p>A. Let's talk more about how you and _____ relate to one another. Can you describe how _____ treats you as a person?</p> <p>B. Does _____ ever:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Insult you or put you down <input type="checkbox"/> Ridicule you in public <input type="checkbox"/> Purposely humiliate you <input type="checkbox"/> Play mind games <p>C. Does _____ ever:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Intimidate you <input type="checkbox"/> Yell or scream at you <input type="checkbox"/> Act aggressively toward you <p>D. Does _____ ever:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Get jealous or possessive <input type="checkbox"/> Accuse you of infidelity <p>E. Does _____ ever interfere with:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Your work/school life <input type="checkbox"/> Your social life <input type="checkbox"/> Your sleep <input type="checkbox"/> Your healthcare/medications <p>F. Has _____ ever threatened to:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Kill you or the children <input type="checkbox"/> Kill him/herself <input type="checkbox"/> Harm you or the children <input type="checkbox"/> Harm someone you care for <input type="checkbox"/> Harm or kill pets <p>G. Has _____ ever:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Destroyed your property <input type="checkbox"/> Threatened w/ weapon <input type="checkbox"/> Put your life in danger <ul style="list-style-type: none"> <input type="checkbox"/> Disabled car/equipment <input type="checkbox"/> Driven recklessly to scare 	<p>1. Detail</p> <p>2. In front of whom?</p> <ul style="list-style-type: none"> <input type="checkbox"/> Children <input type="checkbox"/> Family <input type="checkbox"/> Friends <input type="checkbox"/> Co-workers <input type="checkbox"/> Public <input type="checkbox"/> Nobody – just in private <p>3. Frequency</p> <p>4. Severity</p> <p>5. Intent of other's behavior</p> <p>6. Meaning of behavior to you</p> <p>7. Effect on:</p> <ul style="list-style-type: none"> a. Interactions b. Relationships c. Communications d. Self/children e. Parenting skills/capacities <p>8. Change:</p> <ul style="list-style-type: none"> a. Over time b. Pre/post pregnancy c. Pre/post separation 	<p>Emotional Relationship:</p> <p>Safe ↔ Fearful</p> <p>Respectful ↔ Degrading</p> <p>Hopeful ↔ Hopeless</p> <p>Supportive ↔ Undermining</p> <p>Honest ↔ Manipulative</p> <p>Caring ↔ Cruel</p> <p>Secure ↔ Traumatic</p> <p>Protective ↔ Exploitive</p> <p>Risk Factors:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Access to firearms <input type="checkbox"/> Use/threat of weapon <input type="checkbox"/> Threat to kill <input type="checkbox"/> Step children <input type="checkbox"/> Forced sex <input type="checkbox"/> Attempted strangulation <input type="checkbox"/> Control of daily activities <input type="checkbox"/> Violent jealousy <input type="checkbox"/> Assault during pregnancy <input type="checkbox"/> Threat/attempted suicide <input type="checkbox"/> Threat to harm children <input type="checkbox"/> Belief in capacity to kill <input type="checkbox"/> Stalking <input type="checkbox"/> Illegal drug use <input type="checkbox"/> Alcohol dependency <p>Response to Emotional Abuse:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Fight <input type="checkbox"/> Flight <input type="checkbox"/> Freeze



Implications of Domestic Abuse for Safety and Parenting:

Immediate Safety Concerns:

See Risk Assessment Factors and Questions 1(A)-(D), 3(B), 4(E), 5(F)-(G), 6(A)-(C), 7(A)-(D)

Immediate Economic Concerns:

See Questions 2(A)-(C), 4(C), 5(E)

Immediate Parenting Concerns:

See Questions 1(A)-(C), 2(A)-(C), 3(A)-(E), 4(A)-(E), 5(E)-(G), 6(A)-(C), 7(A)-(D)

Long-Term Concerns:

Risk Assessment Factors:

- Increase in frequency/severity
- Access to firearms
- Recent separation
- Unemployment
- Use/threat to use lethal weapon
- Threat to kill
- Avoidance of arrest for DV
- Step-children
- Forced sex
- Attempted strangulation
- Illegal drug use
- Alcohol dependency
- Control of daily activities
- Violent or constant jealousy
- Assault during pregnancy
- Threatened/attempted suicide
- Threat to harm children
- Belief in capacity to kill
- Stalking
- Major mental illness



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CHILD CUSTODY OUTCOMES

in cases involving **parental alienation**
and **abuse allegations** in U.S. family courts



COURTS ARE SKEPTICAL of accusations of paternal abuse; this disbelief increases when alienation is cross-claimed

- In simple abuse cases mothers reporting abusive fathers are believed less than half the time on average (41%) – and even less when alleging child abuse (CPA 29%; CSA 15%)
- When fathers respond to abuse claims with an alienation cross-claim, only 23% of mothers are believed (DV 37%; CPA 18% CSA 2%); courts almost never believe child sexual abuse claims (1/51)
- Independent research has found that **50-75% of child sexual abuse allegations in the custody context are believed to be likely valid**, and less than 14% are considered intentionally false



Mothers alleging abuse experience a **LOSS OF CUSTODY**

- In simple abuse cases, 25% of mothers who allege fathers' abuse lose custody – when fathers cross-claim alienation this increases to close to 50%
- 73% of mothers lose custody when the courts believe the mother is an alienator –sometimes even when courts acknowledge the father has abused the mother or children



Court-appointed experts **EXACERBATE GENDER BIAS**

- Court-appointed experts – such as a custody evaluator or Guardian ad Litem (GAL) – are associated with even greater gender bias in outcomes



Alienation defenses are associated with **GENDER BIAS**

- When fathers cross-claim alienation, courts are four-times more likely to disbelieve mothers' allegations of child abuse
- Mothers accused of alienation have twice the odds of losing custody compared to fathers accused of alienation

MAJOR OUTCOMES

- **Overall, courts only believe mothers' abuse claims 39% of the time**
- **Courts reject mothers' abuse claims far more often when alienation is cross-claimed**
- **When facing accusations of alienation, mothers' custody losses are nearly twice as likely**
- **In the 14 cases where courts concluded both that a father was abusive and a mother was alienating, six of the mothers (43%) lost custody to the abusive father**

READ THE STUDY

bit.ly/ChildCustodyOutcomes

This research is the product of National Institute of Justice Grant Award #NIJ-2014-MU-CX-0859 (January 1, 2015 – June 30, 2019) Joan S. Meier, Esq., George Washington University Law School | 202-994-2278 | jmeierlaw.gwu.edu (Principal Investigator) | Co-authors, Study Consultants, and Quantitative Analysts: Sean Dickson, JD, MPH | Jeffrey Hayes, Ph.D. | Leora Rosen, Ph.D. | Chris O'Sullivan, Ph.D. | The study relies solely on electronically available published opinions in child custody cases, mostly, but not only, appellate decisions. However, it analyzes the trial court's decision in each case. The comprehensive electronic search netted a total of 4338 cases involving an abuse or alienation allegation by one parent against the other.

FACT SHEET: CASELAW ON PAS ADMISSIBILITY

I. Legal Precedent (published, appellate court opinions)

- Rejecting PAS: *People v. Fortin*, 289 A.D.2d 590, 591 (N.Y. App.Div. 2001)
- Allowing PAS: NONE, No legal precedent exists holding PAS admissible.¹

II. Appellate Court Rulings

- Four states' appellate courts have rejected PAS evidence
 - ⇒ Three state appellate courts (LA, NJ, NY) have expressly held that PAS does not satisfy the threshold standard for admissibility under Frye/Daubert:
 - *People v. Fortin*, 289 A.D.2d 590, 591 (N.Y. App.Div. 2001) (published).
 - *M.A. v. A.I.*, 2014 WL 7010813 (N.J. Super. Ct. App. Div., Dec. 15, 2014), cert. denied, 112 A.3d 592 (2015) (unpublished).
 - *D.M.S. v. I.D.S.*, 2015 WL 926777 (La. App. Ct. 4 Cir., 3/4/2015)(unpublished).
 - ⇒ One state appellate court (**California**) held PAS inadmissible as not beyond the 'ken' of fact finder: *People v. Sullivan*, 2003 WL 1785921 (Cal.App.6 Dist.2003)² (unpublished).
- Two states' appellate courts have addressed PAS unfavorably without ruling on admissibility.
 - ⇒ **Alabama (dicta)**: *C.J.L. v. M.W.B.*, 879 So.2d 1169 (Ala.Civ.App. 2003) (Court found no PAS evidence before it but noted that if PAS evidence had been presented, the court "might be inclined" to find that PAS was not generally accepted by scientific community) (published).
 - ⇒ **Indiana (dissent)**: *Hanson v. Spolnik*, 685 N.E.2d 71 (Ind.App. 1997)(majority does not address PAS, dissent decries its failure to acknowledge clear PAS evidence mislabeled as alienation that should have been disallowed due to lack of scientific acceptance and reliability)(published).

III. Trial Court Rulings

- Two **Connecticut** trial courts have rejected PAS evidence for failure to satisfy CT's Porter/Daubert standard for admissibility:
 - ⇒ *Mastrangelo v. Mastrangelo*, 55 Conn. L. Rptr. 245 (Conn. Super. Ct. 2012) (unpublished).
 - ⇒ *Snyder v. Cedar*, 2006 WL 539130 (Conn. Super. Ct. Feb. 16, 2006)(unpublished).
- The **New York** trial court in *N.K. v. M.K.*, 17 Misc.3d 1123(A) rejected PAS evidence ("This court does not believe that there is a generally accepted diagnostic determination or syndrome known as "parental alienation syndrome").(unpublished).

¹The Florida case *Kilgore v. Boyd*, 733, So.2d 546 (Fla. 2d DCA 2000) is sometimes cited by PAS proponents as ruling that PAS has gained general acceptance in the scientific community. However, we have been unable to obtain any written opinion and it appears one was not issued. See Jennifer Hoult, *The Evidentiary Admissibility of PAS: Science, Law and Policy*, 26 CHILDREN'S LEGAL RIGHTS JOURNAL 1, 4 (Spring 2006).

² The trial court expressly rejected PAS for, *inter alia*, not meeting Kelly/Frye standard but the appellate court found Kelly/Frye inapplicable.

Webinar Related Resource:

- Parental Alienation Empirical Analysis: Child Best Interests or Parental Rights?
Linda C Neilson (2018) Parental Alienation Empirical Analysis: Child Best Interests or Parental Rights? (Fredericton: Muriel McQueen Fergusson Centre for Family Violence Research and Vancouver: The FREDA Centre for Research on Violence Against Women and Children)
[Parental-Alienation-Linda-Neilson.pdf \(fredacentre.com\)](#)