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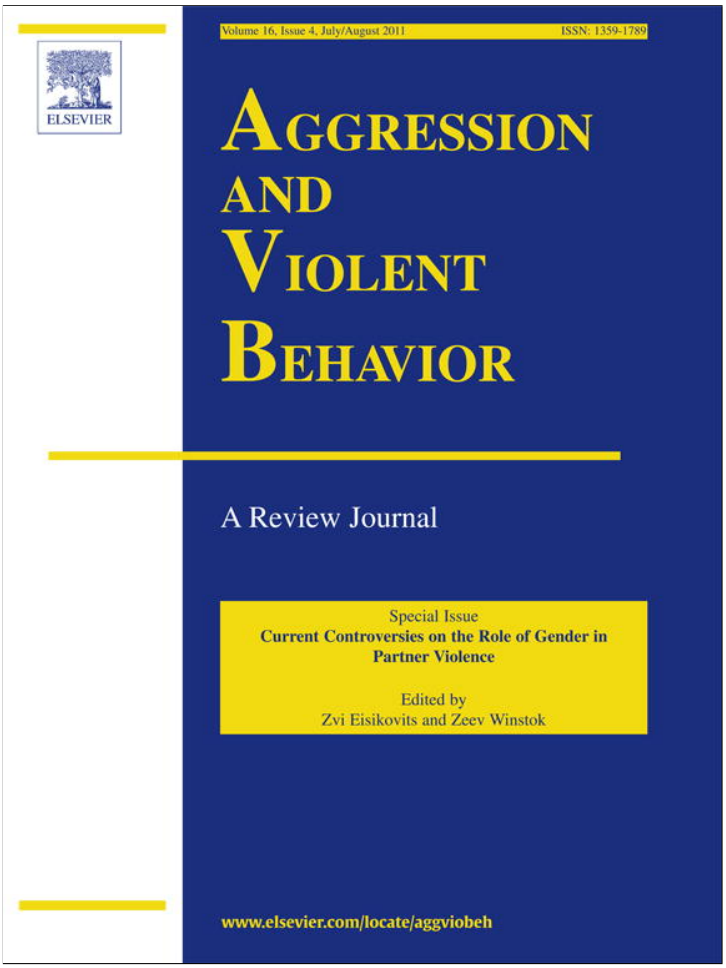

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Controversies in divorce mediation and intimate partner violence: A focus on the children ☆

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ABSTRACT

Intimate partner violence (IPV) and parental separation are two related and serious potential problems faced by children; both are associated with increased risks for children. Proponents of mediation for separating parents believe that, relative to traditional adversarial court proceedings, mediation may lead to better outcomes for children by decreasing parental conflict. However, the question of whether mediation should be conducted with parents experiencing IPV is a contentious one, although few arguments on either side of the debate have been supported by empirical research. We examine some of the specific controversies regarding mediation in the context of IPV, including whether universal IPV screening should be required, whether mediation procedures should be modified to accommodate reports of IPV, and whether knowledge of IPV should lead to changes in mediation agreement content. We also consider directions for future research to address important, unanswered questions in this area.

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Contents

1. Introduction

IPV and parental separation are both major potential problems for children in the United States. It is estimated that at least 1/4 of women will be physically abused by an intimate partner in their lifetime (e.g., Tjaden & Thoennes, 2000), and at least 10% of children are exposed to family violence each year (e.g., Finkelhor, Turner, Ormrod, Hamby, & Kracke, 2009; McDonald, Joureiles, Ramsetty-Mikler, Caetano, & Green, 2006). In addition, 40–50% of first marriages end in divorce, affecting one million children per year (U.S. Census Bureau, 2005), and an increasing number of children (over 1/3) are born to unmarried parents (U.S. National Center for Health Statistics, 2009), with such relationships being even less stable than marriage (Cherlin, 2010). The two problems are intertwined. IPV is one of the main reasons given by couples seeking divorce (e.g., Amato & Previti, 2003; see also, Anderson, 2010; Ayoub, Deutsch, & Maraganore, 1999), and more than half of cases entering divorce mediation report having experienced IPV (e.g., Ballard, Holtzworth-Munroe, Applegate, & Beck, 2011; Beck, Menke, Brewster, & Figuerdo, 2009; Beck, Walsh, Mechanic, & Taylor, 2009; Beck, Walsh, & Weston, 2009; Ellis & Stuckless, 2006).

Both IPV and parental separation increase risk of negative outcomes for children. Children exposed to family violence may face a host of psychological, social, and academic problems (Evans, Davies, & DiLillo, 2008; Kitzmann, Gaylord, Holt, & Kenny, 2003). Such risks may not be eliminated by parental separation, as nonresidential parental contact with the children allows the batterer to continue

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intruding in the victim's life (e.g., Hardesty & Ganong, 2006; Kernic, Monary-Ernsdorff, Koepsell, & Holt, 2005; Tubbs & Williams, 2007; Wuest, Ford-Gilboe, Merritt-Gray, & Berman, 2003), and without intervention, children's externalizing problems (e.g., defiance, aggression) may continue even after their mother leaves a violent relationship (e.g., McDonald, Jourelis, & Skopp, 2006). Parental separation itself inflicts multiple disruptions (e.g., financial, residential, and emotional) upon families (Amato, 2010; Wade & Pevalin, 2004). Relative to children in intact families, children in divorced families have double the risk of psychological and behavioral problems (e.g., depression, delinquent behavior) and an increased risk of academic and social problems (Amato, 2001; Kelly & Emery, 2003); and risks persist even after accounting for genetic and selection factors (Amato, 2010; D'Onofrio et al., 2007; Lansford, 2009).

2. The controversy surrounding separation mediation for IPV cases

Children's risks from parental separation are decreased when there is less parental conflict, the child can maintain a positive relationship with the nonresidential parent, and both parents provide appropriate parenting (Amato & Afifi, 2006; Emery, Sbarra, & Grover, 2005; Hetherington, Bridges, & Insabella, 1998; Kelly & Emery, 2003; Lansford, 2009). Traditional, adversarial litigation approaches may work against such outcomes, instead exacerbating the potential negative effects of divorce by increasing parental conflict (Ellis, 2008; Emery et al., 2005; Sbarra & Emery, 2008; Schepard, 2004). Many have suggested mediation as an alternative dispute resolution method[1] that might lead to better outcomes for children by decreasing parental conflict. Mediation is viewed as empowering parents, giving them increased self-determination over the outcomes of their separation (Beck & Sales, 2000; Beck, Sales & Emery, 2004; Frenkel & Stark, 2008). Unfortunately, while mediation is widely used in the US, very few methodologically strong studies have examined its effects (Beck et al., 2004). The strongest study to date produced promising findings. Emery, Laumann-Billings, Waldron, Sbarra, & Dillon (2001) found that relative to a litigation group, parents randomly assigned to divorce mediation were more likely to reach a pre-trial agreement and less likely to re-litigate; fathers in the mediation group reported more satisfaction and less co-parenting conflict. However, Emery et al. did not consider IPV.[2]

Some experts have raised serious concerns about the appropriateness of mediation for parents who have experienced IPV (e.g., Beck & Frost, 2006, 2007; Jaffe, Crooks, & Bala, 2009; Johnson, Sacuzzo, & Koen, 2005). Mediation assumes that parents are capable of negotiating for themselves, a mediator can provide an environment to facilitate non-coercive negotiations, and parents are capable of reaching an agreement that is safe and in the best interests of their children (Beck & Frost, 2006, 2007). But some, including advocates for battered women,[3] express concern that many mediators do not understand the dynamics of violent families and battered women may suffer as a result (e.g., Beck, Walsh, Mechanic, et al., 2009; Grillo, 1991; Hart, 1990; Zimmerman et al., 2009). There is a potential risk of physical harm to victims following separation (Beck & Sales, 2000; Campbell, et al., 2003). In addition, the abused partner's fear of the male batterer and his use of coercion could lead her to give in to his demands. In fact, it has been suggested that some IPV victims may not even meet the legal standard of competence to mediate, due to impaired decision-making related to self-interested outcomes (Beck & Frost, 2006, 2007).

Proponents of mediation counter that mediation offers unique individually-tailored safeguards to promote safety and consideration of children's needs in agreements. Edwards, Baron, and Ferrick (2008) contend that automatically excluding victims of violence from mediation falsely assumes that all victims are not capable of promoting their interests and those of their children. Moreover, proponents are concerned about the loss of mediation's benefits over adversarial litigation for families and question the appropriateness of screening out cases with IPV. In addition, some forms of mediation are designed not only to resolve immediate issues but also to teach parents communication and conflict resolution skills, which could help reduce the risk of future violence (Ellis, 2000). As a final example, proponents highlight the increasing incorporation of research findings into the development of safe mediation programs (Kelly & Johnson, 2008). Given such debate, "divorce mediation in the context of domestic violence is one of the most controversial issues in family law today" (p. 1, see also, Beck, Walsh, & Weston, 2009; Stark, 2009; Ver Steegh, 2002).

Currently, there is a great deal of variation in how cases with IPV are handled by mediators across different jurisdictions and programs. Some programs screen all violent couples out of mediation, others simply conduct mediation as usual, and some are not even allowed to exclude violent cases from mediation (Clemants & Gross, 2007; Thoennes, Salem & Pearson, 1995). One state (Connecticut) has moved towards a triage system that evaluates the severity of IPV (along with other factors) to determine if mediation is an appropriate process for each divorcing family and diverts more conflicted cases to more intensive interventions, such as custody evaluations (Salem, Kulak & Deutsch, 2007).

In the last few years, advocates and mediators have begun to work together to discuss how to appropriately handle cases of IPV in mediation (Salem & Dunford-Jackson, 2008). The Wingspread Conference on Domestic Violence and Family Courts (co-sponsored by the Association for Family and Conciliation Courts and the National Council of Juvenile and Family Court Judges) brought advocates, family court professionals, mediators and researchers together specifically to discuss this topic. As noted in Ver Steegh and Dalton (2008), the Wingspread Conference attendees generated a list of consensus points that included recognizing the necessity of screening for violence, the importance of differentiating varying forms and types of IPV, and a call for practitioners, advocates and researchers to continue to work collaboratively. Such consensus may help bridge the gap between the advocates' perspective and the mediators' perspective (Kelly & Johnson, 2008). Despite such efforts at consensus building, many controversies still exist in this area.

3. First controversial area: IPV screening and detection in mediation

To appropriately safeguard the mediation process and outcomes for couples with a history of IPV, mediators must first detect any violence that has occurred. Thus, many professionals working with families involved in mediation agree that there must be adequate screening measures for IPV in such settings (e.g., Beck & Sales, 2000; Ellis, 2008; Kelly & Johnson 2008; Mathis & Tanner, 1998; Salem & Dunford-Jackson, 2008). This view, however, is not held by all mediators. Resistance to universal screening often appears to be

[1] Other forms of alternative dispute resolution (ADR) exist (e.g., collaborative law; restorative justice; and arbitration). To our knowledge, there is little or no research on the impact of these methods on IPV. As the focus of this paper is on only one form of ADR (i.e., mediation), we do not discuss other forms of ADR.

[2] The early work of Ellis and colleagues includes studies comparing pre- and post-separation IPV for couples participating in mediation versus attorney-aided litigation or settlement (see Ellis & Wight, 1997, for a complete discussion). Ellis and Stuckless (2006) report that they have found no evidence supporting assertions that IPV victims participating in divorce mediation are more likely to suffer post-separation IPV than victims participating in divorce court processes. A full discussion of Ellis's work is not included here, as some of the studies were conducted: 1) without random assignment to mediation and litigation groups, 2) outside of the United States, 3) in the early 1990's, and 4) with varying definitions of mediation.

[3] The majority of writers expressing concern about the possible dangers of conducting mediation in cases involving IPV have focused on male perpetrated violence and female survivors; thus, we will maintain that focus (e.g., references to women as the abused partner). However, the occurrence of any IPV is potentially of concern and the effect on both partners, as well as the children, must be considered.

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based on the perception of mediators that IPV is not a frequently occurring problem among the couples they see in mediation. We have heard mediators argue that they simply do not believe, based on experience with clients, that many of the parties they work with have experienced IPV.

Past research, however, has demonstrated that professionals in other fields (e.g., medicine, couple therapy) held the same belief until they began systematically screening for IPV; but when such screenings were conducted, detected rates of IPV were often quite high (e.g., Hamberger, Saunders, & Hovey, 1992; Harway et al., 1997). For example, among couples seeking marital therapy, Ehrensaft and Vivian (1996) found that while over 60% reported a history of IPV on a standardized questionnaire, less than 10% had spontaneously reported the IPV during therapy intake interviews.

It may be encouraging that many mediation programs report that they do screen for violence, except that there are concerns that some of these screening protocols may not be adequate to reliably detect IPV. In a survey of 149 mediation programs, 70% reported that mediators received IPV training and 80% reported screening for IPV (Thoennes, et al., 1995). However, only 50% of these programs reported separate screening for each party and using screens that ask directly about violent behaviors. Questioning parties about violence in joint sessions is problematic; if one person is intimidated by the other, he or she may be hesitant to report accurately. In a study focused on community mediation clinics, 60% of clinics reported IPV training and 69% reported some level of IPV screening (Clemants & Gross, 2007). However, only half of the clinics used formal, standardized screening tools (either questionnaires or interviews), a potential problem as research has shown that behaviorally specific screening measures (e.g., the Conflict Tactics Scale, CTS; Straus, 1979) detect more violence than general questions about assault or victimization (Langhinrichsen-Rohling, 2005). Thus, relying only on conjoint interviews or court records to detect IPV is a common, but probably insufficient, screening procedure.

In a study at the Indiana University Maurer School of Law's Viola J. Taliaferro Family and Children Mediation Clinic (the clinic), we found that mediators who do not use systematic screening methods may under-detect reports of IPV among families entering mediation. When we began conducting research, the clinic mediators were conducting what they believed to be adequate IPV screening procedures and that they were detecting most cases involving IPV. Specifically, mediators received training on IPV issues and were taught to obtain IPV screening information in multiple ways, including directly from the court, searching court records for criminal and protective order cases, calling parties in advance of mediation to check on issues that might affect the mediation process, and conducting intakes asking about comfort with mediation, concerns about mediation, and how relationship conflict is handled. In our study, we randomly assigned half of the mediation cases to complete, as part of a research protocol, an enhanced IPV screening using a standardized, behaviorally specific questionnaire measure of IPV (a revised Relationships Behavior Rating Scale, RBRS; derived from Beck, Menke, et al., 2009). The RBRS questionnaire results were not shared with the mediators, and mediation parties were not given instruction regarding whether or not to discuss concerns assessed on the RBRS with their mediators. Following mediation, we asked mediators whether the case involved IPV. Mediators did not identify IPV as an issue in approximately half the cases that self-reporting IPV on the RBRS (Ballard et al., 2011).

This study suggests that mediators need to engage in systematic IPV screening. But, unfortunately, there are few measures of IPV specifically designed for the mediation setting, and each of the currently available measures presents certain limitations. For example, the RBRS and RBRS-R are copyrighted. Another IPV measure for mediation settings is the Domestic Violence Evaluation (DOVE; Ellis & Stuckless, 2006), but the DOVE requires time-intensive specialized training to administer and is not very behaviorally specific. Thus, we have developed a new measure that is not copyrighted and does not require extensive training to use—the Mediator's Assessment of Safety Issues and Concerns (MASIC; Holtzworth-Munroe, Beck, & Applegate, 2010). The MASIC is derived from previous IPV/A screens that have been standardized and have good psychometric data. That said, however, the MASIC is a new instrument that has not been proven reliable or validated at this time.

Based on research, we recommend separating the parties and using a behaviorally specific screen. Following a basic IPV screen, additional questions can be asked and other data can be gathered as necessary for each case. For example, it is important to obtain reports of IPV perpetration from both parties. It is important to consider the severity and frequency of the reported IPV, along with recent changes in the pattern of IPV (e.g., escalating or de-escalating). It also is imperative to examine the consequences of IPV (e.g., injury, fear, and impact on the children). It is important to consider the motivations for, and context of, the IPV, including its role in other forms of abuse (e.g., dominance, isolation, and emotional abuse) and the broader relationship context (e.g., power and control issues). It may prove useful to assess for various subtypes of abuse (e.g., Holtzworth-Munroe, Meehan, Herron, & Rehman, 2000; Johnson, 1995). Overall, the more information a mediator is able to gather, the more clearly s/he will understand what impact the IPV might have on the mediation process and the family.

When IPV is reported by mediation parties, another controversy exists. While all researchers and clinicians are concerned about possible false reporting of violence, this issue seems particularly salient in the legal realm, including divorce cases where, for example, reports of abuse might impact child custody decisions. Indeed, Dutton, Hamel, and Aaronson (2010) raise the possibility that parties in a divorce may make false allegations of IPV. They thus recommend that mediation parties' self-reports of violence be collaborated by the gathering of other data, with a focus on whether emergency calls were made to the police and whether injures have been documented, although other suggestions include eyewitnesses, trauma symptoms, and friends' observation of the couple. While we agree that careful assessment, involving multiple sources of information, is always preferable to one potentially biased source of information (e.g., self-report of IPV), we are unaware of data demonstrating that there is a high risk of mediating parties making false allegations of IPV.

In most areas (e.g., couple therapy, and medicine), the working assumptions appear to be: first, it is better to ask about IPV than not, as asking about IPV increases the probability of clients reporting IPV. Second, it is better to know about parties' allegations of IPV than not, as one can only consider the veracity of such allegations if they are known and would rather have information on potential problems when making clinical decisions than miss detection of potentially relevant issues. The weight given to these assumptions in mediation may vary based on the jurisdiction in which one is working. For example, in our state, mediation is a confidential process. Mediators do not share any information, including the detection of IPV, with judges. Thus, there is minimal risk of a mediator's assessment of the presence of IPV being used by the court to make decisions in a divorce case. Regardless of variation in practices across the country, we believe that the most conservative and appropriate approach is to apply these assumptions to mediation while research continues into the veracity of self-reports, the prevalence of any problems with false allegations of IPV, and the development of improved ways to screen for, and detect, IPV. Cases potentially involving IPV warrant erring on the side of caution.

Future researchers should investigate the best (most thorough, and most efficient) measures for IPV screening in the mediation setting, as well as party perception of screening efforts. Do mediating parties find IPV screening to be justified or helpful or does it feel intrusive? Also, assuming that mediators will not adopt a screening measure that is too complicated, time intensive or irrelevant to the

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mediation process, how are mediators most comfortable screening for violence? It will be important to develop guidelines regarding what levels or types of violence are cause for concern in mediation: Any violence? Only severe violence? Only violence coupled with fear? Until such questions are answered, the necessary first step to ensuring the safety of mediating parties is detection of a history of IPV.

4. Second controversial area: changing mediation procedures to accommodate IPV

Assuming that a party reports IPV, there is then controversy regarding whether the mediation should be conducted and, if so, how mediation might be changed to accommodate the presence of IPV. As noted, in various jurisdictions around the United States, mediation guidelines vary from automatically excluding cases reporting IPV from mediation to explicitly prohibiting the exclusion of such cases from mediation. For example, the American Bar Association Model Standards provide minimally at Standard VI.B. that, "If a mediator is made aware of domestic abuse or violence among the parties, the mediator shall take appropriate steps including, if necessary, postponing, withdrawing from or terminating the mediation." The Symposium Model Standards at Standard X provide significantly more guidance, including: "C. Some cases are not suitable for mediation because of safety, control or intimidation issues… D. If domestic abuse appears to be present the mediator shall consider taking measures to insure the safety of participants and the mediator including, among others: 1. establishing appropriate security arrangements; 2. holding separate sessions with the participants even without the agreement of all participants; 3. allowing a friend, representative, advocate, counsel or attorney to attend the mediation sessions; 4. encouraging the participants to be represented by an attorney, counsel or an advocate throughout the mediation process; 5. referring the participants to appropriate community resources; and 6. suspending or terminating the mediation sessions, with appropriate steps to protect the safety of the participants."

Our discussions with mediators suggest that a wide range of procedural alterations to mediation procedures may be implemented when mediators detect IPV, at a level that concerns them, in a case. A primary method used is shuttle mediation, in which the parties are kept separate and the mediator moves back and forth between them. In cases with concerns about severe violence, phone mediation can be implemented, so that parties are not even in the clinic at the same time. Other possible safety precautions such as staggering the arrival and departure time of the parties or accompanying parties to and from the clinic, so they don't encounter one another outside of the clinic, or conducting mediations in locations where safety procedures are in place and/or law enforcement officers are available (e.g., a courthouse where parties enter through metal detectors) (see Beck et al. (2004) for a complete discussion).

To our knowledge, little, if any, research has been done on the effects, positive or negative, of these procedural accommodations. Research is missing on the impact of these procedures not only on the outcome of mediation but even on more immediate consequences, such as parties' feelings of safety in mediation. Until such research has been conducted, mediators are left to use their clinical judgment when they decide how to proceed in mediation with a case reporting IPV. There are no empirically established guidelines regarding when to implement specific changes in mediation procedures.

5. Third controversial area: content of mediation agreements

Another controversy regarding mediation with cases that have experienced IPV is the question of whether, and how, mediator knowledge of reported IPV might impact agreements made in mediation. Although many believe that mediators must remain neutral and never dictate the terms of agreements, others have begun to offer recommendations regarding what the content of mediation agreements made by couples who report IPV should include. For example, Ellis and Stuckless (2006) proposed that parents with high levels of violence should have contact only in public places or when a neutral third party can be present. In the most detailed proposal, Jaffe, Johnston, Crooks, and Bala (2008) recommended a differentiated approach to mediation agreements based on the level of violence in the family. For example, in cases with no IPV, Jaffe et al. promote co-parenting, in which parents share decision making, communicate and jointly solve problems, and display flexibility in parenting time. They propose parallel parenting (e.g., divided decision-making responsibilities between parents, and parenting time arrangements requiring little communication between parents) in cases where parents each have positive relationships with the child but contact between the parents leads to non-violent conflict. Jaffe et al.'s most restrictive proposal, for families with high violence and ongoing threats, is a suspended contact model, with sole decision making authority and physical custody given to the less violent parent, suspension of all parenting time with the violent parent, and stipulation of goals for the violent parent to acquire supervised parenting time in the future. Regarding the issue of whether such proposals are actually implemented in mediation practice, only a few studies have compared the mediation agreements of violent and nonviolent parents. The studies, unfortunately, have not systematically examined levels and types of IPV, just presence or absence of IPV.

Mathis and Tanner (1998) analyzed the mediation agreements of 65 couples in a metropolitan court family mediation program; 60% of the cases had a history of IPV (and 51% of the IPV cases involved "extreme" physical violence). They coded agreements for legal custody (i.e., decision-making over key areas of a child's life, such as education, health, and religion) and physical custody (i.e., parenting time). Relative to nonviolent couples, couples with IPV were slightly more likely to award legal and physical custody to mothers (sole custody to mothers in 40% of violent and 33% of nonviolent families; sole custody to fathers in 3% of violent and 13% of nonviolent families). However, 57% of the violent couples agreed to a 50/50 split for physical custody, leading the authors to express concerns about mediation with violent couples.

Beck, Walsh, and Weston (2009) coded the divorce agreements of 463 Arizona cases. They classified cases as violent or not based on the parties' self-reports on an IPV questionnaire (the RBRS). They found no significant differences in the legal and physical custody arrangements of violent and non-violent couples; 59% of the sample shared legal custody while awarding physical custody to mothers, 19% awarded joint legal and physical custody, and 13% awarded mothers both legal and physical custody. Restrictions regarding contact between parents (e.g., public exchanges of children) or supervised parenting time were very rare; only 6.5% of couples addressed these issues, although cases involving reports of IPV by both parents were more likely to include these restrictions than nonviolent cases.

At our university mediation clinic, we compared the agreements of 62 violent and 130 nonviolent cases (violence was usually identified by mediators; Holtzworth-Munroe, Arany, Putz, Ballard, Applegate, & Beck 2009). There were no significant group differences in legal or physical custody or supervision of parenting time. Regarding safety provisions, violent families were more likely to include provisions about the exchanges of children and restrictions (e.g., on corporal punishment, interparental violence, parental substance abuse, and inappropriate language use by parents). However, very few cases (<10%) included such provisions in agreements, and there were no significant group differences on other safety-related provisions (e.g., exposure to weapons). Violent families were more likely than nonviolent families to include therapy referrals (to parent education and anger management) in their agreements. However, the percentage of families who included therapy in their agreements were small (<5%), and violent and

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nonviolent families did not differ on referrals to some forms of therapy as one might have predicted (e.g., substance abuse).

Taken together, these studies suggest that the mediation agreements of families who have or have not experienced IPV do not consistently differ on variables of potential importance to child safety and well-being. This lack of differences is demonstrated even when mediators were aware of the presence of IPV in cases. While this may concern us, there are others who might disagree.

First, some have argued that the field of family law focuses too much on male-to-female violence, while ignoring female-to-male violence, and attempts to address all levels of violence, even the more commonly occurring less severe violence, as if it were the type of severe IPV experienced by clinical samples. Thus, Dutton and his colleagues have argued against proposals such as those made by Jaffe et al. (2008) regarding recommendations for the mediation agreements of couples experiencing IPV. Dutton and colleagues propose more careful assessment of IPV (e.g., of the perpetration of violence by both partners and of the levels and types of IPV) and unbiased training in IPV family law professionals (e.g., including training on subtypes of violence). They explicitly argue against the assumption that mothers deserve child custody even in cases involving violence. However, unlike Jaffe et al. (2008), they do not provide ideas for how knowledge regarding differing types and levels of IPV should be incorporated into case planning and decisions regarding mediation agreements.

Also, the argument that the mediation agreements of families with a reported history of IPV should include certain provisions is problematic to many mediators as it conflicts with three key concepts in mediation: party self-determination, mediator impartiality, and mediator neutrality. "Party self-determination" is "the participants' right, once in mediation, to decide (a) whether to continue to participate and (b) on what terms, if any, to reach an agreement" (Frenkel & Stark, 2008, at 83). "Mediator impartiality" means "that the mediator does not favor any one party in a mediation over any other party" (Frenkel & Stark, at 83). "Mediator neutrality" means "that the mediator has no personal preference that the dispute be resolved in one way rather than another" (Frenkel & Stark, at 84). These concepts are routinely found in rules relating to mediation (e.g., Model Standards of Practice for Family and Divorce Mediation Developed by the Symposium on Standards of Practice, August 2009, "Symposium Model Standards"; Model Standards of Conduct for Mediators, American Bar Association, American Arbitration Association, and Association for Conflict Resolution, August 2005, "ABA Model Standards"; and Indiana Rules for Alternative Dispute Resolution, including amendments through January 1, 2010). At the same time, despite these key concepts, mediators are typically required to withdraw from mediation when a proposed resolution is unconscionable (see, e.g., Indiana ADR Rule 7.5(B)) and are encouraged to focus on safety issues in agreements (e.g., the Symposium Model Standards at Standard X includes: "E. The mediator should facilitate the participants' formulation of parenting plans that protect the physical safety and psychological well-being of themselves and their children."). Thus, variability in the standards means that mediators must continue to struggle with these ethical issues. To provide more information, future researchers must address how mediation agreements could be appropriately created to reduce conflict, avoid future violence, and ensure that children and IPV victims are safe from harm.

6. Overall conclusions

The question of whether mediation should be conducted with cases involving a history of IPV is a contentious one. We examined some specific controversies in this area, including whether universal IPV screening should be required, whether mediation procedures should be modified to accommodate reports of IPV, and whether knowledge of IPV should lead to changes in mediation agreement content. These are important issues, but must be considered in the larger context of the process of family dissolution.

Criticism of conducting mediation with cases involving IPV ignores a larger issue of *who* should make such decisions. For example, would families with a history of IPV fare any better if they went to court rather than mediation? Do traditional procedures and court decrees provide any greater protection to violent families? Many would answer "no", arguing that parents are in the best position to make decisions in the interests of their children and that with a mediator who is sensitive to issues of IPV, an IPV victim may feel more comfortable and indeed fare better in mediation than in court. The answers to such questions await future research.

Importantly, research is needed to determine the associations between the issues raised in this paper and outcomes for the family, including parent and child safety and adjustment following parental separation. For example, considering mediation agreements, does supervised visitation actually result in lower levels of IPV and better child mental health following mediation, or do referrals to counseling lead to improved parental health which, in turns, benefits the children? To address such questions, longitudinal research, following families over time, is necessary. Such research must include measures of parent and child safety, physical and mental health, and functioning. By studying the impact of mediation on families who have experienced IPV, and incorporating research findings into a dialog between parties on all sides of these controversies, it is hoped that the field of mediation can move forward, in a more informed way, to help families during a difficult family transition.

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