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ARTICLES

COMPARING THE MEDIATION AGREEMENTS OF FAMILIES WITH AND WITHOUT A HISTORY OF INTIMATE PARTNER VIOLENCE*

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We coded the content of mediation agreements reached by families receiving parent-related mediation services at a law school community clinic. We compared agreements reached by families identified as having or not having a history of intimate partner violence (IPV) on a variety of issues hypothesized to be related to risk of future interparental conflict and violence. Families with and without a history of IPV did not make significantly different legal or physical custody or parenting-time arrangements. Nor did these groups differ in specifying the details of how to handle some issues that could lead to future conflict (e.g., making up missed parenting time). They also did not differ in the likelihood of agreeing to supervised visitation or exchanges of children in public places. However, agreements of families with a history of IPV were more likely to include safety restrictions (e.g., restrictions on interparental fighting, physical discipline of children, substance use) and counseling referrals. We discuss implications of the study findings in the context of the debate surrounding mediation with families who have experienced IPV.

Key Points for Family Court Community:

- The appropriateness of mediation with families exhibiting a history of IPV is a focal point of debate in family law.
- This work compares the content of mediation agreements reached by families with and without a history of IPV in a law school community clinic.

Keywords: intimate partner violence; divorce and family mediation; family law; mediation agreements; mediation agreement content

PREVALENCE AND CONSEQUENCES OF INTIMATE PARTNER VIOLENCE (IPV) AND PARENTAL SEPARATION

Both IPV and parental separation are major potential problems for children. In the United States, at least one out of four women will be physically abused by an intimate partner in their lifetime (Tjaden & Thoennes, 2000), and at least 10% of children are exposed to family violence each year (Finkelhor, Turner, Ormrod, Hamby, & Kraack, 2009). In addition, 40–50% of first marriages end in divorce, affecting one million children per year (U.S. Census Bureau, 2002), and an increasing number of children (more than one-third) are born to unmarried parents, with such relationships being less enduring than marriage (Casper & Bianchi, 2002). These problems are intertwined. IPV is one of the main reasons given by couples seeking divorce (Amato & Previti, 2003; Ayoub, Deutsch & Maragane, 1999), and many cases entering divorce mediation have experienced IPV (Beck, Menke, Brewster, & Figueredo, 2009; Ellis & Stuckless, 2006; Mathis & Tanner, 1998).

Both IPV and parental separation increase the risk of negative outcomes for children. Children exposed to IPV may face a host of psychological, social, and academic problems (Evans, Davies, & DiLillo, 2008; Kitzmann, Gaylord, Holt, & Kenny, 2003), and such risks may not be eliminated by parental separation. 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, but such problems are most likely when interparental conflict continues postseparation (Annino, 2000; Lansford, 2009).

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 (Hetherington, Bridges, & Insabella, 1998; Kelly & Emery, 2003; Lansford, 2009). Similarly, children’s risk from exposure to parental IPV should be reduced if parents can cease or decrease their violence, which requires parents to minimize their conflicts postseparation (Kelly & Emery, 2003). Traditional adversarial litigation approaches to divorce may work against such outcomes, exacerbating the potential negative effects of divorce by increasing parental conflict (Schepard, 2004). Many have suggested mediation as an alternative that might lead to better outcomes for children by decreasing parental conflict.

However, some experts have raised serious concerns about the appropriateness of mediation for parents who have experienced IPV. They express concern that many mediators do not understand the dynamics of families with a history of IPV and victims of abuse may suffer as a result (Grillo, 1991; Hart, 2007). There is a potential risk of physical harm to victims following separation (Beck & Sales, 2000; Campbell et al., 2003). In addition, the victim’s fear of the violent parent and the violent parent’s use of coercion could lead the victim to give into the violent parent’s demands. Indeed, 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). For example, victims might agree to unsafe provisions, such as child visitation arrangements that put the victim and/or the children in possibly dangerous contact with the abuser (Tishler, Bartholomae, Katz, & Landry-Meyer, 2004).

Proponents of mediation counter that mediation offers unique individually tailored safeguards to promote safety and the 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. Given such debate, “divorce mediation in the context of domestic violence is one of the most controversial issues in family law today” (VerSteegh, 2003, p. 1).

Mediation Agreement Content in Cases with IPV: In this debate, an important issue is whether the mediation agreements reached by families identified as having a history of IPV adequately protect the safety of abuse victims and children. In our research, we hypothesized that mediation agreements for these families (as compared to families without an identified history of IPV) would include, on a statistically higher basis, provisions designed to decrease contact and conflict between parents with a history of IPV, as well as specific safety protections. The hypothesis was based on our expectation that though mediators are not supposed to dictate the terms of agreements, in cases with a history of IPV, mediators would be sensitive to the following concerns in facilitating agreements. First, continued interparental contact may allow an abuser access to the victim and thus the means to continue to control, harass, and abuse the victim. For example, “DV victim advocates argue that joint legal custody provides the batterer with a continuing means of control” (Johnson, Saccuzzo, & Koen, 2003, p. 2016), and female IPV victims report that the perpetrator’s continued involvement with their shared children allows him to continue intruding in the victim’s life (Hardesty & Ganong, 2006; Tubbs & Williams, 2007; Wuest, Ford-Gilboe, Merritt-Gray, & Berman, 2003). Thus, among cases with a history of IPV, we expected to see an increased likelihood of agreements with more limited contacts between the parents to reduce the risk of future violence. Second, future issues that are left unresolved for later on-the-spot negotiation or resolution could lead to postdivorce conflict for high-conflict families (e.g., how will missed parenting time be made up). Thus, as IPV often occurs in the context of interparental conflict, we expected that mediation agreements for these families would include more provisions specifying how future issues would be resolved, to help reduce the risk of future violence. Third, in IPV cases, specific safety restrictions have been advocated (e.g., supervised parenting time or agreements that parents will not carry firearms). For example, Ellis and Stuckless (2006) proposed that parents with high levels of violence should only have contact in public places or when a neutral third party is present. Thus, we expected to see mediation agreements for these families include more specific safety restrictions. Finally, in cases with a history of IPV, we expected to see more agreements that one or both parents would obtain additional help to reduce the risk of future violence (e.g., the abusive parent obtaining anger management or substance abuse treatment).

Research Comparing the Mediation Agreements of Cases With and Without a History of IPV: To date, only a few researchers have compared the mediation agreements of families with and without a history of IPV, and the major variable examined has been custody, while other potentially important variables have not been studied. In an older and the first such study, Mathis and Tanner (1998) analyzed the mediation agreements of 65 couples in a Texas metropolitan court family mediation program; IPV was reported in 60% of the cases. In this study, the researchers coded agreements for legal and physical custody. Relative to couples without a history of IPV, couples with IPV were slightly more likely to agree to legal and physical custody to mothers (sole custody was given to mothers in 40% of families with a history of violence versus 33% of families without a history of violence; sole custody was given to fathers in 3% of families with a history of violence versus 13% of families without a history of violence). However, 57% of the couples with a history of IPV agreed to grant some form of joint legal and/or physical custody; leading the authors to worry that shared custody will “promote too much future conflict between the violent ex-spouses.” (Mathis & Tanner, 1998, p. 251)

Johnson et al. (2005) examined mediator recommendations to the court for 200 cases with a history of IPV and 200 cases without IPV who had not reached a mediation agreement in a California metropolitan family court jurisdiction. They found no significant differences in joint legal or physical custody or supervised parenting time recommendations given for families with and without a history of IPV. Sole legal custody for mothers was recommended in 4.9% of the cases with a history of IPV and 6.9% of cases without a history of IPV; the low percentage of recommendations may relate to the fact that California law is considered to have a presumption in favor of joint legal custody. Joint physical custody was recommended for 21.1% of families with IPV and 15.8% of families without IPV. The mediators recommended that primary physical custody be assigned to mothers 48.8% of the time in families with IPV and 47.8% of families without IPV. Supervised visitation was discussed in only 18.6% of the cases that addressed parenting time, and no differences were found in recommending supervised visits between families with and without a history of IPV, leading the authors to conclude, “It is distressing that documented concerns about the mother’s safety had essentially no bearing on the likelihood that the mediator would recommend supervised visitation” (p. 1047).

In a more recent study, Beck, Walsh, and Weston (2009) coded the divorce agreements of 463 Arizona cases, predicting agreement content from level of reported IPV. Comparing different custody arrangements, they found “no statistically significant differences in either the wife’s or husband’s reported victimization level among the different categories of mediation agreements” (p. 409). Specifically, 59% of the sample agreed to share legal custody while awarding physical custody to mothers, 19% agreed to joint legal and physical custody, and 13% agreed to mothers having both legal and physical custody. Restrictions regarding contact between parents (e.g., public exchanges of children) or supervised parenting time were rare; only 6.5% of couples addressed these issues, but cases that did involve such restrictions had reported higher levels of both male and female IPV.

Taken together, these studies, conducted in different locales and years, suggest that the mediation agreements of families with and without a history of IPV do not consistently differ on legal and physical custody arrangements and related issues of potential importance to family safety (e.g., supervised exchanges). The present study was designed to further compare mediation agreements of families with and without a history of IPV. It does so in a different mediation clinic, which is important for understanding whether the findings of previous research can be replicated and generalized; we can be more confident in research findings that are consistent across multiple studies and sites. More importantly, the present study extends previous research by comparing the mediation agreements of families with and without a history of IPV on additional variables that are hypothesized to be
important to the potential future safety of families with a history of IPV but have not been examined in previous work. Specifically, we examined such issues as parenting time arrangements, how parents plan to handle issues that can potentially be a source of conflict (e.g., how to make up missed parenting time, who will provide transportation of the children to exchanges), additional safety provisions (e.g., no physical fights or substance use when the children are present), and referrals for counseling. Relative to families not identified as having a history of IPV, we hypothesized that the agreements reached by families identified as having a history of IPV would include less shared custody (to reduce interparental contact), more specificity of how potential future conflicts will be addressed, more safety provisions, and more referrals for counseling.

METHODS

PARTICIPANTS

The present study examined clinic files from the Indiana University Maurer School of Law Viola J. Talavera Family and Children Mediation Clinic (the "Clinic"). The Clinic serves families who typically are court-referred to mediation to attempt to resolve disputes in lieu of court resolution of divorce or paternity cases. The Clinic is staffed by a law professor director and supervisor (Applegate). Advanced law students take a 40-hour mediation course with the director and are then registered with the State of Indiana to act as mediators in domestic relations cases. We reviewed case file data from the existing Clinic records of all of the 205 families who attended mediation and reached an agreement between 2003 and 2008.

MEASURES

Demographic data: Demographic data were collected from Clinic intake forms contained in the Clinic files, including mediation parties' age, yearly income, number of children shared between the parties, and the ages and gender of those children.

Mediation agreements: A system for coding the content of mediation agreements was developed by psychology graduate students, a psychology professor, and the Clinic director (Arany, Putz, Applegate, & Holtzworil-Munroe, 2009). We began with Beck, Walsh, and Weston's (2009) coding system, which included variables examined in their previous study of the mediation agreements in cases with varying levels of IPV (e.g., legal custody, physical custody, some safety restrictions). We then modified the system to capture additional variables we hypothesized should differ between the agreements made by families with and without a history of IPV (e.g., referrals to counseling, additional safety restrictions). The variables coded are presented in the results section.

The mediation agreement for each family in the sample was read and coded by one of two psychology graduate students trained to use the coding system. Approximately 25% of the agreements were coded by both students to check for reliability. Reliability for coding of variables examined in this paper was acceptable, with percent agreement averaging 92.82% (SD = 8.89%) and Kappa averaging 0.85 (SD = 0.23). Disagreements between the coders were resolved through discussion, with occasional input and review from the psychology professor or Clinic director.

Intimate Partner Violence (IPV): Intepartental violence was coded as either present or absent for each family, based on the case Clinic record, which included the following information. For each case, as part of the clinic intake process, mediators checked criminal and civil records of both parents (e.g., domestic battery cases or restraining orders), asked mediation parties relevant questions (e.g., describe arguments and fights, do you have any concerns or fears about sitting together in mediation, etc.), and noted any indicators of IPV that emerged during the mediation process. Any of these indicators of IPV were noted in the case Clinic record. As we were unable to determine which parent had perpetrated violence, the case (not an individual) was categorized as violent or not. One-third of the sample (N = 68 families) was classified as having an identified history of IPV. The remaining families (N = 137) were classified as nonviolent.

RESULTS

Data were analyzed using nonparametric analyses (i.e., chi-square statistic) for categorical data and analyses of variance (ANOVAs) for continuous variables. For any particular variable, some cases may have been missing data (e.g., a mediation agreement may not have listed the age of a child). Thus, the sample sizes differ slightly across analyses. In addition, some codes could only be used if the previous code had been used. For example, if a family had not addressed parenting time, then none of the following codes about what parenting time arrangements had been agreed upon could be coded. Thus, the number of cases for the initial code in each category (e.g., was parenting time addressed) is usually the full sample, while the following sub-codes (e.g., how many weekend days will the nonresident paternal parent have with the child) will involve smaller sample sizes.

For some codes, there were too few cases in particular coding categories for proper statistical analyses. Thus, we sometimes eliminated a possible coding category from the analyses or collapsed coding categories into larger categories to consolidate data into acceptable cell sizes. Given the lack of any previous data on some parts of the agreements (which were coded for the first time in this study), if the available data still were limited, we usually provided the descriptive data and conducted analyses, but we note that, due to small cell sizes, the analyses may not be stable. Also, given the importance of detecting any differences in the agreements reached by cases with or without a history of IPV, we did not correct for the inflated alpha level of conducting individual analyses on each code. Thus, our statistical analyses were generous in allowing for the detection of any group differences between families with and without a history of IPV.

DESCRIPTION OF STUDY PARTICIPANTS AND CASES

Mothers (M = 30.38 years; SD = 7.81) and fathers (M = 33.03 years; SD = 8.68) were in their early 30's, on average. A repeated measures ANOVA, with sex of parent as a within subject variable (2 levels: mother and father; this method links mothers and fathers within a family, as their data are not independent of one another) and group as the between subjects variable (2 levels: detected history of IPV or not), was conducted. Fathers were significantly older than mothers, F(1, 123) = 30.93, p < .001, but there was no statistically significant difference in age between the cases with and without a detected history of IPV, F(1, 123) = 0.04, p = .83; and there was no significant interaction, for age, between sex of parent and detected history of IPV, F(1, 123) = .002, p = .96. Regarding yearly income, on average, mothers made $16,472 (SD = $13,164) and fathers made $22,935 (SD = $13,703). A repeated measures ANOVA was conducted, with sex of parent (mother or father) as a within subject variable and group (detected history of IPV or not) as the between subject variable. Fathers had a significantly higher annual income than mothers, F(1, 120) = 17.96, p < .001, but there was no statistically significant difference in income between cases with and without a detected history of IPV, F(1, 120) = 2.48, p = .12. The interaction, for income, between sex and reported history of IPV did not reach a statistically significant level, F(1, 120) = 3.01, p = .09. Ethnicity data were not available for the majority of cases in the sample, however our ongoing research at the clinic indicates a sample that is mostly Caucasian (~85%), reflecting the clinic's geographic location. The parents in the study sample had an average of 1.62 shared children (SD = .80). No statistically significant differences were found between families with and without a history of IPV in the number of shared children, F(1, 196) = 2.72, p = .10. The average age of children in the study was 7.85 years (SD = 5.69), and the age of children in the families with and without a history of IPV did not differ significantly, F(1, 183) = .14, p = .71. Slightly fewer than half (45.8%) of children were male (54.2% were female), and the percentage of male children for families with and without a history of IPV did not differ significantly, F(1, 191) = 0.49, p = .48.

The types of cases seen at the Clinic include initial dissolution cases (cases in which parents mediate issues surrounding the initial dissolution of marriage), modification of dissolution cases (cases in which parents mediate to resolve conflicts or changes in prior agreements or court orders), and paternity cases (cases in which unmarried parents mediate parenting-related issues). Of the 205...
families in the sample, 37.1% (N = 76) were paternity cases, 27.3% (N = 56) were initial dissolution cases, and 33.7% (N = 69) were modification of dissolution cases. Four cases were “other” case types (e.g., grandparent visitation) and were dropped from the study’s main analyses.

Families had to have reached an agreement to be included in the study. Of those families, 82.9% (N = 170) reached a full agreement and 15.1% (N = 31) reached a partial agreement. Three additional cases reached an interim agreement (e.g., a temporary agreement made between mediation sessions; these families did not return to mediation, to reach final agreement, in the timeframe coded in the present study) and were dropped from the study’s main analyses. Both full and partial agreements were coded.

No statistically significant differences were found in the type of case (e.g., initial or modified dissolution or paternity) between families with and without a history of IPV. \( \chi^2(2, N = 198) = 0.81, p = .67 \). No statistically significant differences emerged in types of agreements (full or partial) made by families with and without a history of IPV. \( \chi^2(1, N = 198) = 0.83, p = .36 \). Removing the “other case types” and “interim agreement” cases resulted in a total sample size of 198 agreements available for further analyses.

CUSTODY

Some IPV experts have expressed concerns that joint custody increases interparental contact, thus increasing the risk of continued abuse, harassment, and IPV. Thus, as did past researchers, we compared the legal and physical custody arrangements made by families with and without a history of IPV.

**Legal Custody:** Legal custody, or the “authority and responsibility for the major decisions concerning the child’s upbringing, including the child’s education, health care, and religious training” (IC 31-9-2-67), was addressed in the agreements of 72.7% (144/198 of cases in the sample). No statistically significant differences emerged between the proportion of families with and without a history of IPV who addressed legal custody in their agreements \( \chi^2(1, N = 198) = 0.59, p = .44 \). Among the cases that addressed legal custody, 73.5% of the sample agreed to joint legal custody (34/45 or 75.6% of families with a history of IPV; 66/91 or 72.5% of families without IPV); 22.8% of the sample agreed to mothers having legal custody (11/45 or 24.4% of families with a history of IPV; 20/91 or 21.9% of families without IPV); and 3.7% of the sample addressed fathers legal custody (0 of the families with a history of IPV; 5/91 or 5.5% of families without IPV). While the lack of any cases with a history of IPV awarding legal custody to fathers makes statistical analysis unstable, we did conduct a chi-square analysis and found that there were no statistically significant differences between families with and without a history of IPV in terms of which parent was awarded legal custody, \( \chi^2(1, N = 198) = 2.59, p = .12 \).

**Physical Custody:** Physical custody, or “the physical care and supervision of a child” (IC 31-21-2-16), was addressed by parents in the agreements of 73.2% (145/198) of families. No statistically significant differences emerged between the proportion of families with and without a history of IPV who addressed physical custody, \( \chi^2(1, N = 198) = 0.29, p = .58 \). Among the cases that addressed physical custody, 66.2% of the sample awarded the mother physical custody (31/43 or 72.1% of families with a history of IPV; 55/87 or 63.2% of families without IPV); 16.2% of the sample awarded fathers physical custody (6/43 or 13.9% of the families with a history of IPV; 15/87 or 17.2% of families without IPV); and 17.7% of the sample agreed to joint physical custody (6/43 or 13.9% of families with a history of IPV; 17/87 or 19.5% of families without IPV). Given adequate cell sizes, we conducted a chi-square analysis and found that no statistically significant differences between families identified as having or not having a history of IPV in who was awarded primary physical custody, \( \chi^2(2, N = 130) = 1.04, p = .99 \).

PARENTING TIME

Parenting time arrangements more clearly specify how much time each parent spends with the children and when. Previous researchers have not compared the details of parenting time arrangements made by families with and without a history of IPV; we did so. Parenting time was addressed by parents in 88.9% (176/198) of the agreements. No statistically significant differences emerged between families with and without a history of IPV in the percentage of cases addressing parenting time in agreements; \( \chi^2(1, N = 198) = 1.15, p = .29 \).

Not all parents who addressed parenting time in their agreements went on to specify parenting time. Instead, in 13.7% of cases, parenting time was left to “mutual agreement” (5/50 or 10% of the families with a history of IPV; 15/96 or 15.6% of cases without IPV). With adequate sample sizes allowing analyses, we found no statistically significant difference between families with and without a history of IPV in deciding to handle parenting time through mutual agreement versus specifying parenting time, \( \chi^2(1, N = 146) = 0.88, p = .35 \).

Among the remaining cases that did specify parenting time, we coded time with the nonresidential parent (i.e., the parent who was not assigned physical custody), split into number of days with the nonresidential parent (both weekdays and weekend days) and number of overnight visits with the nonresidential parent (both weekends and weekdays). One hundred twenty-four cases specified number of days with the nonresidential parent and 127 cases specified number of overnight visits with the nonresidential parent. Regarding number of days with the nonresidential parent, parents agreed to an average of 6.81 days per month (SD= 3.91; 6.21 days for families with a history of IPV; 7.12 days for families without IPV); there was no statistically significant difference between families with and without a history of IPV, \( F(1, 122) = 1.54, p = .22 \). Regarding number of overnight visits with the nonresidential parent, parents agreed to an average of 4.89 nights per month (SD= 4.11; 4.38 nights for families with a history of IPV; 5.15 nights for families without IPV); there was no statistically significant difference between families with and without a history of IPV, \( F(1, 125) = 0.99, p = .32 \).

**Summer parenting time was specified as different from school year parenting time in 20.7% (41/198) cases. There was a statistical trend for families with a history of IPV (18/65 or 27.7%) to be more likely than families without a history of IPV (23/133 or 17.3%) to specify parenting arrangements in summer as different than school year parenting time arrangements, \( \chi^2(1, N = 198) = 2.88, p = .09 \). Among families who specified different summer time for the nonresidential parent, 65.9% of the sample agreed that the nonresidential parent would have the children for half the summer (12/18 or 66.7% of families with a history of IPV; 5/23 or 65.2% of families without IPV); 21.9% of the sample agreed to less than half the summer for the nonresidential parent (3/18 or 16.7% of families with a history of IPV; 6/23 or 26.1% of families with IPV); and 12.2% agreed to more than half the summer for the nonresidential parent (3/18 or 16.7% of families with a history of IPV; 2/23 or 8.7% of families without IPV). While small sample sizes in some categories make chi-square analysis unstable, we found no statistically significant difference between the agreements of families identified as having or not having a history of IPV in the amount of summer parenting time for the nonresidential parent, \( \chi^2(2, N = 41) = 94, p = .63 \).

POTENTIAL CONFLICTS REGARDING PARENTING TIME AND RELATED ISSUES

We had hypothesized that interparental conflict would be more likely to continue if issues that potentially lead to on-the-spot negotiations are not resolved in the mediation agreements, and that such conflict could escalate to IPV. In contrast, if agreements specify how the parents will handle common potential conflicts, there should be less likelihood of further conflict. We thus examined some examples of such issues in the mediation agreements; these variables had not been examined in previous research.

Only 11.1% (22/198) of the sample explicitly addressed how to handle or make-up missed parenting time in the agreement. No statistically significant differences were found between the proportion of families with and without a history of IPV who addressed missed parenting time; \( \chi^2(1, N = 198) = 0.13, p = .72 \). Among the cases where this issue was addressed, 54.8% agreed to make-up missed parenting time by mutual agreement (4/9 or 44.4% of families with a history of IPV; 8/13 or 61.5% of families without IPV); 9.1% of parents agreed to classify missed parenting time as forfeited time (1/9 or 11.1% of families with a history of IPV; 1/13 or 7.7% of families without IPV); and
36.4% of parents made other arrangements for addressing missed parenting time (4/9 or 44.4% of families with history of IPV; 4/13 or 30.8% of families without IPV). While cell sizes make the analysis unstable, we did conduct a chi-square and found no statistically significant difference between the families with and without IPV in the ways they agreed upon handling missed parenting time, X2(2, N = 22) = 0.63, p = .73.

The issue of who would provide any needed transportation for the exchanges of the children between parents was addressed by 49.5% (98/198) of the families in the study sample. No statistically significant differences were found between the proportion of families with and without a history of IPV addressing transportation arrangements: \( \chi^2(1, N = 198) = 0.73, p = .49 \). Among the cases that did address transportation,\(^1\) parents agreed to make a single person (e.g., mother, father, or grandparent) responsible for all transportation arrangements in 30.6% of cases (6/35 or 17.1% of families with a history of IPV; 24/63 or 38.1% of families without IPV) and to have shared or flexible arrangements in 69.4% of cases (29/35 or 82.9% of families with a history of IPV; 39/63 or 61.9% of families without IPV). Given adequate cell sizes, we conducted a chi-square analysis and found a significant difference between families with and without a history of IPV on transportation arrangements: \( \chi^2(1, N = 98) = 4.65, p = .03 \). Contrary to our predictions, families with a history of IPV were significantly more likely to have shared or flexible transportation arrangements than families without a history of IPV.

**SUPERVISED PARENTING TIME, RESTRICTIONS ON CONTACT, AND LOCATION OF EXCHANGES OF CHILDREN**

Given the potential for continued conflict and/or violence when parents with a history of IPV have contact, along with concerns about protecting children from further exposure to violence, some advocates for battered women and past IPV researchers have suggested that children in families with IPV might be best protected by requiring supervised visitation, restrictions on who may see the children, and having exchanges of the children (for parenting time) take place in public locations, where conflict is less likely to escalate to violence.

**Supervised parenting time** was agreed to in 7.1% (14/198) of agreements, and no statistically significant differences emerged between the proportion of families with and without violence addressing this issue; \( \chi^2(1, N = 198) = 0.69, p = .41 \). Among the cases that did address this issue, 28.6% of agreements that specified supervised parenting time designated the residential parent (i.e., the parent with physical custody of the child) as the supervisor (2/6 or 33.3% of families with a history of IPV; 2/8 or 25% of families without IPV), and the other 71.4% of agreements parents chose another party (e.g., grandparent, other relative, guardian; 4/6 or 66.7% of families with a history of IPV; 6/8 or 75% of families without IPV). Although small cell sizes make the analyses unstable, a chi-square analysis revealed no significant difference between families with and without a history of violence in whether parenting time was supervised by the other parent or by someone else; \( \chi^2(1, N = 14) = 0.12, p = .73 \).

Restrictions regarding contact with specified individuals were included in 7.8% (15/198) of mediated agreements, with no statistically significant differences emerging between the proportion of families with and without a history of violence; \( \chi^2(1, N = 198) = 1.41, p = .24 \). Among the 15 cases that included this restriction, the restriction applied to the father in 20% of cases (1/7 or 14.3% of families with a history of IPV; 2/8 or 25% of families without IPV); both parents, multiple, or all parties who have contact with the child in 46.7% of cases (4/7 or 57.1% of families with a history of IPV; 3/8 or 37.5% of families without IPV); and other individuals in 33.3% of cases (2/7 or 28.6% of families with a history of IPV; 3/8 or 37.5% of families without IPV). Again, given the small cell sizes, the analyses are unstable, but we found no statistically significant difference between families with and without a history of detected IPV with regards to who the restrictions applied to: \( \chi^2(2, N = 15) = 6.1, p = .04 \).

Child exchanges between parents were addressed in the agreements of 43.9% (87/198) of the sample. Families with a history of IPV (63.1%; 41/65) were significantly more likely to include provisions about child exchanges in their agreements than were families without a history of IPV (34.6%; 46/133 cases); \( \chi^2(1, N = 198) = 14.39, p < .001 \). The location for exchanges was noted in the agreement in 75 cases. Among those cases, 62.7% listed a neutral public location (e.g., restaurant) or secure location (e.g., police station)\(^2\) (24/36 or 66.7% of families with a history of IPV; 23/39 or 58.9% of families without IPV); the other 37.3% of cases chose the parents' home as the place for exchanges (12/36 or 33.3% of families with a history of IPV; 16/39 or 41% of families without IPV). Given adequate cell sizes, we conducted a chi-square and found no statistically significant difference between families with and without a history of IPV in exchange locations: \( \chi^2(1, N = 75) = 0.47, p = .49 \).

**SAFETY ISSUES AND RELATED RESTRICTIONS**

In mediation agreements, parents can include restrictions on certain events or activities, some of which may be related to safety issues. While such restrictions may help protect the safety of victims and children in homes with IPV, these variables have not been examined in previous research comparing the mediation agreements of families with and without a history of IPV. For most of these codes, the practice at the clinic where the study was conducted is that when one or both parties raise these concerns, the mediators suggest that the restrictions apply to both parents or to most (or all) parties with whom the children have contact, to avoid potentially embarrassing, upsetting, or prejudicing one party by singling out that party as needing to have his or her conduct controlled.

Given our focus on risk of continued IPV, we focused on the following restrictions (i.e., parents agreed that these activities would not occur in the presence of the children): adult fighting or violence, physical discipline of a child, drinking, using drugs, driving while intoxicated, and having guns in the home. Parties agreed to at least one of these restrictions in 23.2% cases (46/198). Families with a history of IPV (41.5%; 27/65) were significantly more likely to include such safety provisions in their agreements than were families without a history of IPV (14.3%; 19/133 cases); \( \chi^2(1, N = 198) = 18.18, p < .001 \). Among the 15 cases that included such restrictions, the restriction applied to the father in 20% of cases (1/7 or 14.3% of families with a history of IPV; 2/8 or 25% of families without IPV); both parents, multiple, or all parties having contact with the child in 90.5% of cases (15/17 or 88.2% of families with a history of IPV; 4/4 or 100% of families without IPV). While small sample sizes make the analysis unstable, we found no significant difference, in terms of who the restriction applied to, between families with and without a history of IPV; \( \chi^2(2, N = 21) = 0.52, p = .47 \).

Restrictions on discipline, physical punishment, and/or corporal punishment of the child were addressed in 3.0% (6/198) of agreements. Of the six cases that included discipline provisions, the restrictions were placed on both parents, multiple, or all parties having contact with the child in 83.3% of cases (3/4 or 75% of families with a history of IPV; 2/2 or 100% of families without IPV); in one family with a history of IPV, the restriction was on the mother's significant other.

Parents for restrictions on substance use were coded as present if mediation agreements contained provisions restricting the use of alcohol, use of drugs, and/or prohibited driving under the influence. Substance abuse provisions were made in 37 cases. In families with a history of violence, 20 of 65 (30.8%) families addressed substance abuse, while only 17 of 133 (12.8%) without a history of violence addressed this issue. This difference was statistically significant, \( \chi^2(1, N = 198) = 9.29, p = .002 \).
Another safety provision coded was restrictions on guns in the home. Only two cases made provisions for restricting guns, and these cases were both for families without a history of IPV.

COUNSELING REFERRALS

It was hypothesized that, to minimize the risk of future violence, cases with a history of IPV might benefit from referrals for additional professional help. This study was the first to examine this issue. Referrals for counseling were explicitly addressed by 10.1% (20/198) of cases, and families identified with IPV (16.9%; 111/65) were significantly more likely than families not identified with IPV (6.8%; 9/133) to include counseling referrals in their agreements.

Table 1 provides descriptive data on the specific counseling services referred to in the mediation agreements; cell sizes were too small to conduct statistical analyses of differences between families with and without a detected history of IPV for each type of counseling service.

DISCUSSION

The questions of whether it is appropriate to mediate with families with a history of IPV and, if so, whether mediators should attempt to address certain issues in the agreements of such families are some of the most controversial topics in family law today (VerSteegh, 2003). Considering mediation agreement content, some IPV policy experts have argued that families with a history of IPV should include certain protections for children and victims (e.g., Ellis & Stuckless, 2006). Advocates for abuse victims are concerned that such protections are not widely used in mediation cases involving IPV. The present study was designed to provide empirical information regarding these issues.

First, from an IPV policy viewpoint, joint custody may be of concern, as it requires the parents to interact, either to exchange children (joint physical custody) or share in decision making about the children (joint legal custody) (Johnson, et al., 2005; Mathis & Tanner, 1998). Such contact may increase the risk of interparental conflict and may provide the violence perpetrator with access to the victim. In the present study, we found no statistically significant differences in legal or physical child custody arrangements between families with and without a history of IPV. These data are consistent with findings from Beck et al. (2009) and Johnson et al. (2005), but not with those of Mathis and Tanner (1998). Previous researchers have not coded the related issue of the actual parenting time arrangements made in mediation agreements. We did so and found no statistically significant differences in the parenting time given to the nonresidential parent in cases with and without a history of IPV. Across all cases, identified or not identified as having a history of IPV, many families (in our sample and in previous studies) agree to joint custody and shared parenting time; the question of whether such arrangements are appropriate for high-conflict families requires further study (McIntosh, 2009).

Second, we suggested that mediation agreements could reduce the risk of future IPV by specifying how the parents will handle various issues that might otherwise lead to future interparental conflict in the context of on-the-spot negotiations. To our knowledge, the present study is the first to examine these variables. We found that families with and without a history of IPV did not differ in the likelihood of addressing how missed parenting time would be made-up nor in the manner of making that decision in the future. Over half the sample agreed that parenting time would be made-up by mutual agreement, an arrangement that could carry a high risk of conflict for parents with a history of IPV as each occasion of missed parenting time would require negotiation. Similarly, there were no statistically significant differences in the proportion of families with and without a history of IPV who addressed transportation of children for exchanges, and families with a history of IPV actually were more likely than families without a history of IPV to agree to have shared or flexible transportation arrangements, which might increase the need for future negotiation and thus conflict. Given the time limitations in many mediation settings (Emery, 1995, Pearson & Thoennes, 1985), it may be difficult for mediators to get parents to consider, and specify how to handle, a wide range of potential future conflict areas, but particularly in cases with a history of IPV, doing so may be worth the time.

Third, some experts have advocated that families with a history of IPV should agree to specific restrictions on parenting and child exchanges, such as supervised parenting time or parents meeting only in public places, to minimize the risk of conflicts escalating to violence (e.g., Ellis & Stuckless, 2006). Previous studies have occasionally examined these issues, but we did so more thoroughly by examining a wider range of potential restrictions. In our sample, we found no significant differences between the proportion of families with and without a history of IPV who addressed the supervision of parenting time or restrictions regarding child contact with specified individuals. Our results are similar to Johnson et al.'s (2005) finding that mediator concerns about mother safety did not lead to an increased likelihood of a mediator recommending supervised visitation. Beck et al. (2009) coded supervised parenting time and restricted contact with individuals as one combined variable and found that families with a history of IPV were more likely to address these issues. But even in the Beck et al. study, the percentage of families addressing these issues was quite small (6.5%). This was also true in our sample, where 7% of families provided for supervised visitation in their agreements and 7.6% provided for restricted contact with any individual. The findings across studies suggest that including supervised parenting time in agreements occurs at low rates. A related issue, not examined in previous studies, was where exchanges of children would take place, with the view that exchanges in public places might be safest. Families with and without a history of IPV did not differ with regards to place of exchanges, although many families did agree to neutral public or secure locations.

In a related vein, we hypothesized that families with a history of IPV should be more likely than families without a history of IPV to include other explicit safety restrictions in their agreements. This study is the first to examine such safety issues, and we found significant differences in the inclusion of other safety-related provisions across the agreements of families with and without IPV histories. In the present study, families with a history of IPV were more likely to include restrictions on fighting or violence between parents and restrictions on parental substance use; they also tended to be more likely to include restrictions on discipline and physical or corporal punishment of their children. Our findings may suggest that in cases involving IPV, parents may be more aware of these safety issues and are willing to address them in agreements, or mediators may be more aware of the safety issues and suggest that the parents consider them. Or perhaps violent parents are simply more likely than nonviolent parents to address these issues because they are more likely to engage in these problematic behaviors. Overall, up to 41.5% of families with a history of IPV included at least one of these safety restrictions; we do not know whether the other families with a history of IPV considered such issues or not. Also, at the clinic, these restrictions often applied to both parents or all parties who interact with the child; as noted above, assuming parent agreement, restrictions often are applied more globally to avoid embarrassing or prejudicing one parent. On the one hand, this policy might lead to an increased discussion of sensitive safety concerns that might otherwise be left out if one parent felt targeted. On the other hand, applying restrictions to multiple parties makes it more difficult for researchers to determine which parent is the focus of concern, and it might unnecessarily restrict the rights of the parent without the specific problem (e.g., requiring a parent who only has one drink every few days to agree to give up all drinking because the other parent routinely drinks to excess).

<table>
<thead>
<tr>
<th>Counseling Referrals</th>
<th>Violent Sample</th>
<th>Nonviolent Sample</th>
</tr>
</thead>
<tbody>
<tr>
<td>Marriage counseling</td>
<td>0/65 (0.0%)</td>
<td>1/133 (0.8%)</td>
</tr>
<tr>
<td>Family counseling</td>
<td>5/65 (7.7%)</td>
<td>4/133 (3.0%)</td>
</tr>
<tr>
<td>Parent education</td>
<td>4/65 (6.2%)</td>
<td>0/133 (0.0%)</td>
</tr>
<tr>
<td>Substance abuse</td>
<td>1/65 (1.5%)</td>
<td>3/133 (2.3%)</td>
</tr>
<tr>
<td>Anger management</td>
<td>2/65 (3.1%)</td>
<td>0/133 (0.0%)</td>
</tr>
<tr>
<td>Other counseling</td>
<td>5/65 (7.7%)</td>
<td>3/133 (2.3%)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Issue</th>
<th>Violent Sample</th>
<th>Nonviolent Sample</th>
</tr>
</thead>
<tbody>
<tr>
<td>Supervised visitation</td>
<td>2/65 (3.1%)</td>
<td>0/133 (0.0%)</td>
</tr>
<tr>
<td>Parental substance use</td>
<td>4/65 (6.2%)</td>
<td>0/133 (0.0%)</td>
</tr>
<tr>
<td>Discipline restrictions</td>
<td>5/65 (7.7%)</td>
<td>0/133 (0.0%)</td>
</tr>
<tr>
<td>Physical or corporal punishment</td>
<td>1/65 (1.5%)</td>
<td>3/133 (2.3%)</td>
</tr>
<tr>
<td>Fighting or violence between parents</td>
<td>5/65 (7.7%)</td>
<td>0/133 (0.0%)</td>
</tr>
<tr>
<td>Joint custody</td>
<td>0/65 (0.0%)</td>
<td>11/133 (8.3%)</td>
</tr>
</tbody>
</table>
Finally, we hypothesized that one way to help prevent future IPV would be to refer parties in cases with a history of IPV to other sources of help; thus, we examined referrals for counseling, which has not been done in previous studies. Families with a history of IPV were more likely to include referrals to counseling, with up to 17% of the agreements of parents with IPV including such referrals, but this is still a relatively low number of cases. Of course, it is possible that mediators informally made referrals to parents but did not include such referrals in agreements.

In summary, the results of this study, in combination with those of the previous studies, suggest that when mediators are aware of a history of IPV in a case, the mediation agreements eventually reached may include arrangements that should help to reduce the risk of future violence. However, many IPV experts would view the results as suggesting that there is still room for improvement, both in terms of whether the mediator had detected a history of IPV, but not who the violence perpetrator was or what level of IPV had occurred. The field is progressing in its recognition of varying types of violence, to the point where recommendations for what should be included in the mediation agreements of families with a history of IPV have recently been made based on the nature and severity of the violence experienced (Jaffe, Johnston, Crooks, & Bala, 2008). Thus, as Beck et al. (2009) began to do in their work, types of IPV (e.g., whether violence was perpetrated by fathers, mothers, or both; levels of violence severity and frequency) should be studied in relation to mediation agreement content in future research. Similarly, the existing clinic file records we examined did not include measures of other potentially relevant issues, such as levels of victim fear or perpetrator use of coercive control. Such variables may prove to be more important to the process and outcome of mediation than the simple presence or absence of violence.

Future Research Directions: The present study findings may lead some IPV policy experts to criticize mediation and raise concerns about whether IPV victims make agreements that adequately protect themselves and their children. But that criticism does not consider a larger issue of who should make such decisions (Holzworth-Munroe, 2011). For example, would families with a history of IPV fare any better if they went to court rather than mediation? Does adversarial litigation, with court decision-making, provide any greater protection to families with a history of IPV? Many mediators 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, where accommodations (e.g., staggered arrival and departure times, proceeding in separate rooms, being assisted by a support person) often are not a possibility. The empirical answers to such questions await future research comparing mediation to litigation for cases with a history of IPV.

Another important question is whether parents actually follow the provisions of agreements made in mediation (Holzworth-Munroe, 2011). This can be examined by considering court records (e.g., further court disputes and relitigation) and asking parents directly. If parents do not follow agreements over time, researchers should examine which parts of agreements parents do not follow and why. For example, in some cases, refusal to follow the terms of an agreement may be a new method of emotional abuse that an IPV perpetrator can inflict upon the victim following divorce. In other cases, parents may get along well enough that informal changes to agreements represent flexibility in addressing the best interests of their children.

Research is also needed to determine the associations between specific agreement provisions, victim and child safety, and adjustment following parental separation (Holzworth-Munroe, 2011). For example, does supervised visitation actually result in lower levels of IPV following mediation? Do referrals to counseling lead to improved parental health, which, in turn, benefits the children? To address such questions, longitudinal research, following families over time, is necessary.

Policy Implications: The argument that the mediation agreements of families with a history of IPV should include certain provisions is contrary to what most mediators would agree are three key concepts in mediation: party self-determination, mediator impartiality, and mediator neutrality (Holzworth-Munroe, 2011). “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 2000 ("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, 2011). Mediators do not universally agree on how to mediate cases involving IPV but it is still clear that many, if not most, mediators would not be comfortable or even feel ethically permitted to require specific provisions in mediation agreements. Thus, we agree with Beck et al. (2009) in taking a cautious approach to suggesting specific mediation agreement content.

Policy makers and mediators must struggle with these issues. In our opinion, the most progress is likely to be made through an open and respectful dialogue between representatives of all perspectives. We thus applaud recent attempts to bring the relevant parties together to discuss these important issues. For example, battered women’s advocates and mediators have begun to work together to discuss how to appropriately handle cases with a history of IPV (e.g., the Wingspread Conference on Domestic Violence and Family Courts; VerSteegh & Dalton, 2008). Ideally, such efforts will lead to policies that are sensitive to both the concerns of IPV advocates and to the fundamental ethical principles of mediation.

In addition, research can help to shape this discussion by examining the issues raised in this debate and providing information about how cases with IPV fare in mediation. Many would argue that the mediation process offers an opportunity for families to consider issues critical to successful and safe transition to changes in family structure. To help ensure that, 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.

NOTES
* We wish to thank Connie J. A. Beck, who served as a consultant for this study.
1. As most of the available research has focused on male perpetrators and female victims or survivors, we sometimes use gendered terminology, but concern about power imbalances and safety apply to any victim of abuse, whether male or female.
2. Mathis and Tanner created a summary code that combined legal and physical custody and report findings from the combined custody code.
3. This study did not code the content of mediation agreements, but rather the content of mediator recommendations to the court for cases that did not reach an agreement. Thus, the focus of this study is slightly different than the other studies reviewed and the current study. It is important to note that in some courts in California, when parents do not reach an agreement in mediation, the mediator makes a recommendation to the court, but this practice is not the norm in most states. Typically, mediators do not make recommendations to the court.
4. In Indian cases involving children with parents who were not married to each other are paternity cases.
5. It is important to consider which cases with a history of IPV might be included in the present study. First is the question of whether cases with IPV were referred by the courts to mediation. While we have no empirical data, we do know that during
the time of the study, the judges used their own discretion to refer cases to mediation. In some cases, it appeared that the courts were not aware of IPV. Though the judges did not conduct systematic screening for IPV, they were aware of IPV in some cases they referred to mediation, particularly where both parties expressed willingness to mediate. Our impression is that at least some of the judges were not screening many cases with a history of IPV out of mediation. Second, is the question of whether the cases referred were screened out cases with a history of IPV. Again, while we do not have empirical data, based on our observation of the mediators, the Clinic director does not believe that such screening occurred frequently. At that time, the mediators did not use a comprehensive, behaviorally specific IPV screen. Cases usually were screened out of mediation if a party expressed fear of mediating with the other parent or if the clinic did not believe that the mediation could be conducted safely. This is the question, given that the present study focuses on mediation agreements, how many cases with a history of IPV reached agreement? We do have data on this issue. Specifically, in a study (Ballard, Holtzworth-Munroe, Applegate, & Beck, 2011) using data from the same clinic and time period and using the same method to detect IPV as the present study, we found that families who had experienced IPV were significantly less likely to reach a mediation agreement than families without a history of IPV (42% of families with a history of IPV versus 16% of families without a history of IPV).

In sum, the present study is limited to cases that were referred to mediation by judges, not screened out of mediation by mediators who reached agreement. In this manner, the present study is similar to previous studies comparing the mediation agreements of families with and without a disclosed history of IPV as reviewed in the introduction. 7. Classifying families as violent or nonviolent based on this information only is not ideal. Today, the field has developed a party "pressed fear of mediating with the other parent or...". Of those specifying shared or flexible arrangements.

426 FAMILY COURT REVIEW

REFERENCES


E-MAILS, STATUTES, AND PERSONALITY DISORDERS: 
A CONTEXTUAL EXAMINATION OF THE PROCESSES, INTERVENTIONS, AND PERSPECTIVES OF PARENTING COORDINATORS

Sherrill Hayes, Melissa Grady, and Helen T. Brantley

The current study uses a survey instrument to examine parenting coordination through the lens of Bronfenbrenner’s Person, Process, Context, Time (FPCT) model. The survey focused on contextual factors such as statutes, local rules, interpersonal characteristics, dynamics of the clients, and background characteristics of parenting coordinators. Responses from a sample of PCs were obtained using list serves and a snowball sampling procedure. Results included the extent to which the parenting coordination process occurs through email and other technology rather than in-person sessions. Mental health disorders and inability to pay were primary barriers to the PC process.

Key Points for the Family Court Community:
- There are many potential factors, both inside and outside a PC case, that influence the decisions that practitioners make when working with clients and, ultimately, on the results of the process.
- The most salient contextual factors that influence the PC process were formal rules (statutes and/or local rules), interpersonal characteristics of the participants (personality disorders, socio-economic factors), and background characteristics of the PC (education, experience).

Keywords: Parenting Coordination; Divorce Interventions; High Conflict Divorce; Bronfenbrenner; Ecological Systems Theory; Conflict Resolution

DEVELOPMENT OF AND NEED FOR PARENTING COORDINATION

Since the introduction of the Guidelines for Parenting Coordinators by the Association of Family and Conciliation Courts (AFCC) in 2005, the practice and scholarship of parenting coordination has been developing rapidly. Parenting coordination has been described as a child-focused alternative dispute resolution (ADR) process for high-conflict custody cases. This process is designed primarily to help parents or guardians implement parenting plans using a range of interventions (Coates, Deutsch, Sternes, Sullivan, & Sydlir, 2004). The more recent American Psychological Association (APA) Guidelines for the Practice of Parenting Coordination (2011) define the practice in the following way:

Parenting Coordination is a non-adversarial process that aims to minimize the impact of high-conflict custody disputes through parent education, mediation, conflict resolution and intensive case management. It is designed to help parents implement and comply with their parenting plans, make timely decisions in a manner consistent with children’s developmental and psychological needs, and reduce the amount of damaging conflict between caretaking adults to which children are exposed.

The APA Guidelines focus on minimizing the impact of the high-conflict custody disputes on children through the use of multiple interventions and clearly outline the roles and practices that parenting coordinators (PCs) use and the expected outcomes of their process.

As of 2011, twenty-six states and the District of Columbia have programs for parenting coordination. More jurisdictions across the country are implementing the practice and developing local court...