

Judge's Bench Book for Application of the Integrated Framework for the Assessment of Intimate Partner Violence in Child Custody Disputes

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A more succinct bench-book version of the Integrated Framework and Forensic Model (Austin & Drozd, 2012) for the assessment of intimate partner violence (IPV) in child custody disputes is presented. The revised IPV typology integrates the main subtypes of coercive control, conflict-instigated, and separation-associated IPV with major violence risk factors. The 10 behavioral dimensions are described in a behavioral grid analysis for describing the past pattern of IPV, conducting a violence risk assessment, and making parenting plan recommendations. A recommended forensic assessment protocol and summary for judicial consideration are presented.

KEYWORDS intimate partner violence, domestic violence, child custody, parenting plan evaluations

Intimate partner violence (IPV)¹ is one of the complex issues that faces courts and child custody or parenting plan evaluators. When IPV is a salient issue in a custody dispute, either corroborated or with allegations that need to be investigated, we suggest referring to the case as an Intimate Partner Violence–Child Custody case, or IPV–CC. Other complex issues in custody cases concern relocation, substance abuse, alienation, and child sexual abuse.

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With all of these complex issues, evaluators need to take a systematic approach to their assessment and investigation. Research-based conceptual frameworks or forensic evaluation models provide useful tools for evaluators to organize their data and to conduct an analysis of the issue for the purpose of recommending a best-interest parenting plan. Such frameworks have been developed for evaluators to use and courts to consider for relocation (Austin, 2008), alienation (Drozd & Olesen, 2004; J. B. Kelly & Johnston, 2001), and for allegations of child sexual abuse (Kuehnle, 1998; Kuehnle & Kirkpatrick, 2005). Drozd, Olesen, and Saini (2013) have presented a framework for how to conduct parenting plan evaluations in cases in which multiple complex issues present in the same case.

There is no perfect definition of IPV, but a parsimonious definition of it is offered by the Centers for Disease Control and Prevention (2010): physical, sexual, or psychological harm caused by a current or former partner. This definition includes emotional/psychological harm, which can be problematic as a very high percentage of divorcing partners report that emotional abuse occurred during the marriage and separation, and this may be the reason for the divorce.

Until recently, surprisingly there have been few published frameworks for evaluators or courts to use as a systematic approach for assessing IPV in custody cases (Austin, 2001; Austin, Thomas, & Arnold, 2009; Dalton, Drozd, & Wong, 2006; Drozd, 2008). Austin and Drozd (2012) presented the integrated framework for the assessment of IPV and for its application in the context of a child custody dispute and evaluation. It is a comprehensive framework that integrates IPV typologies that were published in 2008 with a violence risk assessment approach. Ten behavioral dimensions are presented in a “behavioral grid” approach for describing any past pattern of IPV behaviors and for predicting future violence risk to parent and child, quality of parenting, implications for co-parenting, and child adjustment. A diagram of this framework follows in Figure 1.

The purpose of this abbreviated “bench book” version is to provide judges and legal/mental health professionals who are involved in family law disputes with a framework for understanding the complexities of IPV and for guiding decision making. This bench book version should also provide evaluators, attorneys, parenting coordinators, mediators, and co-parenting educators with a user-friendly succinct document to apply to IPV–CC cases.

FREQUENCY AND TYPES OF CASES THAT EVALUATORS ENCOUNTER

When child custody disputes do not settle and reach the courtroom, it is often the case that there will be allegations of past IPV (and sometimes very recent incidents). Some studies have found that about half of parents involved

in litigation report that there was domestic violence (DV) in their relationship with roughly equal perpetration by both genders (Newmark, Harrell, & Salem, 1995). Bow and Boxer (2003) conducted a quality survey of custody evaluators' descriptions of their experience with IPV–CC cases. Using Austin's (2001) predictive typology, data were presented on the pattern of instigation and severity of IPV that the evaluators recalled encountering in their evaluations. The findings indicated the following and give evaluators an empirical basis to know what pattern of IPV they are likely to encounter:

- IPV was estimated to have been present in 37% of cases;
- 46% of those cases were separation associated;
- 29% of cases were episodic;
- 24% of cases were enduring, chronic IPV;
- when IPV was an issue, 16% of cases had severe IPV, 33% moderate, 50% minor; and
- 51% of IPV cases had a male as the primary instigator; 11% female primary instigator; 17% were bidirectional, mostly male; 14% bidirectional, mostly female; 7% bidirectional, mutual.

LEGAL CONTEXT

Considering if DV occurred during a marriage is required as part of best interest determinations for custody and access arrangements in 46 states, either as a statutory best interest factor or by other statutory provision (American Bar Association, 2008). Only 37 states have a list of statutory best interest factors to consider, but IPV is always included when there is a list (Elrod & Spector, 2011). Twenty-six states follow the model statute of the National Council of Juvenile and Family Court Judges (1994) that requires that a legal finding of DV establishes a rebuttable presumption against joint decision making (for reviews of state laws, see American Bar Association; Austin, Dale, & Drozd, 2012). In 2003 only one province in Canada required the court to consider DV in child custodial decisions (Schaffer & Bala, 2003), but now three provinces require judicial scrutiny on the issue (N. Bala, personal communication, February 10, 2010).

The relevance and consideration of IPV in custody disputes will be quite different in a dissolution, predecree case compared to a modification, postdecree case. In a predecree case, the allegations of IPV may concern a recent incident that an evaluator needs to investigate. There may have been an arrest and hearing on a motion for a temporary protective order. The court may have made a legal finding on the DV allegations (e.g., at a protective order hearing or in a criminal trial). With or without a legal finding, a custody evaluator would need to do a careful investigation of the severity and type of IPV and determine its relevance, if any, to parenting

and co-parenting. Issues of violence risk and safety are more likely to be a heightened concern with substantial or severe IPV in the past, perhaps even recently, where its relevance to parenting and co-parenting are likely to be greater.

In the postdecree case, a stable parenting plan may have been in place for an extended period of time, and so past IPV may be less relevant to safety concerns, especially if the level of severity was mild and there was not a coercive, controlling character to the past IPV. The issues may concern a parent, usually the father, wanting to increase his parenting time-share and/or to have joint decision-making authority. He may assert that he has made considerable changes in his life, enjoys a positive relationship with the child, has remarried, and so forth. He may further assert that the mother is not being very supportive of his relationship with the child or that she is being a restrictive gatekeeper (see Austin, Fieldstone, & Pruett, 2013). If there had been a severe form and/or a pattern of coercive control, the court (and evaluators) should be cognizant that the victim-parent may still experience fear of the ex-partner, and there still may need to be safeguards in the pattern of parent contact, child exchanges, and communication. The court and evaluator also need to look for indications of residual IPV behaviors or examples of continuing coercive co-parenting actions (e.g., harassing emails, menacing stares during jointly attended child activities, intrusive phone calling, derogating the other parent to others). Even when the physical aggression has ceased, there may be a continuation of the psychological aggression in subtle forms of coercion and control. Time alone does not necessarily heal the wounds from IPV, and there may be continuing residual effects from past IPV. Judges may want to raise a skeptical eyebrow (with a history of past IPV with coercive control) when hearing a persuasive argument that time and some favorable life changes are sufficient to create a change in circumstances for a modification of the parenting plan. The question that may be raised under such circumstances is the degree to which the underlying issues leading to the coercive control pattern of IPV have been resolved or the degree to which they simply covered over remaining underground and are likely to surface in another manner, a manner which may remain problematic for the parent-child and/or co-parenting relationships.

TASKS FOR THE COURT AND EVALUATORS

In the IPV-CC case, the court and evaluator need to consider evidence/gather data on past IPV behaviors. This is a *retrospective analysis* and is part of the *descriptive function* concerning IPV. The past pattern, severity, IPV subtype, and whether IPV behaviors have recently occurred all are important factors for the IPV analysis. Once evidence, facts, and data are obtained,

evaluators need to form an opinion as to what extent the allegations are corroborated, and the court needs to make a determination on the credibility of the allegations. The court and evaluator then need to translate the IPV data, findings, and opinions to the relevance for recommending both a safety plan for parent and child, if needed, and for parenting time and decision-making. The evaluator needs to make predictions for the court concerning future quality of parenting, co-parenting, and child adjustment related to the documentation of past IPV behaviors. This is the *predictive function* for the court and evaluator and requires a *prospective analysis*.

CRITICISMS OF CUSTODY EVALUATIONS IN IPV–CC

Prominent writers on DV have voiced strong criticisms of the quality of evaluations in IPV–CC cases. The research on evaluations when there are IPV allegations seems limited to one small sample study in a Midwestern metropolitan area (Logan, Walker, & Horvath, 2002) and a case study of a large family court in Ohio (National Custody Project, 2011). Bow and Boxer (2003), in their survey of evaluators' practices in these cases, found that it was rare for an evaluator to report that he or she used a systematic approach to considering the IPV issue or to use a violence risk actuarial instrument. The problem of quality in custody evaluation for the IPV–CC case is consistent with calls for assessing the quality and cost/benefit of custody evaluations in general (R. F. Kelly & Ramsey, 2009) and for utilizing to use work product reviews by psychologist colleagues for forensic quality control in complex cases (Austin, 2009). Because of the voices of concern about forensic work product quality in IPV–CC, we have attached Appendix A, a checklist for judges to use in assessing the quality of a custody evaluation and report.

Authorities have specifically criticized evaluators and courts for not conducting a routine screening to determine if IPV had occurred in the marriage and if there were any ongoing/current safety concerns (Ellis, 2008; Frederick, 2008). We suggest that evaluators should screen for IPV in every case with screening questions on a parenting questionnaire and with one of the first questions in the initial parent interviews. Evaluators may choose to administer a DV screening instrument (Ellis & Stuckless, 2006) or a DV protocol (Drozd, 2008).

IMPORTANCE OF INVESTIGATION

The integrated framework emphasizes the importance of sufficient and careful investigation when there are allegations of IPV or even when IPV has been confirmed and more details are needed for establishing the relevance

to parenting and co-parenting. It is not uncommon to find that an evaluator labels the allegations and denials as “he-said/she-said” data and throws up his or her forensic hands and concludes that nothing can be corroborated. We strongly encourage judges to expect evaluators to report specifically what investigative steps were conducted to move beyond the parents’ reports. In IPV–CC, evaluators need to act like investigative journalists and look for clues to confirm either allegations or denials by the parents (Austin & Kirkpatrick, 2004). Sometimes interviewing the children can provide partial confirmation of allegations. If an arrest was made, evaluators need to read the police narrative reports on their investigation and maybe interview the officers. These data are important even if there was a legal finding of DV by the criminal court so the family court judge will be informed about the IPV pattern, severity, subtype, and violence risk issues; the effect upon the children of the exposure to or witnessing of the IPV; and the effect upon parenting and co-parenting.

ASSESSING CREDIBILITY IN ALLEGATIONS OF IPV

Evaluators who investigate allegations of IPV need to address the issue and make a call on the believability of both allegations and denials of allegations by the parents based on their investigation. However, evaluators always need to be mindful that judges have exclusive authority to determine the credibility of witnesses on all issues in making a determination if DV occurred and if so, its severity.

Judges should want to know what systematic approach the evaluator took in trying to confirm or disconfirm IPV allegations. A “six factor” forensic model exists to help guide evaluators (Austin, 2000). It has been incorporated into the Johnston et al. conceptual framework (Jaffe, Johnston, Crooks, & Bala, 2008; Johnston, Roseby, & Kuehnle, 2009).

The Six Factor Model proposes that that evaluator should consider the following:

- Objective verification from court findings, medical records, and/or pattern of police complaints.
- Pattern of abuse complaints. In the context of litigation and/or custody evaluation IPV allegations raise issues of credibility, but research documents that even severe IPV may be kept shrouded in a “veil of secrecy.”
- Corroboration by credible third parties. It is difficult to find neutral collateral sources. Data from witnesses of IPV are helpful, but the collaterals may not be perceived as neutral. The evaluator and the court will want to know if the alleged victim described the abuse to third parties that one would expect the victim would have confided, and in a timely fashion at the time of the abuse.

- Absence of disconfirming information by credible third parties (e.g., individuals who would have ample opportunity to observe conflict and abuse, such as older children).
- Past history of violence by the alleged perpetrator–partner in other settings and relationships; presence of major risk factors such as substance/alcohol abuse or major mental disorder.
- Psychological status of the alleged victim that might suggest a propensity to distort and exaggerate such as a paranoid or delusional disorder; factors/data that would point to interactive or mutual IPV as opposed to a primary instigator and victim view of IPV.

FUNDAMENTALS OF VIOLENCE RISK AND THREAT ASSESSMENT AND MANAGEMENT

In the context of IPV–CC, risk refers to the probability of future physical and psychological aggression occurring. Risk assessment involves identifying risk factors that are known to be associated with violence. When past IPV has been corroborated, or allegations are deemed credible, especially with a severe form and/or coercive control IPV, then the court will want to be informed about a risk management and safety plan.

Three main research-based risk factors are the pattern and severity of past physical violence, substance abuse, and presence of a major mental disorder (see Austin & Drozd, 2012, for a review of supporting research). Other risk factors are discussed in the literature (see Centers for Disease Control and Prevention, 2009, for a list; Tjaden & Thoennes, 2000), but these are the main risk factors for future violence. A parent's history will be important, not just for evidence of past violence, but also to consider developmental antecedent conditions that are known from research to be correlated with adult IPV, such as exposure to harsh parenting and DV, and especially child and adolescent conduct disorder and violence (see Austin & Drozd, 2012; Magdol, Moffitt, Caspi, & Silva, 1998).

In addition to considering known violence risk factors in every IPV–CC case, evaluators need to consider “threat factors,” which are those variables that may not have a research base but are commonly considered by experts in threat assessment (Meloy, 2000). Threat factors would include access to firearms, making verbal threats to harm the other parent and/or child, suicidal statements, stalking, and so forth.

Judges may want to consider asking evaluators what risk and threat factors were considered, their opinion about the level of risk for future violence, and for suggestions on how to contain the risk or manage the threat component. This language can then be part of the court-ordered parenting plan such as how to handle child exchanges, phone calls, access to firearms, and so forth.

ANTICIPATING THE WORST CASE SCENARIO

All too often, newspaper stories have described horrific outcomes from custody disputes where a parent commits homicide and/or suicide. Evaluators and judges need to be mindful of this possibility. Such events would be labeled a “rare and severe event” in violence risk terms. They are impossible to accurately predict because of the rarity, but evaluators still need to try to anticipate this worst case scenario (WCS) by looking for and responding to “red flags” such as threats to kill the spouse, children, or self; history of suicidal attempts; access to firearms and stalking the ex-partner; active substance abuse; and erratic, bizarre behaviors. In a recent dispute where a young teenage boy was strongly requesting a change in his primary residence, the mother stated to him when he would not alter his preference: “Well then, I might as well get the gun and shoot my face.” Such statements need to be taken literally and seriously. When a severe form of IPV and/or coercive control behaviors have been alleged or corroborated, then evaluators may want to administer a well-known screening instrument for spousal homicide (Campbell, 2004). The WCS concern and appraisal should also apply to the rare and severe event of child homicide (Jaffe, Campbell, Juodis, & Hamilton, 2012; Olszowy, Jaffe, Campbell, & Hamilton, 2013).

Threats made by an angry parent to kill the child, while likely to represent an attempt to manipulate and control, need to be responded to with a “safety first” intervention (Drozd, Kuehnle, & Walker, 2004; Drozd & Olesen, 2004).

CONCEPTUAL DEVELOPMENTS IN THE FIELDS OF IPV AND CHILD CUSTODY

For many years there was a lack of conceptual differentiation of patterns or types of IPV in the DV literature. It was not unusual that all patterns of IPV were referred to as “battering” with the idea that most intimate relationships characterized by violence involved substantial physical violence/aggression and relationship control combined with coercive behaviors by a primary instigator–male perpetrator. This view was supported by research of IPV victims in shelters. It was not supported by research with community samples that showed most cases of IPV involved situational conflict and was likely to be interactive, or mutual violence, and minor in severity. There was heated debate in the field by researchers, feminist scholars, and DV advocates.

Following an interdisciplinary conference, a series of collaborative publications proposed a new typology of IPV that reflected a growing consensus of the most common behavioral patterns or subtypes (Jaffe et al., 2008; J. B. Kelly & Johnson, 2008). This “new consensus” typology has been

favorably received by the field. Jaffe et al. (2008) also proposed a framework for assessing IPV in a child custody dispute and offered suggestions for how to translate the assessment data to recommendations for a parenting and safety plan. A key idea was to assess the degree of “potency” in the IPV behavioral pattern. Potency would be determined based on a risk and threat assessment.

The new consensus typology offered the subtype of Coercive Control IPV to replace “battering” as the pattern with a high degree of relationship control, intimidation, threats, and intrusiveness. Other subtypes were conflict-instigated, female resistance, and separation-instigated IPV.

Authorities have pointed out that the coercive control pattern with the psychological dynamics may often occur in intimate relationships when there may be little or even no physical violence (Austin & Drozd, 2012; Johnson, 2008; Stark, 2007; Straus, 1999). The psychological effects of coercion, domination, isolation, and intrusiveness may be more debilitating than the direct effects of the physical violence, and with long-lasting effects. It is also this dimension of the coercive control subtype that may be more relevant to predicting future parenting and co-parenting by an abusive parent and ex-partner.

INTEGRATED IPV FRAMEWORK AND FORENSIC MODEL

The integrated framework is a new approach that combines the conceptual developments of a proposed IPV typology (Jaffe et al., 2008; Johnston & Campbell, 1993; J. B. Kelly & Johnson, 2008) with a violence risk assessment approach to enhance both the description of the past IPV pattern and the prediction of future violence. The integrated framework is depicted in Figure 1. The model is organized around 10 behavioral dimensions of IPV behaviors that are research based.

Proposed Revised Typology

The integrated framework relabeled three of the subtypes from the new consensus typology and added two subtypes to reflect the major risk factors of substance abuse and major mental disorder. Judges and evaluators should expect that in any given case with corroborated and substantial IPV, there is likely to be a mixture of subtypes or a hybrid behavioral pattern, for example, with substance abuse or a mental disorder combined with situational or coercive subtypes.

Determining the IPV subtype is a starting point for the analysis in an IPV-CC case. A subtype analysis is based on the data obtained from a careful investigation. This will show the general ballpark of the type or mixture of subtypes, behavioral pattern, and the type of psychological dynamics

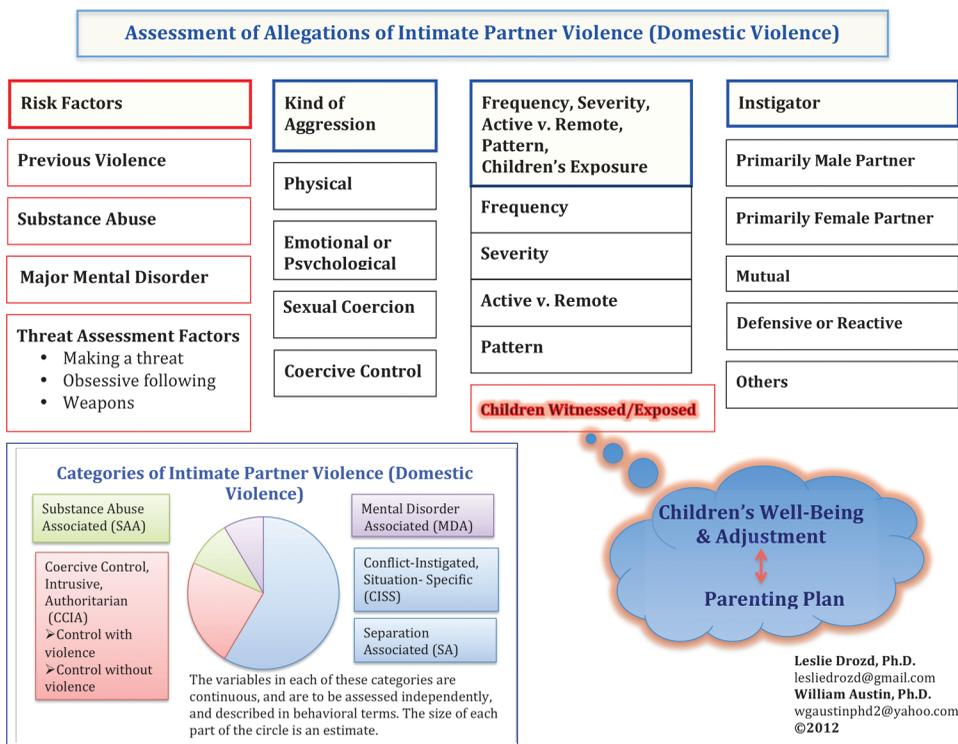


FIGURE 1 Intimate Partner Violence. © Leslie M. Drozd & William G. Austin (color figure available online)

between the parents that is relevant for co-parenting issues. The revised typology (see Figure 1) consists of the following subtypes:

1. Coercive Controlling, Intrusive, Authoritarian Violence (CCIA). Intrusive and authoritarian were added to this subtype to capture aspects of the severe form of IPV when there is a high level of control. Intrusiveness is a hallmark of what has formerly been thought of as “battering” and describes some of the coercive tactics used (Hardesty, Haselschwerdt, & Johnson, 2012; Jaffe et al., 2008). Intrusiveness can be found in both male and female partners who are coercive in their dealings with the other partner.
2. Conflict-Instigated, Situation-Specific Violence (CISS). This is the most common subtype though it is expected that in custody disputes, evaluators and the court will often encounter more substantial IPV patterns and allegations. This subtype will usually be interactive or mutual, but there often will be a primary instigator of either the psychological (e.g., verbal) or physical dimension of the violence. The level of severity and injury is usually minor or not at all, but it could be substantial and severe. Research

- shows that it is equally distributed by gender in terms of instigation and participation (Kwong, Bartholomew, & Dutton, 1999).
3. Separation-Associated Violence (SA). This subtype (SA) is a subset of CISS and refers to violence that occurs around the time of separation. It will be the most frequent type of IPV that evaluators encounter (Bow & Boxer, 2003), but there may be other IPV behaviors in the history of the relationship. Typically, there will have been a minor incident that either followed the separation, or more likely, it resulted in the separation occurring. Commentators often point out that the time of separation is the most dangerous time for female partners (Hardesty, 2002). Custody evaluators need to keep in mind that the time period following the finalization of a parenting plan or the end of a custody trial can be a very destabilizing and potentially dangerous time for the family.
 4. Substance Abuse-Associated Violence (SAA). Research has established that substance abuse, including alcohol abuse, is a major risk factor for violence and IPV (Lidz, Mulvey & Gardner, 1993; Lidz, Banks, Simon, & Mulvey, 2007; Monahan et al., 2001).
 5. Major Mental Disorder Associated (MMDA). Several research literatures show the predictive value of mental disorders with future violence. In combination with past violence, major mental disorder creates higher risk for future violence (Lidz et al., 1993; Monahan et al., 2001). Research also shows the efficient prediction of subsequent violence based on recent anger episodes (Skeem et al., 2006). A separate research literature establishes that affective psychiatric illness or psychopathology creates a heightened risk for IPV (Ehrensaft, Cohen, & Johnson, 2006) or relationship-specific violence.

It is assumed that perpetrators of a severe form of IPV with coercive control are personality disordered and create more risk for postseparation violence and for harsh parenting (Bancroft & Silverman, 2002; Jaffe, Lemon, & Poisson, 2003).

Severity Index

An IPV subtype analysis has descriptive value for the court so that it knows the general behavioral pattern as it might relate both to future violence risk, parenting, and co-parenting. However, an efficient *starting point* is to simply consider the *pattern of documented physical violence and threats* and *how active and potent* the behaviors of concern are. This assessment can be described as the “IPV severity index.” A *pattern and potency initial assessment* can quickly determine relevancy of IPV to safety and parenting issues. Documented past violence is a major risk and predictive factor (Anderson, 2008; Lidz et al., 1993; Monahan, 2003). As suggested by the IPV schematic (Figure 1), the evaluator can gather data on the severity, frequency, pattern

of incidents, and pattern of instigation. In addition to data on physical violence, we suggest that evaluators assess for recent physical threats to complete the description of the pattern of IPV.

The “active concern” aspect to forensic assessment is part of the temporal dimension (see Figure 1). If the documented IPV behaviors occurred in the distant past, especially if minor in severity, then the data are “stale” and probably not very relevant to a parenting dispute and safety issues. If the behaviors are recent, or “fresh,” with threats and obsessive following behaviors, then the violence risk and relevance are obviously heightened.

This approach is similar to Johnston’s work (Jaffe et al., 2008; Johnston et al., 2009). The assessment of potency will stem from active factors based on recent data (e.g., recent IPV incidents, threats, harassment, stalking, access to firearms) and major risk factors that also may be active (e.g., substance and alcohol abuse, emotional disturbance, extreme anger, paranoia). It seems that this efficient approach of combining an assessment of past IPV severity and potency should be the hallmark of every IPV–CC forensic evaluation.

Ten Behavioral Dimensions and the Behavioral Grid Approach

In addition to the descriptive subtype analysis and assessing for severity/potency, the integrated framework and forensic model proposes that evaluators and the courts organize the analysis in terms of 10 behavioral dimensions that are supported by extensive research on their relevance to IPV (see Austin & Drozd, 2012, for a review). This 10-dimensional analysis provides for greater behavioral specificity for both description of the IPV pattern and for better prediction of the behaviors of concern to the court: future violence, parenting, co-parenting, and child adjustment. The analysis can be thought of as a “behavioral grid” approach. It allows the evaluator to describe the degrees of behaviors on each dimension and so it is an enhanced differentiation of the IPV pattern. Appendix B is a table to help the judge and evaluator to record the information from the evidence and data presented in the case. The following are the 10 behavioral dimensions:

1. Exposure of Children to Violence
2. Degree of Threat Factors Present: Active-Potency
3. Substance and Alcohol Abuse
4. Major Mental Disorder
5. Severity of Past Physical Aggression and Pattern
6. Severity and Past Pattern of Psychological Aggression
7. Antecedent Conditions
8. Temporal: Active vs. Remote
9. Pattern of Instigation
10. Degree of Coercive Control for Both Parents

RECOMMENDED FORENSIC PROTOCOL

Austin and Drozd (2012, pp. 288–289) recommended the following forensic protocol for evaluators to use in an IPV–CC case:

1. screening for IPV is recommended in all cases (Ellis & Stuckless, 2006);
2. after thorough investigation, summarize the facts/data relevant to IPV; safety/risk; quality of parent–child relationships; expected future co-parenting; and child adjustment;
3. assess credibility of the allegations (Austin, 2000, or another systematic approach);
4. describe the IPV subtype or hybrid;
5. conduct a violence risk assessment and threat assessment, if indicated;
6. describe the Severity Index and offer a conclusion on the active-potency concern. This component includes a “red flag analysis” on threat factors;
7. present a specific behavioral differentiation by using the 10 dimensional and behavioral grid analysis;
8. screen for red flags for the WCS of lethality (e.g., Campbell, 2004; Campbell, Glass, Sharps, Laughon, & Bloom, 2007);
9. propose a risk management and safety plan, if needed, for parent and child;
10. propose alternative parenting time schedules that are appropriate in light of the IPV severity, active-potency, and risk-threat assessment; and
11. determine if shared decision making (e.g., joint legal custody) is appropriate in light of the data and IPV analysis.

This 11-step description and analysis points the way for making specific recommendations about parenting time, whether decision making could be shared, and what type of co-parenting arrangements make the most sense.

IPV AND PROTECTIVE GATEKEEPING

When substantial IPV has been documented with male instigation, then mothers are understandably cautious in co-parenting with the father/ex-partner, and they may have reason to be critical of the father’s parenting skills. Mothers may fear future physical violence and continuing psychological aggression/harassment. They may have obtained a protection order and may want supervised parenting time. In such situations where the mother is not very supportive of the father–child relationship and wants safeguards put in place for rational reasons, she is acting as a protective gatekeeper (Austin et al., 2013). The court needs to weigh the competing statutory best interest factors of DV and support for the other parent–child relationship accordingly.

Courts should not expect victim–mothers to be “friendly parents.” However, research shows that some mother–victims continue to recognize the value of the father’s involvement with the children after safety issues are addressed and thus are both facilitative and protective in their postseparation gatekeeping behaviors (see Hardesty et al., 2012, for a review).

RELEVANCE TO PARENTING AND CO-PARENTING

It is surprising that research on the relationship between IPV and parenting and co-parenting is quite limited or in its “infancy” (Hardesty et al., 2012). A common assumption is that coercive control IPV (i.e., CCIA) is associated with harsh parenting and coercive co-parenting (Bancroft & Silverman, 2002; Jaffe et al., 2003), and this assumption appears to be justified on theoretical grounds. Researchers and noted authorities generally recommend against shared parenting and joint custody when there has been high conflict with a primary instigator (J. B. Kelly, 2003; Maccoby & Mnookin, 1992). It follows when there has been substantial IPV with a primary instigator or a CCIA subtype/pattern that there should be a *de facto* presumption by judges that there should not be equal parenting time or shared decision making.

When there has been situational and conflict-related IPV (i.e., CISS) that was minor in severity, especially if the behaviors were remote, then the relevance to decisions about parenting timeshare and decision making may be limited and not very relevant.

SUMMARY CONSIDERATIONS FOR THE JUDICIARY

Clearly, the job of the judiciary is a challenging one. With minimal time, minimal information, minimal resources, and maximum caseloads, judges in IPV–CC cases are asked to address issues of credibility of allegations of past IPV; potential future violence; the need to develop a safety plan or to manage the risk of harm; whether to restrict a parent’s access to the child; and how to rehabilitate a violent and/or coercive parent so that he or she can bring valuable resources to the parenting and co-parenting tables. In their role of “risk decision makers,” judges must make potentially high-risk decisions without input from an evaluator and expert testimony.

The concerns and criticisms about the quality of the work product of custody evaluations and reports in IPV–CC cases were noted above. Appendix A is a table for judges and other professionals to use in rating the quality of these types of custody evaluations. The table can facilitate judges conducting their own quality control assessment.

This bench book is designed to be a more user-friendly version of the more elaborate integrated framework for describing a past pattern of IPV. It

is designed to inform judges about a revised IPV typology that integrates the accepted typology that is in use with a violence risk assessment approach and major risk factors. The 10 behavioral dimensions are presented to provide more detail, nuance, and clarity in the assessment for better description of past IPV and for predicting future risk, parenting, co-parenting, and child adjustment. Judges are encouraged to also be aware of the WCS not only in volatile cases, but also in less conspicuous high-risk situations, perhaps with parental depression and homicide/suicide risk. Judges are encouraged to ask an evaluator (or even attorneys) about any red flags for the WCS of potential homicide (parent and/or child) or suicide. Appendix B is a table for judges and others to use for recording the case assessment data for the Integrated Framework and its behavioral dimensions.

In these types of cases with allegations of IPV, judges should expect that custody evaluators will gather data on and describe the forensic findings of a violence risk assessment. Judges should also expect that evaluators would have made the translation of the relevance of a corroborated past pattern of IPV for future parenting, co-parenting, and child adjustment. When there has been a pattern of coercive control and/or a severe form of IPV, then the expectation should be that there may be future coercive co-parenting so that shared decision making may not be feasible, safe, or in the child's best interests.

This bench book includes the checklists to appraise the quality of the custody evaluation and data for the behavioral dimensions. These checklists are designed to heighten judicial scrutiny on the details in IPV-CC and to help review the quality of a custody evaluator's work product.

Judges are encouraged to be mindful of the parental gatekeeping issue when there have been allegations or documentation of IPV. When one parent has been coercive towards the other and substantially violent, then a lack of support for the other parent-child relationship may be very understandable. Judges need to be mindful of the behavioral patterns of past coercive controlling IPV when there has been little or no violence. Past psychological control should be very relevant to the capacity for future co-parenting. Judges need to appreciate that either parent could have been the instigator of past coercion and control though the female pattern of coercion, intrusiveness; control would not be expected to contain threats of physical violence.

The ultimate challenge for judges in IPV-CC is how to balance different types of potential harms to the child and parents with the need to promote quality relationships between the child and both parents. There will be a few cases where the parent has been so violent and is personality disordered so there appears to be little that the parent has to offer the child, and the safety issues are dominant. There will more cases where while the IPV is substantial and concerning, it is clear that the offending parent still possesses substantial psychosocial resources to offer the child. Such cases require a "take it slow" approach to co-parenting so that safety issues can be addressed and a workable degree of trust can be established between the parents.

Judges will want to know if offending parents have taken responsibility for past actions and will want to hold a healthy skepticism in modification, postdecree cases when there is a request for substantial increases in parenting time and/or a change to shared decision making. For example, does the report of a provider in a DV intervention program describe the perpetrating parent as taking responsibility for his or her past actions? A not uncommon scenario would be a father who was violent and coercive in the past and who is returning to court to try to modify the parent plan while still minimizing the nature of his past actions towards the mother.

NOTE

1. Intimate partner violence seems to be the preferred term in the literature. Domestic violence and family violence are frequently used and appear to be more general and include child abuse within a family.

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APPENDIX A
 JUDGES' CHECKLIST FOR CUSTODY REPORT RATING FOR CASES
 WITH ALLEGATIONS OF IPV

4 = Superior

3 = Adequate

2 = Poorly Done

1 = Not Done

- Professional literature to IPV issue mentioned
 - Evaluator demonstrated knowledge of literature on IPV and the relevance for parenting and co-parenting
 - If substantial IPV corroborated, evaluator demonstrated knowledge that joint decision making is probably contraindicated
 - If state statute has rebuttable presumption for joint decision when IPV/DV is documented, evaluator showed adequate knowledge and consideration
 - If a legal finding of DV was made, evaluator showed adequate consideration, including consideration that the past IPV might not be relevant
 - If IPV corroborated, evaluator showed understanding that any existing "friendly parent" best interest statutory factor should be interpreted differently
 - If a coercive control IPV subtype was corroborated, then the possibility of harsh parenting was investigated
 - IPV allegations clearly described in detail
 - Approach to assessing credibility of allegations described
 - Details of corroborated IPV incidents described
 - Investigation seemed appropriate
 - Number and type of collaterals interviewed
 - Records, court documents reviewed
 - Children were interviewed
 - Extent of child exposure described
 - Systematic approach to assessing IPV used and described
 - Subtype in IPV typology described
 - Pattern and severity of IPV described
 - How active of concern/potency described
 - How recent/remote IPV incidents noted (e.g., temporal dimension)
 - Major risk factors considered
 - If IPV confirmed, violence risk assessment conducted and described
 - Threat assessment described
 - Red flags for future physical violence appropriately described and considered
 - If IPV confirmed, a safety plan recommended for the parenting plan
 - Possibility of worst case scenario (e.g., homicide-suicide) addressed and reported
 - Access to weapons addressed
 - Substance abuse, alcohol abuse addressed
 - Presence of a major mental disorder addressed
 - Evaluator demonstrated openness to possibility of mutuality in past IPV pattern
 - Primary instigator (if there was one) of physical aggression identified
 - Primary instigator (if there was one) of psychological aggression identified
 - If Coercive Control subtype, the psychological dynamics of control, intimidation, intrusiveness were adequately described
 - If Coercive Control subtype, evaluator considered relevance to parenting and co-parenting even if little or no physical violence
 - How IPV is relevant to future parenting and co-parenting clearly described
 - If modification action and past coercive control, evaluator showed sensitivity to victim-parent's possible continuing fear of ex-partner and difficulty in co-parenting
 - If modification action and past coercive control, evaluator made report of possible residual coercive IPV behaviors such as intrusive, hostile emails, inappropriate behaviors at exchanges or jointly attended child activities
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APPENDIX B
TABLE FOR RECORDING EVIDENCE/FACTS WITH
INTEGRATED FRAMEWORK

Corroborated Factors Associated With Intimate Partner Violence

Check if present ✓	Risk Factors	If present, describe briefly. Victim? Perpetrator? (corroboration)
	Miscellaneous Risk Factors History of previous violence Substance abuse Major mental disorder	
	Threat Assessment Factors Making a threat Obsessive following Possession of weapons	
Behavioral Dimensions		
Check if present ✓	Behavioral Dimensions	If present, describe briefly. Victim? Perpetrator? (corroboration)
	Physical abuse Emotional/psychological abuse Sexual coercion Coercive Control	
Instigator		
Check if present ✓	Category	If present, describe briefly. Victim? Perpetrator? (corroboration)
	Father Mother Mutual Defensive or Reactive	
Data per Category		
Check if present ✓	Category	If present, describe briefly. Victim? Perpetrator? (corroboration)
	Conflict Instigated Separation Associated Coercive Control Major Mental Disorder Substance Abuse Related	