
Secondary Victimization of Abused Mothers by Family Court Mediators

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Abstract

Family court often assists divorcing parties in establishing custody arrangements. Mediation is commonly used for custody negotiation; however, its applicability for cases involving intimate partner abuse (IPA) is debated. This study was designed to gain an in-depth understanding of abused mothers' court mediation experiences and how those experiences impact future court help-seeking when the fathers of their children have been abusive to them. Most women experienced secondary victimization during mediation, which had a negative impact on their willingness to use the court in the future. Policy recommendations include screening for IPA, providing separate mediation sessions, and improving court mediators' training.

Keywords

child custody, domestic violence, intimate partner violence, legal issues, qualitative research, quantitative research, women

Millions of women are victims of physical or sexual violence at the hands of their partners or ex-partners each year (Tjaden & Thoennes, 2000). An estimated 31% of married women experience violence from their spouses (Koss, 1990). Thirty to sixty percent of children with abused mothers are also abused by their fathers, and an estimated 3 to 10 million children witness parental abuse (Edleson, 1999a, 1999b). Intimate partner abuse (IPA) is driven by the batterer's need for power and control, which manifests through physical, sexual, psychological, and economic abuse (Stark, 2007).

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Unfortunately, IPA does not always end when the relationship ends, and in fact often escalates (Fleury, Sullivan, & Bybee, 2000; Hardesty, 2002; Hardesty & Chung, 2006; Jaffe, Lemon, & Poisson, 2003; Kurz, 1996). Many women experience postseparation abuse (PSA) and, for mothers, much of this abuse is directed at and/or occurs through their children (Beeble, Bybee, & Sullivan, 2007; Bemiller, 2008; Hardesty, 2002; Hardesty & Ganong, 2006; Harrison, 2008; Kurz, 1996; Moe, 2009; Slote et al., 2005). Women report that abusers use their children to exert control over them by threatening the children's lives, mistreating their children to punish them, and being physically abusive toward the children (Hardesty & Ganong, 2006; Slote et al., 2005). Mothers with primary physical custody of their children have also described having difficulty getting their children back from visitations with their fathers (Hardesty & Ganong, 2006). Similarly, noncustodial mothers report that abusive fathers restrict their access to, communication with, and visitation of the children beyond any court decree (Bemiller, 2008; Hardesty & Ganong, 2006; Kernic, Monary-Ernsdorff, Koepsell, & Holt, 2005). On the extreme end, abusive fathers may murder mothers and/or murder or kidnap children (Jaffe et al., 2003; Saunders, 2009). Given the seriousness of continued abuse, it is imperative that family courts protect mothers and children when determining custody and parenting time in the context of IPA.

Family Court's Role in Determining Abusers' Access to Mothers and Their Children

Family courts determine physical and legal custody of children, parenting time arrangements, and thus, abusers' level of court ordered access to women and their children after the relationships end (Hardesty & Ganong, 2006; Kernic et al., 2005). Mediation is a widely used process to negotiate child custody among divorcing couples. Likely due to the collaborative nature of mediation, which allows parents to make their own decisions regarding custody and parenting time, mediation is purported to increase client satisfaction, decrease relitigation rates, and/or produce better outcomes for children (Cohen, Luxenburg, Dattner, & Matz, 1999; Kelly, 2004). Some scholars have argued that mediation is appropriate in cases involving IPA because mediators can balance the power inequities that exist in those relationships (Ellis & Stuckless, 2006a, 2006b). Others go so far as to say that mediation is an empowering, effective intervention that will end current abuse and reduce future abuse (Erickson & McKnight, 1993).

Other scholars, however, argue that mediation is neither effective nor safe to use in relationships where IPA exists (e.g., Beck & Frost, 2006; Dalton, Carbon, & Olesen, 2003; Hart, 1990; Imbrogno & Imbrogno, 2000; Jaffe et al., 2003; Johnson, Saccuzzo, & Koen, 2005; Pearson, 1997; Salem & Dunford-Jackson, 2008; Tishler, Bartholomae, & Katz, 2004). The underlying assumptions of mediation are that cooperation between the parties is attainable, that there is little to no abuse among the parties, and that each party can adequately argue for his or her needs—erroneous assumptions when IPA exists (Beck & Frost, 2006; Johnson et al., 2005; Tishler et al., 2004). Mediation also

assumes that neither party is at fault and that both parties need to change (Imbrogno & Imbrogno, 2000). This is problematic in cases of IPA, where it is essential to hold perpetrators accountable for their violence and abuse (Dobash & Dobash, 1979; Pence & Paymar, 1993).

Furthermore, several scholars have argued that mediators are unable to identify IPA, let alone equalize power imbalances (e.g., Hart, 1990). Subtle behaviors such as “a look” or a word that appears innocuous to an outsider (e.g., the mediator) can in reality be threats of future abuse (Stark, 2007). Such hidden emotionally or psychologically abusive tactics are more likely to occur during mediation than physical violence (Dalton et al., 2003; Hart 1990; Imbrogno & Imbrogno, 2000; Johnson et al., 2005; Pearson, 1997; Salem & Dunford-Jackson, 2008). In fact, abusers often perform well under observation and many manipulate mediators by professing a desire for joint custody and, thus, are viewed more favorably than survivors, who may be viewed as unreasonably resistant to joint custody (Dalton et al., 2003; Hart, 1990). Not only can forcing survivors to be present with, and argue against, their abusers be unsafe, but also abusers’ patterns of power and control may continue in mediated settings, causing survivors to be less able to negotiate for safe custody arrangements or financial resources (Hart, 1990; Imbrogno & Imbrogno, 2000; Johnson et al., 2005). Lastly, as mediation is not part of the public record, there is also a strong resistance to mediate IPA cases because it further privatizes IPA and reduces its significance as a criminal, public concern (Imbrogno & Imbrogno, 2000).

Abused Women’s Treatment in Family Court

Research on women’s experiences of the divorce and child custody process has indicated that some abused women endure victim blaming and minimization from family court staff. The court system holds mothers to higher standards of parenting than fathers, plus mothers are expected to be “friendly parents” by facilitating their children’s relationships with their fathers (Jaffe et al., 2003; Slote et al., 2005; Zorza, 2007). Some women are discouraged by their attorneys from mentioning abuse or pursuing restricted visitations with the abusive fathers—even when they have documented evidence of the abuse (Bemiller, 2008; Hardesty & Ganong, 2006). Physical abuse is more likely than psychological abuse to be documented in ways that are considered as objective evidence (e.g., arrest reports, photographs). Psychological abuse is more difficult to document, in part because it is often not considered illegal and therefore does not generate calls to the police or arrests. It is important to note, however, that psychological abuse not only occurs more frequently than physical violence, but it is often more painful and has longer lasting consequences (Beeble, Bybee, Sullivan, & Adams, 2009; Follingstad, Rutledge, Berg, Hause, & Polek, 1990; Theran, Sullivan, Bogat, & Sutherland-Stewart, 2006). For example, psychological abuse has been found to predict poor mental health outcomes such as depression, higher levels of stress and/or post-traumatic stress disorder (PTSD) symptoms, and low self-esteem over and above physical abuse (Coker et al., 2002; Dutton, Goodman,

& Bennett, 1999; Theran et al., 2006). Although nonphysical abuse is rarely considered a crime, this form of abuse has a multitude of negative consequences for women, and must therefore be taken seriously, and not minimized, during family court deliberations.

When women's abuse histories and safety concerns are trivialized or dismissed by court mediators, they can feel revictimized—a phenomenon termed *secondary victimization*. The term secondary victimization has most frequently been applied in the context of sexual assault (Campbell, 2005, 2008; Campbell & Raja, 1999, 2005; Campbell et al., 1999) and has been defined as “the victim-blaming attitudes, behaviors, and practices engaged in by community services providers, which result in the additional trauma for rape survivors” (Campbell, 2005, p. 56). Secondary victimization has been positively associated with posttraumatic stress reactions and a loss of self-esteem, faith in the future, trust in the legal system, and belief in a just world (Campbell et al., 1999; Orth, 2002). In general, the criminal justice system has been labeled as a system that often perpetuates secondary victimization (Orth, 2002). A more general definition of secondary victimization used for this article is the negative or unresponsive behaviors by others toward an abuse victim, who experiences such response as a further violation of their rights (Orth, 2002). Given the frequent incidence of secondary victimization toward other crime victims by the courts and the lack of research examining how abused mothers are treated during the court mediation process, the current study examined abused mothers' experience of secondary victimization during the mediation process.

Previous research on the custody negotiation process has primarily relied on quantitative or archival data (Johnson et al., 2005; Kernic et al., 2005; Rosen & O'Sullivan, 2005); therefore the current mixed-method study was designed to elicit, in women's own words, whether they shared their safety concerns during mediation, how they were treated throughout the mediation process, and how this treatment affected their view of the system and willingness to reuse the system if necessary.

Method

The study was undertaken in a Midwestern county that lists domestic violence as one of 12 factors to consider when determining custody and parenting time arrangements. Typical of many jurisdictions, this county adheres to the “friendly parent” concept and has a stated preference for joint custody. Child custody negotiation occurs through a court staff official whose role is similar to that of a mediator. The main differences are that (a) the mediation session is located at family court and (b) the family court mediator makes custody and parenting time recommendation regardless of whether the divorcing couple comes to an agreement. Therefore, the term mediator will be used to refer to the court mediator.

If either of the divorcing parties objects to the mediator's recommendation, they must file a motion for an additional court hearing. However, the court mediator's recommendation is weighed heavily by other family court staff and is difficult to change.

Although family court judges make the final custody judgments, they typically follow the recommendations of family court mediators.

Procedures

Using publicly available computers from July through September 2009, all divorce cases with minor children filed from January 2006 through June 2008 were searched at the county clerk's office. This time frame was chosen to locate women who had had at least a year of experience with custody and parenting time after the divorce was granted, but whose divorce was recent enough that they could accurately recall events that occurred during mediation. To locate cases most likely to have involved IPA, dockets were examined if there had been an objection to a court-imposed custody, parenting time, or child support arrangement. Women were then called for screening into the study. English-speaking women were eligible for the study if they (a) were at least 18 years old, (b) had gone through a divorce with at least one minor child in the county, (c) had experienced physical, psychological, and/or sexual violence at the hands of their ex-husband, causing them to fear for their safety, and (d) were willing to be audio taped during the interview. Interviews were scheduled at a location of the women's choosing that provided privacy. Of the 174 women we attempted to contact, 97 had disconnected telephone numbers and 19 did not answer after repeated attempts. Of the 58 women contacted, five refused before they were screened, and six could not be reached after the initial contact for screening. Of the 47 women who were screened, 29 (62%) were eligible for the study. Twenty-three of these women (79%) completed interviews. Four women were removed from analyses because it was determined postinterview that their case did not involve IPA. Thus, the remaining 19 women comprise the sample for this study. Participants were compensated US\$40 for their time and given a comprehensive community resource guide after the interview.

The 19 participants had a total of 38 children (range = 1-7, $M = 2$), who were between the ages of 2 and 25 years old ($M = 12$ years old). Participants ranged from 23 to 52 years old ($M = 39$). Most of the women were White ($n = 17$; 89.5%), with 5.3% ($n = 1$) participants identifying as Latina and 5.3% ($n = 1$) as African American. All women have been given pseudonyms throughout this article.

Measures

Qualitative interviews. A semistructured interview was used to elicit information about women's abuse histories and their experiences with and perceptions of the custody negotiation process. Field notes were taken during the interview, and all interviews were transcribed verbatim.

Experience of secondary victimization. A scale to measure secondary victimization during court mediation was created specifically for this study. As noted earlier, secondary victimization is the negative or unresponsive behavior by others toward a crime victim, who experiences such response as a further violation of their rights

(Orth, 2002). In this study, we broadened the definition to include women who have endured abuse by their partner. Two existing secondary victimization scales (one for sexual assault survivors and one for crime victims in general) were reviewed to assist with item development for the current study (Campbell, 2005; Campbell & Raja, 1999, 2005; Orth, 2002; Orth & Maercker, 2004). A number of scale items were modified to apply to court mediation. For example, “The judge insinuated that I was partially to blame for the violence” (Orth, 2002) and “I [a sexual assault victim] was told the case was not serious enough to pursue” (Campbell, 2005) were transformed into “The mediator seemed to believe that I was partially to blame for the violence” and “The mediator said that the violence was not serious enough to consider in the custody determination.” Both positive and negative mediator behaviors and participant feelings were included in the scale. Furthermore, given the contention by some that mediation is empowering for survivors (e.g., Erickson & McKnight, 1993; Kelly, 2004), the scale measured the extent to which women felt empowered by the mediation process.

The Court Mediator Experiences Survey (CMES) was designed to both validate and supplement the qualitative interview data. The first section includes 30 items about the mediator’s actions (e.g., The mediator: “said that I was partly to blame for the violence,” “encouraged me to voice my opinion,” “made the mediation meeting safe for me to be there,” said that he/she believed my ex-partner,” and “focused on what was best for my child or children”). Women responded to these questions on a Likert-type scale from 1 (*strongly disagree*) to 5 (*strongly agree*). As this was a pilot test, a “not applicable” option was also provided. Positively worded items were recoded so that higher scores indicated higher experiences of secondary victimization. Scores for Section 1 could range from 30 to 150, with higher scores indicating more secondary victimization experiences.

The second section of the CMES has 25 items (see Table 1) referencing the positive (e.g., During the mediation meeting, I felt: “safe,” “respected”) and negative (e.g., I felt: “blamed,” “interrogated”) emotions women may have felt during mediation, with response options ranging from 1 (*not at all*) to 5 (*a lot*). Scores for Section 2 (after positively worded items were reverse-coded) could range from 25 to 125, with higher scores indicating a more negative emotional response to the mediation meeting.

Eighteen women completed the CMES, which was administered after the interview. As this was a pilot test of the CMES for scale development and was designed for mixed-method validation with the qualitative data, we did not compute scale scores or conduct psychometric analyses.

Analytic Induction

Analytic Induction (Robinson, 1951), as modified by Erickson (1986) was used to analyze the qualitative data: (a) Develop an initial definition of the phenomenon of interest, (b) Develop an assertion to explain the phenomenon, (c) Examine one participant to determine if the assertion adequately describes and explains the phenomenon, (d) If the assertion does not describe/explain the phenomenon, redefine the

Table 1. Women's Responses to the "Court Mediator Experiences Survey"—Emotional Responses Subscale

N = 18	Not at all	A little	Neutral	Some of the time	All of the time
Positive					
Safe	6%	33%	0%	17%	44%
Believed	17%	28%	11%	22%	22%
Heard	11%	22%	0%	50%	17%
Respected	22%	17%	11%	33%	17%
Cared for	18%	6%	53%	24%	0%
Cared about	22%	11%	44%	22%	0%
Comfortable	28%	17%	39%	6%	11%
Confident	39%	11%	17%	22%	11%
Empowered	53%	18%	0%	24%	6%
Listened to	11%	17%	11%	50%	11%
Powerful	61%	0%	11%	22%	6%
Supported	28%	28%	11%	28%	6%
Negative					
Defenseless	28%	17%	11%	28%	17%
Ashamed	56%	0%	11%	11%	22%
Helpless	22%	17%	17%	17%	28%
Disbelieved	28%	28%	28%	11%	6%
Ignored	28%	11%	39%	11%	11%
Distressed	11%	17%	6%	22%	44%
Unheard	39%	6%	17%	17%	22%
Interrogated	28%	28%	28%	11%	6%
Scared	28%	6%	17%	22%	28%
Intimidated	17%	6%	6%	39%	33%
Dismissed	29%	24%	18%	18%	12%
Blamed	56%	0%	17%	11%	17%
Threatened	44%	11%	17%	11%	17%

Note: Some percentage totals do not equal 100% due to missing data.

phenomenon and/or modify the assertion to fit that case, (e) Examine the second case with the new assertion, (f) Continue the process of redefinition and modification until all cases that fit the definition are explained by the assertion. Negative case analysis was also employed to uncover disconfirming evidence (Erickson, 1986). An additional data reduction step was added prior to developing assertions: the transcribed interviews were coded for themes and patterns. Analyses resulted in four final assertions related to the research questions of interest (see Table 2). All decisions during analyses were recorded in an audit trail.

As a means of integrating the qualitative and quantitative data, women's qualitative responses were used to predict their responses on the CMES. For example, if during

Table 2. Study Research Questions and Corresponding Assertions

Research question	Corresponding assertions
1. How do mediators respond to the allegations of the fathers' abusive behaviors?	1.1. If there is no evidence, mediators will act dismissively of abuse allegations, as though they are (a) she said/he said, (b) mutual violence, and/or (c) irrelevant. 1.2. Even with concrete evidence, mediators will act dismissively of abuse allegations toward the mother as either irrelevant or too difficult/complex. This is especially true for nonphysical abuse toward the mother, as physical abuse is seen as the only legitimate form of abuse.
2. Did women experience secondary victimization during mediation?	2.1. Women experience secondary victimization (e.g., feel judged, blamed, disbelieved or dismissed by the mediator) during the court mediation process.
3. Does the mediation experience influence women's willingness to reuse the system?	3.1. Women who experience secondary victimization are more likely to lose trust in the system's ability to make decisions that are in the best interest of the child or children and will be less likely to return to court for future custody issues, even when her or her child's safety is at risk.

the qualitative interview a woman described how the mediator allowed the father to dominate the conversation, a low endorsement of the CMES item “the mediator did not let my ex-partner control the conversation” was expected. Three women provided insufficient interview data to predict CMES responses (Amelia, Kelly, Nicole), and one did not complete the CMES (Tanya). Seven women’s responses (47%) were predicted with 100% accuracy. Remaining accuracy rates were 90% for four women (27%), 70% to 80% for two women (13%), and 60% or lower for two women (13%). Incorrect predictions were the result of women responding based on their second mediator or averaging their experiences across mediators (Jackie, Ashley, Toni, Rose), and/or because they had much more complex experiences than originally considered (Toni, Rose, Cecilia, Celeste, Chelsea).

Results

Most mothers wanted full custody ($n = 11$, 58%) or sole physical custody ($n = 4$, 21%) of the children. Three (16%) sought joint custody, and one felt the children were old enough to decide for themselves. Of women who had a preference, 10 (53%) received the custody arrangement they wanted and 8 (42%) received less custody than they

wanted, indicating that courts do not choose custody arrangements based solely on mothers' requests and concerns.

Research Question 1: How do mediators respond to allegations of the fathers' abusive behaviors?

Mediators learned of IPA in different ways. Some women and/or their attorneys described the domestic abuse in the divorce papers that were submitted to family court. During mediation, 14 women (74%) disclosed concerns for their children's safety, and 13 (68%) described concerns over the fathers' abusive and controlling behaviors toward them.

The two interrelated assertions for this research question are as follows:

Assertion 1.1: If there is no evidence, mediators will act dismissively of abuse allegations, as though they are (a) she said/he said, (b) mutual violence, and/or (c) irrelevant.

Assertion 1.2: Even with concrete evidence, mediators will act dismissively of abuse allegations toward the mother as either irrelevant or too difficult/complex. This is especially true for nonphysical abuse toward the mother, as physical abuse is seen as the only legitimate form of abuse.

Mediators responded inconsistently to allegations of IPA. Nine women (49%) confirmed Assertions 1.1 and 1.2 and reported that mediators dismissed the abuse they endured by the fathers. In particular, two women reported feeling that mediators considered IPA too complicated to consider and, therefore, ignored all allegations.

I felt like at the time like the mediator just didn't really want to um, deal with the whole issue. I think domestic violence is hard and I, I think that uh, um, I, because I did not have any um, I did not have any, you know, pictures, photographs, I did not have any um, police reports um, that uh, you know, trying to . . . you know, they, they need evidence in terms of, you know, they, they need concrete evidence and so much of the abuse that went on was emotional. (Jackie)

Some mediators sought evidence for abuse allegations, but they responded to such evidence in different ways. For example, three women indicated that the courts viewed physical abuse as the only legitimate form of abuse. This is significant, as eight of the nineteen women in this sample experienced no frequent severe physical or sexual abuse. For them, the abuse was more controlling or emotional—types of abuse that are extremely difficult, if not impossible, to document, and that are not necessarily illegal. Therefore, when mediators requested evidence of abuse such as police or medical records, many women were unable to provide such documentation. Women's testimonies alone

were not enough for their concerns to be taken seriously. The following quote illuminates the emphasis mediators give to physical abuse.

I would say, “No [physical abuse], but he was controlling,” you know. “Do you have any documentation of that?” That’s what, that’s what I mean. If you don’t call the police, you don’t normally call the police if somebody hasn’t hit you. So if you don’t call the police then it’s, it’s your word against his. (Toni)

Even in cases involving physical abuse, mediators did not always accept documentation of violence as proof that IPA was a concern worth considering in the custody arrangement. For example, six women had civil restraining orders—a legal decree meant to protect survivors from their assailants’ violence and abuse—against the fathers at the time of mediation. In one of these instances the mediator demanded additional evidence to the restraining order, and in only one case did the woman receive a separate mediation session from the abuser, even though the policy in this jurisdiction and many others is that separate mediation sessions should occur in cases of IPA.

On the basis of women’s experiences, only one form of evidence emerged as consistently important to the court mediator—the father’s belligerent or threatening behavior during mediation, as witnessed by the mediator. Belligerent actions included shouting, arguing, banging their fists on the desk, and controlling the conversation, and these behaviors appeared to be the most significant form of evidence to support women’s claims.

And um he showed his anger at the, at, during that session . . . It just, it went really well because he showed his true colors and I was awarded um full physical and full legal custody of the girls. (Eva)

[Ex-husband] started yelling at [the mediator] and she started yellin’ back like, “Look! You can’t yell at me.” “You yell at me, I’m gonna start yellin’ back. And then you’re not gonna get what you want. And he started getting very agitated. (Hmm) [laughs] You could tell. You could see it in his face that he was getting agitated. (Tanya)

In other words, once mediators witnessed the abusive or controlling behavior firsthand, they took the information much more seriously.

Research Question 2: Did women experience secondary victimization during mediation?

Women had a range of both positive and negative experiences during mediation, as evidenced by their qualitative responses as well as their answers on the CMES (see Table 1). Women were categorized according to whether they had positive experiences,

negative experiences, and secondary victimization experiences. These categories were not mutually exclusive. In order for negative experiences to count as secondary victimization, they needed to arise from the mediators' negative or dismissive actions that specifically related to a woman's victimization experience.

Positive experiences. Although many women had at least one negative experience with mediation, it is noteworthy that 13 women (68%) had at least partially positive experiences (Lisette, Michelle, Toni, Brittany, Amelia, Ashley, Lillian, Nicole, Eva, Tanya, Chelsea, Melody, Kelly). These 13 women described their mediators as patient, understanding, and as attempting to focus on the best interests of the children. Common positive CMES responses indicated that they felt heard, respected, listened to, and safe (see Table 1). No women who had a positive experience felt disbelieved, unheard, interrogated, blamed, or threatened. Being believed by the mediator both enhanced women's satisfaction with the custody recommendation and contributed to a more positive mediation experience. For example, one woman (Chelsea) had an extremely positive experience because, due to a current restraining order against the abuser, she had an individual mediation meeting. In her case, she obtained a restraining order prior to mediation because the father began cutting himself in front of her and the children and prevented them from leaving the home—which caused severe emotional trauma for the children. It is important to note that she felt empowered due to mediation. Two additional women with restraining orders had joint mediation meetings but still had positive experiences because they were believed and taken seriously—most likely due to the plethora of evidence of abuse provided to the mediators. Specifically, one of the fathers abused drugs, was belligerent during the meeting, and did not want custody; the other father had a violent criminal history and violated a current restraining order. Each of the women reported that the mediator's custody recommendation was fair and took into account her safety and the safety of her children.

Negative experiences. The majority of women ($n = 16$; 84%) reported at least a partially negative mediation experience. One reason for this was that women felt intimidated and interrogated by the mediators for issues not directly related to the abuse. Some mediators asked the same questions repeatedly in a tone that women perceived as questioning/judging their behaviors (e.g., being unemployed). For example, one mother brought photographs of the father's unsanitary home and, instead of having her concern addressed, she was questioned about why she took the photographs. The interrogations were so intense for some women that they questioned whether or not they were good enough mothers. Common negative CMES responses indicated that women did not feel safe, believed, heard, respected, confident, powerful, supported, or empowered (Table 1). Women who had a negative experience also reported more feelings of being ashamed, helpless, unheard, interrogated, dismissed, and threatened.

Secondary victimization. The assertion related to this research question is as follows:

Assertion 2.1: Women experience secondary victimization (e.g., feel judged, blamed, disbelieved, or dismissed by the mediator) during the court mediation process.

Twelve women (63%) experienced secondary victimization. One woman, for example, was told by the mediator that she was partially to blame for a physically violent episode that took place during the relationship. Other women described that they felt dismissed or unheard when they disclosed abuse—especially when the abuse was more emotional or controlling than physical. Some women attempted to describe their ex-husbands' controlling behaviors to the mediators, but felt unheard. Women's responses on the CMES corresponded with their interview data, as these women reported feeling blamed, disbelieved, or dismissed. As mentioned above, women said that the abuse was dismissed because it was too complicated an issue for mediators to consider or discuss. Women also felt judged and blamed by the mediators. For example, one woman was told by her mediator, "If he's such a con man, what the hell did you marry him for?" On the basis of their CMES responses, all of the women who experienced secondary victimization during the mediation meeting reported that they did not feel cared about by the mediators and that most felt disempowered.

I said, you know, "His mom's abusive. Was abusive to my daughter. Why do you [the mediator] keep sayin' that [my daughter] should be with [the father] instead of with myself?" . . . just because I'm not working . . . That's how I feel like, because I was not working they were usin' that against me. (Cindy)

We was in her office and when she asked me if there was violence . . . I said, "There was some violence, not reported. "And then she says, "Oh, I didn't ask you if it was reported, I asked-if there were." I said yes, there were a few issues. And I talked to her about that phone incident when I kept his cell phone [and assailant attacked her]. She turned around and told me that 50% of it was my fault cuz I should just given him the phone right away . . . [Crying] And that's why . . . why would I bring it up to anybody else when she said that? (Maria)

As stated above, 12 (63%) participants confirmed this assertion, whereas six disconfirmed it. The assertion was disconfirmed when fathers acted belligerently in front of the mediators, resulting in the mediators taking women's concerns seriously (Michelle, Eva, Melody), and in the one case when the parents had a separate mediation meeting (Chelsea). One woman (Brittany) did not share her concerns about the father's abuse and, therefore, may not have felt negatively toward the mediator. We did not obtain enough information from the final participant who disconfirmed this assertion (Kelly) to interpret her response.

Seven women (37%) experienced both secondary victimization and revictimization by the abuser during mediation. Overall, these seven women had the strongest negative perceptions about mediation of all the women in the study. None felt safe to talk during mediation, safe during the meeting, respected or empowered. Only one felt listened to but, like the other women, also felt dismissed, disbelieved, and/or unheard. Notably, of this subset, six had entirely negative experiences. This pattern suggests two things. First, secondary victimization may be one of the most important factors

contributing to a negative mediation experience. When women made allegations and the father did not act belligerently, mediators were more likely to revictimize women, contributing to their extremely negative experiences. Second, although revictimization by the abuser during mediation influenced mediators to take women seriously, it still contributed to negative experiences for the women.

Research Question 3: Does the mediation experience influence women's willingness to reuse the system?

Our final assertion, related to this research question, states

Assertion 3.1: Women who experience secondary victimization are more likely to lose trust in the system's ability to make decisions that are in the best interest of the children and will be less likely to return to court for future custody issues, even when their or their children's safety is at risk.

Twelve women experienced secondary victimization, eight (67%) of whom confirmed this assertion. Not only did some women refuse to return to court, but also their experiences were so negative they indicated they would not even tell anyone else about the abuse because of the mediators' reactions.

Women's secondary victimization experiences also had serious consequences for their future legal help-seeking. Nearly all of them indicated they would avoid going back to family court because of their extremely negative experiences with the mediators. One mother wanted to request a safer custody arrangement but did not object to the order because she was too worried the mediator would give the father full custody if she did.

I was like, "Well, what am I supposed to do?" You know, and I figured if I objected to just the one weekend a month, would she have taken my daughter away from me? Put her in the home with him? Would she have made her go every other weekend? (Cindy)

Discussion

This study was designed to shed light on the custody negotiation experiences of women survivors of IPA. Although previous research has provided some evidence that the custody negotiation process experience may be negative for mother survivors of IPA (e.g., Harrison, 2008), no study has focused specifically on this process. This study contributes to the literature by providing initial evidence that both secondary victimization and revictimization by the abuser occur during mediation. Furthermore, this study provides empirical evidence to inform the ongoing debate regarding mediation in the context of IPA.

Although previous research has indicated that family court can be a negative and revictimizing experience for women survivors (e.g., Bemiller, 2008), this was the first

known attempt to apply the construct of secondary victimization to the custody negotiation process. In general, the legal system has been labeled as revictimizing for crime victims in general (e.g., Orth, 2002). In fact, feeling unheard, dismissed, and disempowered were common feelings among women in this study. Even when mediators believed allegations of abuse, the result was not always positive. Some women were blamed and felt judged by the mediator. Therefore, this study provides initial evidence that secondary victimization may occur in this context. Most importantly, the consequences of secondary victimization are cause for concern. Secondary victimization contributed to women's perceptions that family court was not their ally and, therefore, they did not see family court as a viable option for protecting themselves or their children. Secondary victimization experiences prevented some women from returning to court even when they were concerned about their children's well-being.

In addition, some women experienced revictimization by the fathers during mediation, a finding that replicates several studies on the divorce experiences of women (e.g., Hardesty & Ganong, 2006; Kurz, 1996). Several women felt attacked and intimidated by the fathers and sometimes were even silenced by them during the meetings—indicating that court mediators may not be fully able to equalize the power dynamics in cases of IPA. Some women were shocked that they were forced to negotiate custody with the fathers in the same room, and a few even emphasized how small the room was. Fathers' belligerent behaviors during mediation were a win-lose situation for mothers. On the one hand, it was an important factor considered by mediators that helped mothers gain custody. On the other, it was revictimizing and caused women emotional distress. In fact, the revictimization was so powerful that, for five women, it was the sole contributor to the negative feelings they had during mediation.

Finally, some women experienced both revictimization by fathers and secondary victimization by mediators during mediation. For example, one participant described how she disclosed her concerns to the mediator but the father was able to use his charm so that the mediator dismissed these concerns. This was extremely distressing, as she felt disbelieved by the mediator and embarrassed because of how easily both the father and the mediator denied her allegation. Most women who experienced both secondary victimization and revictimization had extremely negative mediation experiences and often expressed the most hesitation of all participants about returning to court.

Hearteningly, we also found that some women had positive experiences during mediation. Women who felt respected, listened to, and empowered generally had more positive experiences than women who did not. For many, their positive experiences stemmed from interactions with the mediators, whereas their negative experiences were a result of the fathers' negative actions (revictimization). Thus, individual mediation meetings and feeling respected, listened to, empowered, and not dismissed, disbelieved, or unheard are necessary, but not sufficient, conditions for women to have a positive mediation experience.

Findings should be considered in light of study limitations. First, the sample size was small and most participants were highly educated White women. It is unknown how representative these findings are to survivors in general who go through the

mediation process. Second, to target recruitment, only women whose cases had an objection to the court mediator's decisions were included in the research. Although this may have biased our sample to those who were more likely to have had a negative experience with mediation, the goal of the research was to establish whether secondary victimization occurred and not to establish the prevalence with which it occurred. Third, we recruited by calling women using the telephone numbers provided in their public files. This likely biased the sample to women who had fewer safety concerns, more consistent living situations, and/or more income (Sullivan, Rumptz, Campbell, Eby, & Davidson, 1996). Finally, four women had multiple mediation meetings and combined their experiences when answering the CMES, rather than answering only for their first mediator, which clouded some of the findings.

There are also strengths to this study. This was the first known attempt to gain an in-depth understanding of IPA survivors' custody negotiation experiences, and therefore begins to fill an important gap in the literature. Using mixed-methods allowed us to obtain a rich, contextualized amount of information to understand women's experiences. Another strength is that this study included women who experienced more non-physical abuse than physical abuse, increasing our understanding of IPA; previous literature has focused on women who experienced physical abuse and/or who had restraining orders. A third strength of this study was the rigorous tests of trustworthiness and credibility of the data (Lincoln & Guba, 1985; Miles & Huberman, 1994).

This research was a first step toward understanding the role of secondary victimization during the custody negotiation process. Results indicate that, despite some positive experiences, mediation is largely a negative, revictimizing experience for IPA survivors. Currently, there is little evidence to indicate that family court staff implement policies that demonstrate an accurate or clear understanding of the dynamics of IPA. Furthermore, emotional abuse and control are not always taken seriously; physical abuse is often considered to be the only legitimate form of abuse. Future research studies, including diverse samples and utilizing longitudinal designs, are needed to further explicate women's concerns and experiences throughout the court process. In particular, understanding the long-term effect secondary victimization has on women's help-seeking and, thus, their safety and their children's safety, would be an important contribution to the literature.

Overall, this study indicates that current family court policies may not always promote safe and effective court mediation procedures when IPA is present. A number of policy and training changes need to occur within family courts to maximize the safety of women and children in cases of IPA. First, court mediators should take women's concerns seriously and treat them with respect. Second, careful screening for IPA and implementing precautionary safety measures would enhance both the safety of survivors and their negotiating powers during mediation. Third, several women felt revictimized and controlled due to fathers' behaviors during mediation. In addition, women felt silenced, intimidated, or too frustrated to voice all of their concerns due to his presence. Therefore, family court should adopt an assumption against joint mediation meetings for divorcing couples—especially when allegations of abuse are raised.

Finally, if mediation is to occur when IPA exists, a specially trained mediator should conduct the session. Mediators require comprehensive knowledge and skills to understand and respond to the dynamics of IPA to recommend a custody arrangement that will keep women and their children safe from further abuse.

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References

- Beck, C. J. A., & Frost, L. E. (2006). Defining a threshold for client competence to participate in divorce mediation. *Psychology, Public Policy, and Law, 12*(1), 1-35.
- Beeble, M. L., Bybee, D., & Sullivan, C. M. (2007). Abusive men's use of children to control their partners and ex-partners. *European Psychologist, 12*(1), 54-61.
- Beeble, M. L., Bybee, D., Sullivan, C. M., & Adams, A. E. (2009). Main, mediating, and moderating effects of social support on the well-being of survivors of intimate partner violence across 2 years. *Journal of Counseling and Clinical Psychology, 77*, 728-729.
- Bemiller, M. (2008). When battered mothers lose custody: A qualitative study of abuse at home and in the courts. *Journal of Child Custody, 5*, 228-255.
- Campbell, R. (2005). What really happened? A validation study of rape survivors' help-seeking experiences with the legal and medical systems. *Violence and Victims, 20*(1), 55-68.
- Campbell, R. (2008). The psychological impact of rape victims' experiences with the legal, medical, and mental health systems. *American Psychologist, 63*, 702-717.
- Campbell, R., & Raja, S. (1999). Secondary victimization of rape victims: Insights from mental health professionals who treat survivors of violence. *Violence and Victims, 14*, 261-275.
- Campbell, R., & Raja, S. (2005). The sexual assault and secondary victimization of female veterans: Help-seeking experiences with military and civilian social systems. *Psychology of Women Quarterly, 29*, 97-106.
- Campbell, R., Sefl, T., Barnes, H. E., Ahrens, C. E., Wasco, S. M., & Zaragoza-Diesfeld, Y. (1999). Community services for rape survivors: Enhancing psychological well-being or increasing trauma? *Journal of Counseling and Psychology, 67*, 847-858.
- Cohen, O., Luxenburg, A., Dattner, N., & Matz, D. E. (1999). Suitability of divorcing couples for mediation: A suggested typology. *American Journal of Family Therapy, 27*, 329-344.

- Coker, A. L., Davis, K. E., Arias, I., Desai, S., Sanderson, M., Brandt, H. M., & Smith, P. H. (2002). Physical and mental health effects of intimate partner violence for men and women. *American Journal of Preventive Medicine, 23*, 260-268.
- Dalton, C., Carbon, S., & Olesen, N. (2003). High conflict divorce, violence, and abuse: Implications for custody and visitation decisions. *Juvenile and Family Court Journal, 54*(4), 11-34.
- Dobash, R. E., & Dobash, R. P. (1979). *Violence Against Wives*. New York, NY: Free Press.
- Dutton, M. A., Goodman, L. A., & Bennett, L. (1999). Court-involved battered women's responses to violence: The psychological, physical, and sexual abuse. *Violence and Victims, 14*(1), 89-104.
- Edleson, J. L. (1999a). Children's witnessing of adult domestic violence. *Journal of Interpersonal Violence, 14*, 839-870.
- Edleson, J. L. (1999b). The overlap between child maltreatment and woman battering. *Violence Against Women, 5*(2), 134-154.
- Ellis, D., & Stuckless, N. (2006a). Domestic violence, DOVE, and divorce mediation. *Family Court Review, 44*, 658-671.
- Ellis, D., & Stuckless, N. (2006b). Separation, domestic violence, and divorce mediation. *Conflict Resolution Quarterly, 23*, 461-485.
- Erickson, F. (1986). Qualitative methods in research on teaching. In M. C. Wittrock (Ed.), *Handbook of Research on Teaching* (pp. 119-161). London, UK: McMillan.
- Erickson, S. K., & McKnight, M. S. (1993). Mediating spousal abuse divorces. *Mediation Quarterly, 7*, 337-388.
- Fleury, R. E., Sullivan, C. M., & Bybee, D. (2000). When ending the relationship does not end the violence: Women's experiences of violence by former partners. *Violence Against Women, 6*, 1363-1383.
- Follingstad, D. R., Rutledge, L. L., Berg, B. J., Hause, E. S., & Polek, D. S. (1990). The role of emotional abuse in physically abusive relationships. *Journal of Family Violence, 5*, 107-120.
- Hardesty, J. L. (2002). Separation assault in the context of postdivorce parenting: An integrative review of the literature. *Violence Against Women, 8*, 597-626.
- Hardesty, J. L., & Chung, G. H. (2006). Intimate partner violence, parental divorce, and child custody: Directions for intervention and future research. *Family Relations, 55*, 200-210.
- Hardesty, J. L., & Ganong, L. H. (2006). How women make custody decisions and manage co-parenting with abusive former husbands. *Journal of Social and Personal Relationships, 23*, 543-563.
- Harrison, C. (2008). Implacably hostile or appropriately protective?: Women managing child contact in the context of domestic violence. *Violence Against Women, 14*, 381-405.
- Hart, B. (1990). Gentle jeopardy: The further endangerment to battered women and children in custody mediation. *Mediation Quarterly, 7*, 326-327.
- Imbrogno, A. R., & Imbrogno, S. (2000). Mediation in court cases of domestic violence. *Families in Society, 81*, 392-401.
- Jaffe, P. G., Lemon, N. K. D., & Poisson, S. E. (2003). *Child custody and domestic violence: A call for safety and accountability*. Thousand Oaks, CA: SAGE.

- Johnson, N. E., Saccuzzo, D. P., & Koen, W. J. (2005). Child custody mediation in cases of domestic violence: Empirical evidence of a failure to protect. *Violence Against Women, 11*, 1022-1053.
- Kelly, J. B. (2004). Family mediation research: Is there empirical support for the field? *Conflict Resolution Quarterly, 22*(1), 3-35.
- Kernic, M. A., Monary-Ernsdorff, D. J., Koepsell, J. K., & Holt, V. L. (2005). Children in the crossfire: Child custody determinations among couples with a history of intimate partner violence. *Violence Against Women, 11*, 991-1021.
- Koss, M. P. (1990). The women's mental health research agenda: Violence against women. *American Psychologist, 45*, 374-380.
- Kurz, D. (1996). Separation, divorce, and woman abuse. *Violence Against Women, 2*(1), 63-81.
- Lincoln, Y. S., & Guba, E. G. (1985). *Naturalistic inquiry*. Beverly Hills, CA: SAGE
- Miles, M. B., & Huberman, A. M. (1994). *Qualitative data analysis: An expanded sourcebook*. Thousand Oaks, CA: SAGE.
- Moe, A. M. (2009). Battered women, children, and the end of abusive relationships. *Affilia: Journal of Women and Social Work, 24*, 244-256.
- Orth, U. (2002). Secondary victimization of crime victims by criminal proceedings. *Social Justice Research, 15*, 313-325.
- Orth, U., & Maercker, A. (2004). Do trials of perpetrators retraumatize crime victims. *Journal of Interpersonal Violence, 19*, 212-227.
- Pearson, J. (1997). Mediating when domestic violence is a factor: Policies and practices in court-based divorce mediation programs. *Mediation Quarterly, 14*, 319-335.
- Pence, E., & Paymar, M. (1993). *Education groups for men who batter: The Duluth model*. New York, NY: Springer.
- Robinson, W. S. (1951). The logical structure of analytic induction. *American Sociological Review, 16*(6), 812-818.
- Rosen, L. N., & O'Sullivan, C. S. (2005). Outcomes of custody and visitation petitions when fathers are restrained by protection orders: The case of the New York family courts. *Violence Against Women, 11*, 1054-1075.
- Salem, P., & Dunford-Jackson, B. L. (2008). Beyond politics and positions: A call for collaboration between family court and domestic violence professionals. *Family Court Review, 46*, 437-453.
- Saunders, H. (2009). Securing safety for abused women and children in the family courts. In E. Stark & E. S. Buzawa (Eds.), *Violence Against Women in Families and Relationships* (pp. 41-65). Santa Barbara, CA: Praeger/ABC-CLIO.
- Slote, K. Y., Cuthbert, C., Mesh, C. J., Driggers, M. G., Bancroft, L., & Silverman, J. G. (2005). Battered mothers speak out: Participatory human rights documentation as a model for research and activism in the United States. *Violence Against Women, 11*, 1367-1395.
- Stark, E. (2007). *Coercive Control: How men entrap women in personal life*. New York, NY: Oxford University Press.
- Sullivan, C. M., Rumpit, M. H., Campbell, R., Eby, K. K., & Davidson, W. S. (1996). Retaining participants in longitudinal community research: A comprehensive protocol. *Journal of Applied Behavioral Science, 32*, 262-276.

- Theran, S. A., Sullivan, C. M., Bogat, G. A., & Sutherland-Stewart, C. (2006). Abusive partners and ex-partners. *Violence Against Women, 12*, 950-969.
- Tishler, C. L., Bartholomae, S., & Katz, B. L. (2004). Is domestic violence relevant? An exploratory analysis of couples referred for mediation in family court. *Journal of Interpersonal Violence, 19*, 1042-1062.
- Tjaden, P., & Thoennes, N. (2000). *Extent, Nature, and consequences of intimate partner violence: Findings from the National Violence Against Women Survey*. Washington, DC: U.S. Department of Justice, Office of Justice Programs.
- Zorza, J. (2007). The "friendly parent" concept: Another gender biased legacy from Richard Gardner. *Domestic Violence Report, 12*(5), 65-78.

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Corrigendum

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