Screening & Risk Assessment Across Legal Systems

IN 8 MINUTES!

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● **Screening & Assessment** not the same thing

● **Screening tools** - detect presence, patterns & types; assess applicability of legal processes (e.g., mediation or judicial dispute resolution)

● **Risk Assessment** - empirically verified tools to assess future risk.
  – Focus is very narrow: **physical violence**
  – Only facts empirically validated to predict violent action
FAR MORE INFORMATION ABOUT IPV HISTORY, PATTERN, TYPE, CONTEXT & EFFECT FROM SCREENING TOOLS THAN FROM RISK ASSESSMENT
IPV varies in pattern, type & effect

Type of Physical violence does not determine type or effect

Context, psychological dynamics & effects matter
EXTREMELY COMPLEX
OFTEN NOT ONE-DIRECTIONAL
REQUIRES HIGH LEVEL EXPERTISE
Only One Way to determine type: Detailed Scrutiny of Patterns in Context Over Time

Definitions & Explanations of Type – See Part 5 of *Enhancing Safety*
- Minor, isolated
- Victim resistance violence
- Coercive-control violence

Type depends on Coercion-Control-Context NOT on type of physical violence

Significant implications for process and remedies all 3 legal systems. Eg: R. v. Craig, 2011 ONCA 143
Failure to Distinguish Type: **Havoc** Across Legal Systems

**Over Reaction: Minor, Isolated** / Separation only (men & women)

**Over Criminalization of Victim Resistance Violence**

**Under Reaction to Coercive-Control violence**

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Connect to Children

Coercive – Control IPV
High correlation direct child abuse (30-60%)
Negative Parenting patterns mirror coercive-control dynamics

This is how I feel when my Mom and Dad fight.

I don't like it when my Mom and Dad fight.
When legal systems sever the child from:

- Primary parent - resistance violence
- Involved parent - minor isolated (no coercion/control)

**THE SYSTEM CAN CAUSE CHILD HARM**

When legal systems fail to protect from coercion/control

**THE SYSTEM FAILS TO PROTECT WOMEN AND CHILDREN FROM HARM**
Require Early Screening

Match Type of IPV to Legal process & response

Implement screening early in Family & Child Protection. Share Information with Criminal System?

**Challenges:** Criminal disclosure; Protect confidential info victims & children; potential retaliation; pressure to recant.
WE ALSO NEED RISK & LETHALITY ASSESSMENTS

To Ensure Physical Safety

Overlap but NOT THE SAME
Physical Risk & Danger

**Risk Assessment**: assess likelihood violence will continue. Eg OARA, SARA, Be-Safer

**Danger Assessment**: assesses potential for lethal outcome, Eg Campbell’s DA

**Overlap**: When/IF police have a record of prior acts of violence

**BUT**: Risk assessments tools won’t always pick up Danger (other limitations too)

**Best Practice: BOTH**
For The Sake of Children: Assess for Both

- Ontario Coroner’s Reports
- Peter Jaffe et al. child homicide research
- Child Death Reviews (North America, Australia)
Men Who Murder Their Families

US National Institute of Justice

2009 Experts Video: What the Research Tells Us
When Parents are in grave danger, children are in danger too

We need mechanisms to identify, share, and respond to risk & danger across legal systems

While protecting confidential information victim/child
ESSENTIAL YES; SUFFICIENT NO

Risk/lethality assessments depend on information from parents, grossly under report child exposure to DV

Assess for adult risk

No validated tools children

Most Important: risk of physical is a TINY piece of the child & family safety / welfare puzzle
AVOID OVER-RELIANCE ON PHYSICAL RISK ASSESSMENT TOOLS

AVOID MISUSE RE ASSUMPTIONS OF CHILD WELFARE/SAFETY

HERE IS WHY
Everyone handling IPV cases:
Understand connections IPV & Children:

Preliminary Read and Watch List:

**IPV Parenting Patterns**: Bancroft, Silverman & Ritchie (2012)
*The Batterer as Parent*

**Toxic Stress in homes - impact on child development**: Centre on the Developing Child, Harvard University website

**Domestic Violence - new knowledge from neuroscience**: Lynn Shafran (2014) 53(3) *Judge's Journal*

**Legal System Education (text & video)**: American Judge's Association & National Centre for State Courts: *Domestic Violence Training*; Module 3 Custody & Access
Not About Broken Bones

Coercive IPV

Toxic Stress
Parenting Practices
Emotional Trauma
Healing & Promoting Child Resilience
Yes share information across systems about physical risk and danger (adult and child)

But We Need to Go Much Further
Let's not forget the limitations of the Criminal System

Or the limitations of the old focus on physical safety

Beyond that Now
Family & Child Protections systems have a broader mandate

Risk assessment for children involves a LOT more than physical risk.

Caution: Physical risk assessments should not be used to triage cases in family & CP legal systems
Academic References:

- American Judges Association & National Center for State Courts (2014) *Domestic Violence Training Modules*
- L. Bancroft, Silverman & Ritchie (2012) *The Batterer as Parent*... (Sage)
- Centre on the Developing Child, Harvard U. web site
- Linda Neilson (2013) *Enhancing Safety when DV cases are in multiple legal systems (criminal, family, child protection)* on line

Visual image credits: web locations:

- Lion Stress Image: “Lion_Stress” is posted on many web locations, including Americangirlsworld.com and Griefandmorning.com
- Child drawing of IPV: Jeffrey Edleson, drawings were posted on the web, personal permission to Linda Neilson to use for educational purposes
- Child crying between parents image: reproduced on many web sites, including Examiner.com in connection with article “Domestic Violence v Parental Alienation”
- Child overhearing DV: posted on many web locations, including stopabusecampain.com
- Child in parental shadow: posted by Wimlaw.org.au, Domestic Violence Service, Australia