

SAFETY CONCERNS AND CONCILIATION EXPERIENCES AMONG
WOMEN DIVORCING CONTROLLING OR ABUSIVE HUSBANDS

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ABSTRACT

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Intimate partner abuse (IPA) is a widespread social problem with serious physical and mental health consequences for women and their children (Evans, Davies, & DiLillo, 2008; Golding, 1999; Wolfe, Crooks, Lee, McIntyre-Smith, & Jaffe, 2003). For many women, the abuse continues after the relationship ends. When women share children with their abuser, separation can be difficult and complex, and family court often intervenes to decide legal custody. Research indicates that family court may be dismissing abuse allegations and failing to make custody decisions that take women's and children's safety into account. Women who experience less physical abuse may be more likely to feel dismissed, as courts require evidence to make their decisions. Because determining custody is complex, alternative court processes have been promoted for use during divorces involving children. However, there is an ongoing debate on the applicability of these services in the context of IPA. Further, women may feel revictimized by the court system, in addition to being at risk for post-separation abuse by their assailant. My thesis is a mixed-method study designed to understand women's experiences with custody negotiation. Based on a sample of nineteen abused mothers, we found that conciliators inconsistently and rarely took abuse into account in their custody recommendations. Actions of the father—whether he was belligerent during the meeting or did not want custody—had the most significance in custody decisions. Women described the conciliation process as disempowering, facilitating post-separation abuse, and as a secondary victimizing experience. Implications and recommendations for family court are discussed.

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INTRODUCTION

Intimate partner abuse is a widespread social problem with serious physical and mental health consequences for women and their children (Evans, et al., 2008; Golding, 1999; Wolfe, et al., 2003). While an extensive body of literature exists on the abuse that occurs within intimate relationships, less is known about the abuse that women and children experience after the relationship ends. For many women, the abuse continues after the relationship ends (Fleury, Sullivan, & Bybee, 2000; Hardesty, 2002; Hardesty & Ganong, 2006; Harrison, 2008), and for those who share children with their abusers, many men use the children to continue exerting control (Beeble, Bybee, Sullivan, & Adams, 2009).

When a marriage ends, the court determines parental access to children through physical/legal custody and visitation. Of the scant research that exists, evidence suggests that the court system has a difficult time identifying and appropriately responding to signs of physical abuse (Kernic, Monary-Ernsdorff, Koepsell, & Holt, 2005). Even less is known about how courts manage the needs and safety concerns of women experiencing emotional, psychological, or financial abuse in the absence of high levels of physical violence. In addition, custody determinations vary by state due to different standards and policies regarding the “best interests of the child/ren.” Because determining custody is complex, alternative court processes have been promoted for use during divorces involving children. However, there is an ongoing debate on the applicability of these services in the context of intimate partner abuse. Finally, there is evidence that some abused women feel revictimized by court staff during the divorce (Slote, et al., 2005). Such revictimization has negative implications for abused women’s continued use of the legal system in fighting for custody. Research is therefore needed to understand abused women’s

perspectives of the divorce and custody negotiation process, and their safety concerns regarding child access after the divorce.

Intimate Partner Abuse: Statement of the Problem

Millions of women are victims of violence every year. According to the 1998 National Violence Against Women Survey, approximately 1.9 million women are physically assaulted and 300,000 women are sexually assaulted each year (Tjaden & Thoennes, 1998). According to the 2003 National Survey of Adolescents, 77% of 13-14 years-old females were concerned about sexual violence, and 72% were concerned about physical violence (Hoff, Greene, & Davis, 2003). The majority of these assaults are intimate partner abuse (IPA). National surveys have estimated that 1.5 to over 3 million women are victims of physical or sexual violence at the hands of their partners or ex-partners each year, and an estimated 3-10 million children witness parental abuse (Edleson, 1999a; Tjaden & Thoennes, 1998, 2000). Based on 2001-02 (wave 3) data from the National Longitudinal Study of Adolescent Health, 55% of 4,895 female adolescents were victims of IPV (Renner & Whitney, 2010). More recent results show similar findings. Based on 2006 data from the National Incident Based Reporting System (NIBRS), 54% of the 5,334,322 victims were women were victimized by an intimate partner. According to the American Medical Association (1992), women are four times more likely to be injured by a current or former partner than by a car accident. An estimated 31% of married women experience violence from their spouses (Koss, 1990). Others estimate that over 2 million women each year are assaulted by their spouse and found that women are more at risk of being killed by their spouse than by a stranger (Browne & Williams, 1993). Children are also victims of IPA. Thirty to sixty percent of children with mothers who are abused are also likely to be abused by their fathers (Edleson, 1999a, 1999b).

IPA is a gendered issue. Although national surveys and meta-analyses find that women and men equally perpetrate specific acts of violence (Archer, 2000; Tolan, Gorman-Smith, & Henry, 2006), many scholars argue these studies produce misleading interpretations of the data because they fail to use measures that account for context, motivation, or outcomes (DeKeseredy, 1999; Dobash, Dobash, Wilson, & Daly, 1992; Johnson, 2005). Women are more likely than men to be physically and sexually assaulted, require medical attention due to injuries, and to be stalked by an intimate partner (Tjaden & Thoennes, 1998, 2000). In fact, the average cost for women being physically victimized by their male partners is more than twice the cost of physical victimization of men (Arias & Corso, 2005). Additionally, while women may perpetrate equal amounts of minor physical assaults (e.g. pushing) as their male partners, men significantly perpetrate more severe physical assaults (e.g. choking), supporting the notion that women's use of violence is better defined as self-defense than IPA perpetration in many situations and that IPA is likely best understood using a gender-based definition (Johnson, 2008). Further, men are more likely to kill their female partners than women are to kill their male partners (Bureau of Justice Statistics, 1996). Therefore, throughout this paper the terms "he/him/father" refer to the abuser and "she/her/mother" refer to the victim/survivor.

A variety of IPA definitions exist, with some being far more comprehensive than others (Campbell & Boyd, 2000; Dalton, Carbon, & Olesen, 2003; Dobash & Dobash, 1979; Jaffe, Johnston, Crooks, & Bala, 2008; Jaffe, Lemon, & Poisson, 2003; Johnson, 2005; Tjaden & Thoennes, 1998). According to Power and Control theory, substance abuse, mental illness, or anger management problems do not cause or explain IPA; IPA is the abuser's attempt to gain and maintain power and control in the relationship. It is this coercive control that is the defining

aspect of IPA (Bancroft & Silverman, 2002; Dobash & Dobash, 1979; Frieze & McHugh, 1992; Johnson, 2008; Johnson & Leone, 2005; Stark, 2007).

There is a good deal of evidence supporting the Power and Control theory, which maintains that batterers exert control over their partner by using multiple strategies that typically escalate over time (Bancroft & Silverman, 2002; Dobash & Dobash, 1979; Stark, 2007). As indicated by the Duluth power and control wheel, common strategies used by batterers to gain power and control and to entrap their partners in the relationship include not just physical or sexual violence but also emotional and financial abuse, intimidation, isolation, threats, and using the children (Pence & Paymar, 1993). In fact, physical violence is just one strategy used by some batterers to reinforce power and control by making their partners fear them (Johnson, 2008). Batterers must be the center of the family (i.e. their needs come before their partner and child/ren) and will often act superior to their partners. They are typically selfish, possessive, manipulative, and distort abuse into love. Many batterers deny, minimize or blame their partners for the abuse, and fail to take responsibility for their actions (Bancroft, 2010; Bancroft & Silverman, 2002; Dobash & Dobash, 1979; Johnson, 2008; Stark, 2007). Thus, the definition chosen for this research highlights the elements of power and control intrinsic to IPA. IPA is:

A pattern of coercive control that may be primarily made up of psychological abuse, sexual coercion, or economic abuse, that is punctuated by one or more acts of frightening physical violence, credible threat of physical harm, or sexual assault. (Bancroft, 2010)

Victims of intimate partner abuse experience numerous health and psychological issues. It has been well documented that IPA places victims at risk for long-term mental health problems such as depression, suicidality, Post-Traumatic Stress Disorder (PTSD), alcohol abuse, and drug abuse (Golding, 1999). Women who are physically abused by an intimate partner report higher levels of stress, depression, and/or physical health problems than women who are not abused

(Bonomi, et al., 2006; Sutherland, Bybee, & Sullivan, 2002; Theran, Sullivan, Bogat, & Sutherland-Stewart, 2006). Women who experience IPV also have decreased social functioning (Bonomi, et al., 2006). The mental health effects of IPA last beyond the relationship. Women who are abused may have long-term psychological distress symptoms and high levels of depression (Anderson, Saunders, Yoshihama, Bybee, & Sullivan, 2003; Lindhorst & Oxford, 2008; Lindhorst, Oxford, & Gillmore, 2007). Children are also negatively affected by violence. Children exposed to IPA have reported PTSD, anxiety, depression, and low self-esteem. Children may also become aggressive towards others and/or have less developed social skills and academic successes (Jaffe, et al., 2003). Emotional and behavioral problems of children exposed to IPA increase when the children are abused by the father (Wolfe, et al., 2003).

Physical abuse clearly has deleterious effects on women's health, psychological functioning, and financial stability. According to the theory of power and control, however, physical abuse is just one strategy in an abuser's attempt to gain control in the relationship. Some studies have shown that non-physical abuse, such as emotional or psychological abuse, occurs more frequently than physical or sexual violence (Panchanadeswaran, et al., 2010). These other tactics also have negative impacts on women and children. In a sample of 3,429 women, those who experienced only non-physical abuse reported lower social functioning and more depressive symptoms than women who did not experience any abuse (Bonomi, et al., 2006). Some evidence even suggests that psychological and emotional abuse (including controlling behaviors) may have more severe and long-term negative impacts than physical abuse (Beeble, et al., 2009; Marshall, 1992; O'Leary, 1999; Theran, et al., 2006). Psychological abuse includes harassment, controlling and isolating behaviors, jealousy, destruction of property, and making one's partner feel crazy. Emotional abuse includes degradation, humiliation, threats, and insults (Follingstad &

DeHart, 2000; O'Leary, 1999). Women survivors of intimate partner abuse often report that the psychological abuse was worse than the physical violence (Follingstad, Rutledge, Berg, Hause, & Polek, 1990). Psychological abuse has been found to predict poor mental health outcomes such as depression and low self-esteem over and above physical abuse (Coker, et al., 2002; Sackett & Saunders, 1999). Additional research has demonstrated that emotional/psychological abuse is related to higher levels of stress and/or PTSD symptoms than is physical abuse (Arias & Pape, 1999; M. A. Dutton, Goodman, & Bennett, 1999; Theran, et al., 2006).

Psychological/emotional abuse also has long-term effects after the relationship ends. In a 2-year longitudinal study of 160 survivors, women who experienced higher levels of psychological abuse reported a lower quality of life, whereas physical abuse was not related to long-term quality of life (Beeble, et al., 2009). Thus, it is critical that emotional and psychological abuse is included in discussions and research about intimate partner abuse.

Post-Separation Violence and Abuse

Abuse plays a significant role in women's decisions to leave relationships (Bemiller, 2008; DeMaris, 2000; Kurz, 1996). However, a common assumption held by society is that the abuse will end once the relationship ends—an assumption that is not always realized (Fleury, et al., 2000; Hardesty, 2002; Hart, 1990; Jaffe, et al., 2008; Jaffe, et al., 2003; D. G. Saunders, 2007). Rather, abuse often escalates at separation (Hardesty, 2002; Hardesty & Chung, 2006; Hart, 1990; Johnson, Saccuzzo, & Koen, 2005; Kurz, 1996; Shalansky, Ericksen, & Henderson, 1999). Based on power and control theory, abusers see their partners' leaving as a direct threat to their power over them (Arendell, 1995; Fleury, et al., 2000; Kleinman, 2007). Many survivors experience post-separation abuse (PSA), such as emotional, physical, economic, and/or sexual abuse, and much of this abuse is directed at and/or involves the manipulation of child/ren

(Beeble, Bybee, & Sullivan, 2007; Bemiller, 2008; Hardesty, 2002; Hardesty & Ganong, 2006; Harrison, 2008; Kurz, 1996; Moe, 2009; Slote, et al., 2005). Women have reported that abusers continue to use the children to exert control over them, threaten the child/ren's lives, mistreat the children to punish them, and continue to be physically abusive towards the child/ren (Hardesty & Ganong, 2006; Slote, et al., 2005). Beeble and colleagues (2007) found that in a sample of 156 IPA victims who were no longer with their abusers, 88% of fathers used their children to commit PSA against the mothers. In 47% of the cases, the abusers attempted to turn the children against the mothers; 45% attempted to use the children to convince the mothers to go back to them; and 44% used the children to frighten the mothers. In addition, 69% reported that they were using the children to spy on the women, and 58% stated that they were using the children to harass and intimidate the mothers (Beeble, et al., 2007). Abusers will also undermine mothers by telling the child/ren they do not have to listen to them, to act violently toward them and/or speak negatively about them and tell the child/ren that their mothers are unfit (Jaffe, et al., 2008; D. G. Saunders, 1994). Women who have sole or joint custody have also reported having difficulty getting their child/ren back from custody visitations (Hardesty & Ganong, 2006; Kernic, et al., 2005), and women who are the noncustodial parent have reported the father restricting access to communication or visitation with the child/ren (Bemiller, 2008). On the extreme end, PSA has led to the abusive father kidnapping or murdering the child/ren (Jaffe, et al., 2003; H. Saunders, 2009). In fact, among a sample of 2,396 divorcing couples, those with IPA had higher rates of child abuse allegations, kidnapping or threats of kidnapping, or withholding the other parent's access to the child (Kernic, et al., 2005).

Post-separation abuse can occur even when safety precautions are taken. Harrison (2008) interviewed 70 mothers in the United Kingdom about their experiences using a supervised child

exchange center, which are designed to limit PSA. Most women experienced violence before and after separation, with some experiencing only PSA. Women reported being victims of PSA during child exchanges and 86% were concerned about future violence. Thus, PSA is a serious problem that occurs before and after the divorce, and often involves the children.

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

Divorce judgments determine physical and legal custody of the child/ren, visitation arrangements, and the abusers' level of access to both women and their children (Hardesty & Ganong, 2006; Kernic, et al., 2005; Varcoe & Irwin, 2004). Physical custody determines the children's residence and legal custody determines parental legal decision making rights. Three types of custody arrangements are common. Full custody occurs when one parent has 100% physical and legal custody. Sole custody occurs when one parent has 100% physical and 50% legal custody. Finally, joint custody means that both parents share some percentage of the physical custody and share 50% of the legal custody. Visitation time can be awarded to the parent who does not have any physical custody. According to a United States Census report about child support, 81.7% of the 6.4 million cases where one parent was due child support had joint custody or visitation arrangements (Grall, 2009). Therefore, although no national statistics regarding child-custody determinations exists, it is believed that the majority of custody determinations in the United States involve joint physical and/or legal custody and generous visitation arrangements (Jaffe, et al., 2003).

While this may work well in situations where there has been no prior abuse (Amato, 1993; Amato, Loomis, & Booth, 1995), the greater legal access abusers have to their child/ren, the greater the risk PSA is for mothers and their child/ren (Hart, 1990). By not recognizing IPA as a pattern of power and control, family courts unknowingly collude with abusers. When parents

share legal custody, abusers can sometimes maintain control by requesting and forcing their child/ren to change schools or towns, or even access their mental health records to use against their ex-partners (Johnson, et al., 2005). Shared custody and mandated visitation arrangements put mothers in frequent and continued contact with their abusers, allowing batterers opportunities to commit PSA with each child exchange (Hardesty, 2002; Hardesty & Ganong, 2006). Greater custody or visitation access places children at risk for being abused, manipulated, and/or kidnapped. Given the increased dangers related to custody when IPA is involved, most states have some provision(s) for considering relationship abuse when determining custody or visitation (Jaffe, et al., 2003). However, the extent to which this occurs varies because each state handles divorce differently and considers different factors when making child-custody determinations (Jaffe, et al., 2003). Overall, courts consider what they have termed “the best interests of the children.”

The Best Interests of the Children. The United States court system makes custody determinations based on what is in the best interests of the child/ren (Dalton, et al., 2003; Hardesty & Chung, 2006; Jaffe, et al., 2003). The definition and determination of the “best interests of the children” varies by state. Typically, family court encourages joint physical and legal custody because of the assumption that frequent and prolonged contact with both parents is in the best interests of the children (Kelly, 2004). There has been decades of research on the impact of divorce on children’s adjustment, wellbeing, and various other outcomes. Many studies have demonstrated divorce’s negative impact on children. However, the assumption that divorce, rather than interparental conflict, leads to poor adjustment in all children has been challenged since the 1950’s—even at a time when great prejudice existed against divorce (Nye, 1957). In a review of divorce’s impact on children, Amato (1993) found that increased frequency

of contact with noncustodial parent (usually the father) had mixed outcomes. Some studies showed increased contact led to greater wellbeing of the child, whereas others found the opposite. These mixed results occurred because studies often failed to account for interparental conflict. In fact, Amato found that frequency with the noncustodial parent was negatively associated with the child's wellbeing only in cases where conflict existed. He also found that children living in homes with high interparental conflict had lower or equal well being scores than children who lived in non-divorced low conflict homes or whose parents had divorced (Amato, 1993). Others have also found results can be misleading if interparental conflict is not accounted for. Cherlin and colleagues (1991) found that children of divorce had more behavior problems and lower academic test scores than children whose parents had not divorced. But, when the level of conflict before divorce was controlled for, this effect dissipated. In fact, the authors stated that understanding children's adjustment after divorce is complex, but that level of conflict before and after marriage "may turn out to be the most important factor in accounting for the adjustment of children of divorce..." (Cherlin, et al., 1991), p35). Finally, a 12-year longitudinal study on 471 adult children provided additional compelling evidence that conflict must be included in any model attempting to understand the effect of divorce on children (Amato, et al., 1995). Children from high-conflict families had increased levels of wellbeing post-divorce, whereas their wellbeing decreased if their parents did not divorce (Amato, et al., 1995). Thus, it is crucial to measure IPA in post-divorce outcomes on children. Given that the assumption that joint custody is always in the best interests of the children is based on studies that failed to account for interparental conflict, several scholars have discredited this assumption (Jaffe, et al., 2003; Salem & Dunford-Jackson, 2008; Zorza, 2007).

When courts make custody and visitation decisions they want to know how both parents intend to co-parent after divorce. Because family court often believes that co-parenting is always in the best interests of the children, a parent is considered “friendly” if she or he encourages, facilitates, and requests the court for continuous and frequent contact of the child/ren with the *other* parent (Jaffe, et al., 2003; Zorza, 2007). Parents who attempt to obtain sole custody or request restricted visitation can be considered “unfriendly” in the eyes of the court. So, if victimized mothers request sole custody or restricted/supervised visitation arrangements because of safety concerns, the courts may view them less favorably and grant custody to the father (Jaffe, et al., 2003). Also, some courts tend to believe fathers, rather than mothers, when allegations of “unfriendliness” are raised (Zorza, 2007). In essence, this concept silences victims (Kernic, et al., 2005; Zorza, 2007).

Child-Custody Determinations: Who Gets Custody and When? Victimized mothers are no more likely to obtain child custody than are non-victimized mothers (Johnson, et al., 2005; Kernic, et al., 2005; Morrill, Dai, Dunn, Sung, & Smith, 2005; Slote, et al., 2005). Slote and colleagues (2005) used a human rights perspective to analyze custody, safety, and the courts’ treatment of women. In a mixed methods participatory study, researchers interviewed 40 survivors, 31 domestic violence advocates, 16 state officials, and conducted five focus groups made up of survivors, lawyers, advocates, and service providers. Findings showed that when women reported their abusive history and the ongoing post-separation violence against themselves and/or their children, the court staff still awarded joint or sole custody of the children to the abuser or did not mandate supervised visitation. Abuse was often ignored or minimized—even in cases where documentation existed. Unfortunately, the authors did not provide descriptive information about the severity or type of abuse. It is unclear whether all women

experienced physical abuse, or if some participants' experiences were more defined by coercive control and emotional abuse. The courts may handle severe physical cases differently than cases in which the abuse is primarily emotional or is physically less severe. Understanding these potential different treatments would have provided the literature with a more complex understanding of family court's treatment of abused women.

Family courts' custody and visitation decisions may be influenced by documentation of abuse. Kernic and colleagues (2005) conducted an archival study on case files for divorced couples with children. Nearly half (48%) of the divorce cases involved documented (e.g. police reports) physical abuse that was unknown to the court (i.e. not brought to the attention of the court), and in these cases abused mothers were no more or less likely than other women to gain child custody. When physical abuse was documented and known to the courts, fathers were slightly more likely to be denied visitation, to receive more visitation restrictions, to be ordered into some form of treatment, and to have more restricted legal decision making rights. Yet, physical abuse was not significantly related to supervised visitation mandates. The courts were unable to identify physical spousal abuse, which indicates a need for victims or their attorneys to proactively introduce this information to the court. When the courts were aware and had documentation, fathers were awarded unsupervised visitations with limited restrictions. When undocumented physical abuse allegations were raised in court, there was no impact on visitation or treatment orders. Although the authors were able to determine whether or not the court was aware of the physical violence and/or documentation, they were unable to determine why this was the case. Are survivors responsible for bringing abuse to the attention of the court? If so, do survivors want to tell family court? Do attorneys advise their female clients not mention the abuse to the court? It would be beneficial to know how courts found out about the abuse and why

courts were not made aware of the abuse to determine where intervention is needed. Regardless of these limitations, this study still indicates the importance of having documentation to influence custody decisions.

Judges look for documentation or substantiation when allegations of abuse are raised in court. An example of this documentation would be a restraining order. Courts typically award restraining orders after a physical/sexual assault or if attempts or threats to commit serious bodily harm have been made. Restraining orders are not awarded for cases with only emotional or psychological abuse. Rosen and O'Sullivan (2005) reanalyzed data from an original study that collected 1995 data on custody/visitation petitions, and 1990-1997 restraining order petition data. Addressing limitations of the original study, they reanalyzed the role of restraining orders in custody and visitation decisions in a sample of 923 fathers and 263 mothers who filed for custody or visitation in 1995. The results showed that when fathers in general had a restraining order against them they were less likely to receive custody, but more likely to receive visitation. Mothers were less likely to receive child custody if the courts dismissed the restraining order or if mothers withdrew their restraining order petitions. However, even when mothers' restraining orders were dismissed or withdrawn, they were still slightly more likely to receive custody than mothers who had never filed for a restraining order. A major limitation of this study is that 125 cases were excluded that met all of the following criteria: 1) fathers petitioned for custody, 2) restraining orders were granted against the father between 1990-1994, and 3) restraining orders against the father were not granted in Tanya (the year of the custody/visitation petition). Having a history of restraining orders could have influenced whether or not some participants were denied or obtained a restraining order in 1995, and/or the custody/visitation petition outcome. Nonetheless, this study provides additional evidence of the importance of documentation.

However, because of the “friendly parent” concept, there may be a limited advantage for women to have documentation of the physical abuse.

The “friendly parent” concept (FPC) or the assumption that joint custody is in the best interests of the child/ren may diminish the positive effects of having documentation. Morrill and colleagues (2005) conducted an archival study across five states to determine the interaction between the FPC and a presumption that joint custody was *not* always in the best interests of the children (i.e., “the presumption”) if abuse is present. They studied divorce files for cases where a mother was awarded a PPO against the father. Mothers were given legal custody more often than the father when the presumption existed. The presumption had no effect on physical custody. When the presumption did not exist (i.e., the courts believed that joint custody *is* in the best interest of the child/ren), however, courts were two times more likely to award joint legal custody. The FPC directly conflicts with the presumption. When the presumption *and* the FPC existed, courts were four times more likely to award joint legal custody. In addition, courts awarded joint custody in 82% of these cases and sole custody was awarded to the father in 14% of these cases. These results indicated that the FPC is weighed more heavily in custody decisions in some courts than is the best interest of the child. However, the authors only included cases where the mother was awarded a PPO against the father. This is a limitation of the study because PPOs are often considered as evidence of physical violence and, as previous research indicates, may help some mothers in the custody decision. It is possible that differences between those with and without a PPO would have emerged, shedding important light on the complexities involved in making custody decisions. However, these authors found that even when mothers had a PPO, the FPC was considered more heavily in the custody decision, which is both troubling and important.

These studies demonstrate that child-custody decisions are complex. Because of these complexities, alternative dispute resolution (ADR) services have been recommended for divorcing couples with children (Kelly, 2004). Currently, mediation is the most commonly used form of ADR in child-custody disputes. Because custody is typically determined through medication, it is essential to understand how cases that involve intimate partner abuse are currently being handled.

Mediation

Mediation is a widely used process to negotiate child-custody among divorcing couples. There are both proponents and opponents to the use of mediation in the context of IPA and each of their theoretical positions is presented below, followed by a review of the empirical research.

Proponents of mediation. Proponents of mediation have suggested multiple benefits of using mediation in divorce cases. For example, mediation is supposed to be less costly than traditional litigation (Beck & Frost, 2006; Cohen, Luxenburg, Dattner, & Matz, 1999; Kelly, 2004) and reduce the burden placed on the courts (Johnson, et al., 2005). It is also assumed that traditional litigation takes longer than mediation and increases conflict (Beck & Frost, 2006; Kelly, 2004) and, therefore, mediation can result in better co-parenting, higher compliance with court mandates, and/or longer involvement from the father in the child's life (Cohen, et al., 1999; Erickson & McKnight, 1993; Johnson, et al., 2005; Kelly, 2004). Mediation is purported to increase client satisfaction, decrease relitigation rates, and/or produce better outcomes for children (Cohen, et al., 1999; Ellis, 2008; Johnson, et al., 2005; Kelly, 2004). Other claims include that the collaborative nature of mediation allows parents to make their own decisions (Cohen, et al., 1999; Ellis, 2008; Erickson & McKnight, 1993; Hart, 1990). Most significantly, a

suggested benefit of mediation is that it produces higher joint custody and liberal visitation arrangements (Kelly, 2004).

Some have suggested that mediation is both safer and more efficient than traditional litigation in cases involving intimate partner abuse (Cohen, et al., 1999; Johnson, et al., 2005; Tishler, Bartholomae, & Katz, 2004). Since traditional litigation has a historical power imbalance (Tishler, et al., 2004), mediators have been purported to balance the power inequities present in intimate partner abuse (Hart, 1990; Johnson, et al., 2005). Further, some claim that mediators can make adjustments for cases with IPA, such as conducting mediation sessions separately, that will promote safety and an equal bargaining power (Ellis & Stuckless, 2006b; Johnson, et al., 2005; Kelly, 2004; Pearson, 1997). Others go so far as to say that mediation is an empowering, effective intervention that will end the current abuse and reduce future abuse (Erickson & McKnight, 1993; Kelly, 2004; Tishler, et al., 2004).

Opponents of mediation. There are some supporters of using mediation in cases of IPA (e.g. Cohen, et al., 1999; Ellis & Stuckless, 1996, 2006a; Erickson & McKnight, 1993; Kelly, 2004), while others believe mediation is neither effective nor safe when IPA exists (e.g. Beck & Frost, 2006; Dalton, et al., 2003; Hart, 1990; Imbrogno & Imbrogno, 2000; Jaffe, et al., 2003; Johnson, et al., 2005; Pearson, 1997; Salem & Dunford-Jackson, 2008; Tishler, et al., 2004).

Mediation assumes that cooperation is attainable and the best option, that there is little to no abuse among the parties, and that each party can adequately argue for his or her needs—assumptions that are untrue when considering the dynamics of IPA (Beck & Frost, 2006; Johnson, et al., 2005; Tishler, et al., 2004). Forcing victims to be present with, and argue against, their abusers can be unsafe (Hart, 1990; Johnson, et al., 2005; Pearson, 1997; Tishler, et al., 2004). Abusers' patterns of power and control continue in mediated settings, causing survivors to

have less ability to negotiate for safe custody arrangements or financial resources (Beck & Frost, 2006; Hart, 1990; Imbrogno & Imbrogno, 2000; Johnson, et al., 2005; Pearson, 1997; Tishler, et al., 2004). Several scholars have argued that mediators are unable to identify IPA, let alone equalize the power difference. Subtle threats such as “a look” or a word that appears innocuous to an outsider (e.g., the mediator) can be a threat of future abuse. Such hidden emotional or psychological abuse tactics are more likely than physical violence to occur in mediation (Dalton, et al., 2003; Hart, 1990; Imbrogno & Imbrogno, 2000; Johnson, et al., 2005; Pearson, 1997; Salem & Dunford-Jackson, 2008). Abusers often perform well under observation and manipulate the mediator by professing his desire for joint custody (i.e. acting as a “friendly” parent) and, thus, being viewed more favorably than the victim (Dalton, et al., 2003; Hart, 1990). Mediation produces more joint custody arrangements; however, when considering the safety of women victims and their children this is cause for concern (Pearson, 1997). Finally, mothers may be less likely to fight for the safest custody arrangement in mediation for two inter-related reasons (Johnson, et al., 2005). First, mediators have the power to make custody and visitation recommendations, which are typically upheld by the judge even if their recommendations are contested. Second, mothers are likely aware of the FPC and may be less likely to fight for the safest arrangement for fear that they will be viewed as uncooperative by the mediator (Johnson, et al., 2005).

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 intimate partner abuse, where it is essential to hold perpetrators accountable for their actions (Dobash & Dobash, 1979; Pence & Paymar, 1993). Since mediation is not part of the public record, there is also a strong resistance to mediate IPA cases because it will further privatize IPA and reduce its significance as a public

concern (Imbrogno & Imbrogno, 2000; Pearson, 1997; Tishler, et al., 2004). As Imbrogno & Imbrogno (2000) state:

The use of mediation in cases of family violence both reflects and reinforces the oppressive, stereotypical, and discriminatory values that domestic violence is a problem of purely private concern...Moreover, the accelerated movement toward mediation is returning the problem of domestic violence to a private, informal process for *resolution* of problems that were originally brought before the courts for *solution* (p. 394).

Research on the use of mediation in the context of IPA. Although there have been theoretical and opinion articles regarding the applicability of mediation in the context of IPA, research is needed to further inform this debate. Research on mediating cases with IPA suggests that mediation is inappropriate for women survivors of abuse (Ellis & Stuckless, 2006b; Harrison, 2008; Johnson, et al., 2005; Pearson, 1997; Tishler, et al., 2004).

Pearson (1997) conducted a study of 200 mediation/custody evaluation programs. Her results indicated that, overall, mediators, judges, and court administrators had positive feelings toward mediation. Mediators acknowledged that cases of domestic violence called for more stringent visitation and custody arrangements, including supervised visitation and neutral exchange sites. Mediators also felt that each case deserved individualized treatment and that rigid policies would be harmful to their practice. Domestic violence advocates, however, expressed more conflicting opinions. Some advocates felt that mediators would be in a better position to focus on safety than traditional litigation, whereas other advocates expressed concerns of coercion, safety, and of the false assumption of cooperation. Mediators stated that they adjusted their practices when there were signs of domestic violence. Some strategies included male-female mediator teams, allowing lawyers/advocates to attend mediation, allowing victims to opt-out of mediation, and making security guards available. However, even if mediators are theoretically able to adjust their methods to handle abuse (Ellis & Stuckless, 2006b), they first

must be able to identify that it is happening. Yet, Johnson, Saccuzo, and colleagues (2005) found that mediators failed to identify 15% of *physically violent* intimate partner violence cases.

Although mediation is promoted for its suggested ability to create higher child support compliance rates, Tishler and colleagues (2004) found that abusive fathers were less likely than non-abusive fathers to be compliant with child support, regardless of mediation. Harrison (2008) initially focused on post-divorce experiences of 70 victim-mothers using supervised visitation centers in the United Kingdom. Several women indicated negative feelings toward mediation without interviewer prompting. Specifically, participants felt that mediation both privatized and minimized abuse and did not adequately consider the safety of women. Notably, Harrison's (2008) study is the only research utilizing interviews with women.

Compelling archival evidence on mediators' decision making supports the assertion that mediation is currently failing to protect mothers and children from their assailants. Beck, Walsh, Mechanic, and Taylor (2010) reviewed 1,015 divorce case files for couples attending mediation to negotiate custody. Their jurisdiction has an exemplary process. Not only are mediators extensively trained in IPA, but they also have a two-step screening process. First, case files are reviewed for concerns, histories of restraining orders, and IPA/conflict. Second, mediators meet each party individually for a comprehensive clinical interview about IPA histories. The level of IPA was high—90% of cases reported IPA. However, mediators only identified IPA in 59% of the cases. Further, even with their training and screening process, only 7% were screened out of mediation, and 19% received accommodations. Most importantly, less than 1% of cases that received accommodations included separate screening days and/or separate mediation session days. Common accommodations included requiring couples to leave separately, providing security escorts, mediation teams, and separate waiting rooms. These results indicate that even

when extensive training and screening processes occur, mediators are not making decisions that enhance survivors' safety. This study, however, did not include data on custody or visitation decisions made by mediators.

Johnson, Saccuzo, and colleagues (2005) reviewed mediator case files comparing domestic violence and non-domestic violence couples with the custody recommendations made by the mediator. When domestic violence was brought up to the mediator, the mediator was significantly more likely to recommend sole custody to the violent father. For domestic violence cases, supervised visitation was recommended when the mediator documented child safety concerns, parental drug use, and difficulty with child exchanges. For non-domestic violence cases, supervised visitation was recommended when the mediator documented child safety concerns and police involvement. In non-domestic violence cases, mediators were seven times more likely to recommend supervised visitation due to these concerns, but only *four times* more likely to recommend supervised visitation in domestic violence cases. Mediators' safety concerns about mothers did not influence the mediator's decision for supervised visitation. Furthermore, mediators recommended protected child exchanges when the perpetrators threatened the mother for 75% of the non-domestic violence cases, but only for 32% of domestic violence cases. When the authors attempted to understand mediators' decision-making patterns, such patterns only emerged for non-domestic violence cases. They did find, however, that mediators failed to mention the violence in their reports for 57% of the cases. Thus, mothers who brought up the domestic violence were more likely to have their concerns ignored, lose custody, receive unsafe custody exchange recommendations, and were more subject to mediators' random decision making.

The little research that does exist on mediation in the context of IPA has demonstrated that mediators may not be making adjustments in their custody decision making for women and their child/ren. In addition, most of the research on mediation has relied on archival data. Since ADR services have been proposed as an appropriate venue for all divorcing couples to negotiate child custody and visitation, it is essential to evaluate the validity of these claims from the perspectives of women survivors who experience the process.

Divorce can be an overwhelming and difficult process for women survivors of abuse (e.g. (Slote, et al., 2005). Currently, custody and visitation decisions do not appear to strongly favor women survivors, indicating that we need a deeper understanding of what happens during custody negotiations—not just the outcomes. It is concerning that abusers are being awarded custody and liberal visitation access to children and mothers. One possible explanation for this is that the courts, like society, believe that IPA is mutual couple violence and/or that violent men can still be good fathers (Jaffe, et al., 2003). If court officials hold this belief, then we must consider how they treat women when allegations of abuse are raised. The courts' treatment of abused women will likely have an impact on how these women negotiate for custody and visitation. If mothers feel discounted, blamed, and/or are labeled “unfriendly,” they may be less likely to fight for custody or reluctant to return to family court/mediation requesting custody/visitation changes—even if PSA is occurring. Thus, understanding how the court treats abused women will enhance our understanding of mediation in the context of IPA.

Abused Women's Treatment by the Courts

It is important to examine how mothers are treated during the divorce process. Research on women's experiences with the divorce process has indicated that some abused women endure victim blaming, minimization, and feelings of contempt from family court staff. Mothers are held

to higher standards of parenting in the court system and are expected to be “friendly parents” (i.e., request and encourage joint custody) (Jaffe, et al., 2003; Slote, et al., 2005; Zorza, 2007). Similarly, women will be punished more severely than will men for the same behavior. For example, Bemiller (2008) interviewed 16 noncustodial mothers about their family court experiences. One participant had lost custody to the father because of her cocaine use, even though he also used cocaine, sold methamphetamine, and had a criminal record with the FBI (Bemiller, 2008). Some women are discouraged by their attorneys to mention the abuse or to pursue restricted visitations with the abusive fathers—even when they have documented evidence of his abuse (Bemiller, 2008; Hardesty & Ganong, 2006). Slote and colleagues (2005) found that when abused mothers attempted to raise abuse allegations, court staff would respond in a blaming or condescending manner, or would not allow them to speak at all. Yet, these women reported that the abusive fathers were allowed to speak in court (Slote, et al., 2005). Gender bias has been documented in other studies. Some women feel that family court, in an attempt to appear “gender neutral,” will actually demonstrate a bias toward favoring the father (Bemiller, 2008). When mediators are documenting that they believe domestic violence is occurring, but giving sole custody to the father, it is possible that mediators blame mothers for the violence or believe that it is mutual violence (Johnson, et al., 2005). In addition, physical abuse is often viewed as the only legitimate form of violence in the eyes of the court. Physical abuse is more likely to have some form of objective evidence (e.g. medical records, arrest reports, photographs), whereas emotional or psychological abuse is more difficult to document, and is often not considered illegal behavior. Therefore, it is possible that some women who experienced more emotional or financial abuse may be disregarded or dismissed due to lack of

evidence. These negative behaviors and reactions of the court can be revictimizing for abused women—a phenomenon called 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). Survivors of sexual assault often do not receive the help they need to recover from the assault (Campbell & Raja, 1999; Martin & Powell, 1995). Sexual assault survivors have been mistreated, blamed, embarrassed, and disbelieved by the legal system, and prosecuting attorneys have failed to adequately pursue legal action against perpetrators (Martin & Powell, 1995). 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). Secondary victimization has been applied in other contexts, including families of offenders and all crime victims (Eschholz, Reed, Beck, & Leonard, 2003; Orth, 2002; Orth & Maercker, 2004). 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 is the *negative or unresponsive behaviors by others toward a crime 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 mediation process, studies are needed to examine the extent of secondary victimization in mediation.

Rationale for Current Study

There are three main gaps in the scholarly literature on divorce in the context of intimate partner abuse. First, the previous literature has relied primarily on quantitative or archival data (Johnson, et al., 2005; Kernic, et al., 2005; Rosen & O'Sullivan, 2005). Archival data are important for documenting actual determinations of family court, but qualitative studies are needed to understand the perspectives of women survivors of intimate partner abuse. Furthermore, the qualitative studies that exist focus either on the custody negotiation process, supervised visitation experiences, or on post-divorce experiences (Hardesty, 2002; Harrison, 2008; Kurz, 1996; Shalansky, et al., 1999). Thus far, no study has specifically asked women to provide their perspectives, safety concerns, and experiences about mediation.

Second, previous research has indicated that revictimization of abused women may exist due to the divorce process and, more specifically, mediation (Jaffe, et al., 2003). However, no research exists on this. Secondary victimization has previously been related to negative mental health outcomes and, therefore, its applicability to mediation will inform the debate on the use of such a proceeding for divorce. Knowledge about the occurrence of secondary victimization during mediation will also assist in providing specific recommendations to courts regarding improvements in the mediation process.

Finally, prior research on the court's child-custody determinations in cases of IPA focuses almost solely on physical abuse. This study will contribute to the scholarly literature by examining cases in which abusers were more psychologically and/or emotionally abusive rather than physically abusive. Current evidence suggests that family court has difficulty identifying and responding to physical abuse, even when such abuse is documented. Since emotional or

psychological abuse is typically more hidden and more difficult to document, it is important to understand whether women decide to share this abuse, and how mediators respond.

Research Questions

(1) At the time of mediation, what are women's concerns about their own and their child/ren's safety if they have abusive partners?

(1a) How do these concerns and the father's abusive history get relayed to the mediator?

(2) How do mediators respond to allegations of the fathers' abusive behaviors?

(2a) How do those responses impact the mediators' treatment of the women?

(2b) How do those responses impact the custody and visitation recommendations?

(2c) Do women experience secondary victimization during mediation?

METHOD

This study used data collected from the Child Custody Experiences Study (CCES). The goal of this study was to understand the experiences of mothers who divorced a controlling or violent husband. The semi-structured interview guide included questions on the history of abuse, perceptions of the divorce process, current experiences with custody and visitation, and safety concerns. My study focused on women's experiences during mediation.

Setting

The study was conducted in [Deleted to Protect Privacy], Michigan, where custody and child support issues are handled by the Michigan Friend of the Court (FOC). In 2003, the Michigan Friend of the Court reviewed 13,351 custody cases, 1,113 of which were in [Deleted to Protect Privacy]. Michigan received 127,342 complaints about parenting time and/or custody, and [Deleted to Protect Privacy] received 4,520 complaints. Overall, joint physical custody was recommended in 2,717 cases (20%), custody to the mother in 9,842 cases (74%), and custody to the father in 1,783 cases (13%). Rates for [Deleted to Protect Privacy] were 269 (24%), 521 (47%), and 211 (19%), respectively. A smaller percentage of mothers gain custody and a higher percentage of fathers gain custody in [Deleted to Protect Privacy] relative to rates across Michigan. These statistics can be misleading, however, because it does not specify what custody arrangements parents sought, or whether the non-custodial parent received visitation arrangements. Thus, although a higher percentage of mothers receive custody, this certainly does not indicate that fathers do not receive liberal parenting time. Data for other years is unavailable.

Best Interests of the Child. The state of Michigan decides what is in the best interest of the children by considering 12 factors. IPA is one of those factors (see letter "K"):

- A) The love, affection and other emotional ties existing between the parties involved and the child.
 - B) The capacity and disposition of the parties involved to give the child love, affection and guidance and to continue the education and raising of the child in his or her religion or creed, if any.
 - C) The capacity and disposition of the parties involved to provide the child with food, clothing, medical care or other remedial care recognized and permitted under the laws of this state in place of medical care, and other material needs.
 - D) The length of time the child has lived in a stable, satisfactory environment, and the desirability of maintaining continuity.
 - E) The permanence, as a family unit, of the existing or proposed custodial home or homes.
 - F) The moral fitness of the parties involved.
 - G) The mental and physical health of the parties involved.
 - H) The home, school, and community record of the child.
 - I) The reasonable preference of the child, if the court considers the child to be of sufficient age to express preference.
 - J) The willingness and ability of each of the parents to facilitate and encourage a close and continuing parent-child relationship between the child and the other parent or the child and the parents.
 - K) Domestic violence, regardless of whether the violence was directed against or witnessed by the child.
 - L) Any other factor considered by the court to be relevant to a particular child custody dispute.
- ([http://www.\[Deleted to Protect Privacy\].org/FC/fochandbook.pdf](http://www.[Deleted to Protect Privacy].org/FC/fochandbook.pdf); 10/3/2009; p 17)

[Deleted to Protect Privacy] also believes in “friendly parents” and shared parenting:

Children naturally love both parents and most children want their parents to be together. When parents do not live together, children and parents alike may experience anxiety which may cause anger, sadness and sorrow. Family structure and relationships are different, including the relationship between both parents and the children, especially when changes involve different residences and a loss of family traditions. It is a very difficult time for everyone, which may worsen when parents do or say negative things to each other.

Parents can help by establishing or maintaining children’s regular routines, **encouraging frequent and regular contact between children and both parents**, and by being supportive of the other parent’s involvement in the children’s day-to-day life through participation in school and other activities, and freely exchanging information regarding the children’s well-being. *This means that in addition to the custodial parent not interfering with established parenting time, that the non- custodial parent be regular and timely in exercising parenting time so that the children will not be disappointed.*

...Children need both parents. When you as parents cooperate, you reassure your children that change will be positive. You also build the foundation for your new parental relationship and responsibilities.

([http://www.\[Deleted to Protect Privacy\].org/FC/fochandbook.pdf](http://www.[Deleted to Protect Privacy].org/FC/fochandbook.pdf); emphasis original, p. 9-10; 10/3/2009)

Divorce Process. When children are involved, [Deleted to Protect Privacy] requires a 6-month waiting period after the divorce has been filed before the divorce can be finalized. Soon after the divorce has been filed (i.e., during the waiting period) parties attend a mandatory conciliation meeting that determines the custody and visitation arrangement. “Conciliation is a process where a neutral third party assists in settling a custody dispute” ([http://www.\[Deleted to Protect Privacy\].org/FC/fochandbook.pdf](http://www.[Deleted to Protect Privacy].org/FC/fochandbook.pdf); p 18; 10/3/2009). If either party objects to the conciliator’s recommendation, both must attend a referee hearing. The referee hearing is similar to a trial, and includes witnesses and testimony on public record. The referee then makes a recommendation for custody and the divorce judgment. Sometime after the conciliation meeting, but before the final judgment hearing, the court can request or mandate the parties to attend mediation and/or receive a psychological/custody evaluation. In [Deleted to Protect Privacy], divorcing parties are referred to attend mediation if they cannot agree on the division of assets. Mediation occurs by a private company and is paid for by the divorcing parties. The divorce process is represented in Appendix B.

Custody and visitation is determined through conciliation. Family court presents conciliation as a “temporary” custody and visitation recommendation to the parties. However, the conciliator’s custody/visitation recommendation is typically what the court continues to enforce and is extremely difficult and costly to change (E. Schmittiel, personal communication, June 10, 2009). If the violent/controlling behavior is not disclosed during conciliation but is disclosed later in the process, abusers and court staff may use the allegation against the mother in future proceedings (i.e., They will claim it is a false allegation used as a ploy to gain full

custody). Therefore, conciliation is likely to be the central moment that decides the final custody and visitation arrangement. Thus, this thesis focused on the conciliation process. Like mediators in other states, conciliators make a custody recommendation regardless of whether the couple comes to an agreement. Mediation and conciliation share many of the same assumptions, specifically that (a) both of the divorcing parties have an equal opportunity and ability to argue for their needs and desires, (b) the third party (i.e. mediator or conciliator) has the ability to identify IPA, (c) the third party has the ability to adjust for IPA, and (d) joint custody is in the best interest of the children. Therefore, the same concerns that have been presented for mediation apply to conciliation because both are ADR processes that specifically address child custody.

Procedures

Selection and Screening. After obtaining Michigan State University Institutional Review Board (IRB) approval, potential participants were located through the [Deleted to Protect Privacy] court clerk's office. Using publicly available computers, all divorce cases with minor children that were filed in January 2006 through June 2008 were searched. This time frame was chosen because we wanted to interview women who had at least a year of experience with custody and visitation after the divorce was final. At the same time, we also wanted to interview women who went through a divorce rather recently to ensure that they would more easily remember the process and to identify current practice. Every female plaintiff's dockets were reviewed for objections to the conciliator's recommendation for custody and/or other signs of clear objections to the custody. We chose cases with custody objections because, based on the expert opinion of the FOC director, it is believed that the majority of these cases involve IPA. For each potentially eligible participant, the publicly available court records were requested from the clerk and reviewed for telephone numbers. In the case where there were objections, but the

gender of the plaintiff was unknown, the name was selected and the file was reviewed for further detail.

Potential participants were then called from a university office for eligibility screening. English-speaking women were eligible for inclusion in the study if they met the following criteria: (a) They were at least 18 years old, (b) they went through a divorce with at least one minor child in [Deleted to Protect Privacy], (c) their divorce case remained in [Deleted to Protect Privacy], (d) they had experienced physical, psychological, emotional, and/or sexual violence at the hands of their ex-husband, causing them to fear for their safety, and (e) they were willing to be audio taped during the interview.

The protocol included making up to four telephone contact attempts, with each attempt occurring on a different day and time. If participants answered the phone, they were told about the study and, if interested, screened for eligibility. Interested and eligible women were scheduled to participate in the interview at a location of their choosing. Interviewers volunteered to first go to the woman's residence to conduct the interview, as long as there would be a private place to talk where children or other adults could not hear the conversation. If the woman's residence was not ideal for this requirement, department buildings on the University campus, the University campus library, or the downtown district library were offered as potential interview locations. We gathered 174 phone numbers from court records. Of the 174 women we attempted to contact, 97 were disconnected or wrong numbers and we were unable to reach 19 women. Of the 58 women we contacted, 47 were screened, 5 refused before they were screened, and we were unable to screen 6 because they could be not reached after the initial contact (i.e., they told us to call back, but we could not reach them again). Of the 47 women who were screened, 29 women (61.7%) were eligible. Twenty-three of these women (79.3%) were interviewed, and 6

canceled their scheduled interviews. Four interviewed women were removed from analyses because it was determined post-interview that they did not meet the definition of IPA. Specifically, the case did not involve IPA if the father was not described as at least controlling. Thus, the remaining 19 women make up the sample for this study.

The Interview Process. Interviews were conducted at women's homes or family workplace (n=10), at university buildings (n=7), or the local library (n=4). Prior to the interview, informed consent was obtained (see Appendix C). Participants were given \$40.00 at the completion of the interview as compensation for their time, and given an extensive local community resource guide. Interviewers emphasized the free counseling services and 24-hour hotlines. When needed, safety planning occurred at the end of the interview. Interviews lasted on average 109 minutes (range = 35 minutes to 240 minutes).

Participant Demographics

There were 38 children across the 19 participants. Participants had a range of 1 to 7 children ($M=2$), and the children were between the ages of 2 and 25 ($M=12$ years old). Participants ranged from age 23 and 52 ($M=39$). The majority of participants were White (n=17; 89.5%), with 5.3% (n=1) participants identifying as Latina, and 5.3% (n=1) as African American. Participants' education levels included some college (n=6; 31.6%), followed by a high school diploma or GED (n=5; 26.3%), a trade school degree or certificate (n=3; 15.8%), a bachelors degree (n=3; 15.8%), a masters degree (n=1; 5.3%), and a two-year college or associates degree (n=1; 5.3%).

Measures

Qualitative Interviews. A semi-structured interview format was used to collect information on women's abuse history, perceptions of the divorce process, current custody and visitation experiences, and safety concerns (see Appendix D). For a description of interview questions that most often produced the data needed to answer my research questions, see Table 1. Field notes were taken during the interview, and all interviews were transcribed verbatim.

Experience of Secondary Victimization. A scale to measure secondary victimization during conciliation was created because one had not yet been developed. Previous research on the development of secondary victimization scales for sexual assault survivors and crime victims was reviewed to assist with item development (Campbell, 2005; Campbell & Raja, 1999, 2005; Orth, 2002; Orth & Maercker, 2004). Items on these scales were edited to apply to conciliation. 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 conciliator seemed to believe that I was partially to blame for the violence" and "The conciliator said that the violence was not serious enough to consider in the custody determination" in our scale. Key emotions from the scales were also used to create a list of possible emotions participants would have during conciliation. For example, "The judge treated me with respect and politeness" (Orth, 2002) and "I felt guilty/blamed myself" (Campbell, 2005) were modified to "During the conciliation process, I felt respected" and "During the conciliation process, I felt blamed" in the scale. In addition, positive conciliator behaviors and participant feelings were added to the scale. Furthermore, given that proponents of mediation believe mediation is empowering for survivors (Erickson & McKnight, 1993; Kelly, 2004), "empowered" was included in the scale.

The Conciliation Experiences Survey (CES) includes two scales. The first section has 30 items about the actions and behaviors of the conciliator. Women responded to these questions on a Likert-type scale from 1 (strongly disagree) to 5 (strongly agree). Since this was a pilot test, a “not applicable” choice was also provided. Scores for section 1 range from 0 to 150, with higher scores indicating more secondary victimization experiences. The second section has 25 items and asked participants about the positive (e.g. “safe”) and negative (e.g. “blamed”) emotions they felt during conciliation from 1 (not at all) to 5 (a lot). Positively worded items (e.g. “respected”) were recoded so that higher scores indicated higher experiences of secondary victimization. Possible scores for section 2 range from 25 to 125, with higher scores indicating women having more positive feelings. The CES was given to participants for completion after the interview. Eighteen women completed the CES.

Analytic Induction

There are multiple approaches to qualitative inquiry and analysis (Creswell, 2007; F. Erickson, 1986; Patton, 2002). Phenomenological research seeks to describe the lived experiences of participants for a specific phenomenon (Creswell, 2007; Patton, 2002). Grounded theory is used to inductively develop an explanatory framework of a process, action, or interaction of a phenomenon (Strauss & Corbin, 1998). Finally, analytic induction is used to develop, modify, and test assertions—the qualitative equivalent of quantitative hypotheses—based on empirical data (F. Erickson, 1986; Gilgun, 1995; Robinson, 1951). The goal of my study was to both describe and explain the phenomenon of interest and, therefore, a phenomenological approach to data analysis was not a good fit given its focus solely on description. Grounded theory and analytic induction are quite similar (Gilgun, 1995). However, grounded theory requires investigators to conduct constant comparison and theoretical sampling

(Strauss & Corbin, 1998), neither of which were feasible for this study because the data had already been collected. Grounded theorists also focus on developing a theoretical framework from the data (Strauss & Corbin, 1998). Given that this is the first study that includes the perspectives of women on conciliation, and is the first attempt to determine if secondary victimization applies to the divorce process for women who have experienced IPA, attempting to develop a theory would have been premature. Most importantly, grounded theory requires the investigator to refrain from preconceived ideas (Strauss & Corbin, 1998), whereas analytic induction allows researchers to develop ideas based on the literature, lived experiences, and assumptions (Gilgun, 1995). Based on my literature review, I had already developed assumptions that joint custody is not always in the best interests of the child/ren, conciliation may be inappropriate for women survivors of IPA, and that secondary victimization is negative and may occur during conciliation. Therefore, analytic induction was chosen for qualitative analysis. Although historically analytic induction has been used to develop universal statements and causal connections (F. Erickson, 1986), researchers are currently emphasizing the development of assertions that identify themes and establish processes or patterns of behaviors, interactions, and perceptions of a phenomenon (Baillien, Neyens, DeWitte, & DeCuyper, 2009; Bhattacharyya, Volk, & Lumpe, 2009; Gilgun, 1995; Graham, Walsh, & Shier, 2009; Swan, 2009).

The analytic induction procedure proceeds through the following steps and is based on Robinson's (1951) model of analytic induction: (1) Develop an initial definition of the phenomenon of interest, (2) Develop an assertion to explain the phenomenon, (3) Examine one case (i.e., participant) to determine if the assertion adequately describes and explains the phenomenon, (4) If the assertion does not describe/explain the phenomenon, re-define the

phenomenon and/or modify the assertion to fit that case, (5) Examine the second case with the new assertion, (6) Continue the process of re-definition and modification until all cases that fit the definition are explained by the assertion. Examining the fit between the data and the assertion includes negative case analysis where the researcher specifically seeks disconfirming evidence.

Audit Trail. Analytic induction is an iterative process whereby thoughts, ideas, assertions, and preliminary conclusions frequently change and develop. I created an audit trail so I could document all of these processes and developments. The audit trail serves as a qualitative syntax file that gives others access to my train of thought. Specifically, a comprehensive audit trail allows others to understand how one creates and develops assertions, how/why the assertions changed, and from where conclusions emerged. Thus, others will have enough information so they can determine whether or not they agree with my decisions and conclusions.

Coding. Coding for the larger CCES project occurred over a period of approximately six months. Together with another research assistant, interviews were coded using Miles and Huberman's (1994) data reduction methods. Specifically, we carefully read through the transcripts to identify and categorize themes, patterns, and differences. We coded using QSR NVivo 8, a qualitative analysis program. Reliability coding occurred through two phases. For the first five interviews, we each coded the same interview and then met to review how we each coded the interview. Codes were kept when we agreed. In cases where we disagreed, the code was discussed and a mutual decision was reached on whether to keep, modify or discard the code. Any changes were immediately updated in NVivo. After five interviews, we reached a point where we rarely disagreed. Therefore, the final fifteen interviews were randomly divided between the two of us and we each coded independently. Once all of the interviews were coded, we each independently reviewed the other's codes for agreement. If a code was missing, the

second reviewer added it. However, if the reviewer felt something should not have been coded, it was flagged for discussion. A disagreement occurred only once at this phase, and a decision was achieved mutually through discussion. Additionally, the principal investigator was consulted throughout all phases of this coding process with questions and disagreements.

Once the coding was complete, I prepared to conduct analyses for my study. Coding first for the larger project allowed me to gain a thorough understanding of the data because I read every interview at least once. Although my study is focused on only one part of the interview, I had knowledge of the interview as a whole, giving me a contextual understanding of the data. Therefore, I was confident in developing a list of initial assertions and possible new codes to assist in analysis for those assertions. In the next section, I detail the steps I completed to analyze data specific to my study.

Analytic Induction, Mixed-Method Analyses, and Complex Interrelations

My analyses were completed in three phases. First, I developed a list of assertions to answer my research questions using the analytic induction process. Second, I used mixed-method analyses for triangulation and validation. Finally, I completed an analysis of complex interrelationships to develop a deeper understanding of women's conciliation experiences.

Phase 1: Assertion Development. I anticipated specific interview questions that would answer my research questions, and I developed 14 initial assertions to correspond with each research question (Appendix E). I also detailed which codes (new and old) could potentially be queried to inform these assertions. I then chose my first interview to review. I queried the conciliation codes for that interview in NVivo and re-read all of that data. While reading through this information I both coded using my new codes and determined whether the data confirmed, disconfirmed, didn't apply to, or was unable to answer each assertion. I followed the steps

described in the above section and copied quotes from the interview into the audit trail to document why I made those decisions. For example, the first participant confirmed the assertion that women are concerned for their child's physical safety because she said, "I felt he was extremely unstable...And without me present I was worried that his frustrations and anger would then, of course, turn on the girls." The data for this case disconfirmed the assertion that women feel judged, blamed, or dismissed by the conciliator. The mother was asked if she felt the conciliator was sensitive to domestic violence issues and answered, "I think so. And I think she was particularly sensitive to his [the abuser's] tone, demeanor, and tenor." Immediately after completing these steps for the first 14 assertions, I typed any developing ideas that emerged from completing this task. These ideas commented on assertions that I thought should be removed or reworded, questions to keep in mind, and/or preliminary conclusions.

The goal of analytic inductions is for every case that meets the definition to confirm the assertion. Therefore, when a participant disconfirmed, contradicted, or did not fit an assertion, I reworded or reworked the assertion. I would consider other information in the interview to determine why her case did not fit the assertion, and use that information to adjust the assertion. For example, the disconfirmed assertion stated above was later changed to say that women feel judged, blamed, or dismissed by the conciliator, *except in cases where the father behaved belligerently during conciliation.*" In addition, Erickson (1986) describes guidelines to determine whether or not an assertion is adequate. I specifically explored whether each assertion had an inadequate amount or variety of evidence. If an assertion was determined to be inadequate, it was either dropped entirely or merged into another assertion.

After completing two cases, I sent my audit trail to the chair (Sullivan) for review. Satisfied with the level of detail provided in my audit trail, she agreed I could finish the assertion

development for the remaining women. I continued developing my assertions and documenting my decisions. After five additional participants, the list of assertions was nearly finalized and only minor adjustments were made. After 17 participants, I again sent my audit trail to the chair for review, in addition to quotes from two more women. These two women were removed from analyses in the larger project for failing to meet its definition of intimate partner violence (IPV). However, I felt that these women felt controlled by their ex-husbands and should be included in my study, given my interest in understanding non-physical abuse. Sullivan agreed and I included them in analyses for a final sample of 19 women.

In one instance I had to re-read a conciliator's notes to understand a situation and the research participant's reaction to it. This participant (Celeste) had an extremely negative perception of conciliation, stated that she and the father had agreed to joint custody but the conciliator gave him sole physical custody, and that the conciliator based her custody recommendation on her "own ideas." This case was unique because whenever other parents had agreed on custody, they had been awarded what they requested. It was unclear why the conciliator awarded the father sole custody when he did not want it and, therefore, I went back to the courthouse to read the conciliator's custody recommendation that is in the divorce file. This information supplemented both the interview and CES data to provide a more complete understanding of this participant's experience.

Assertion development is an iterative process. I began with 14 assertions and finished with seven, and the final assertions were not necessarily identical to the original ones. For example, one original assertion, "Conciliators negatively judge women for bringing up the abusive history and/or related issues (e.g. drinking, drug addiction)," was eventually finalized into a complex assertion, beginning with the statement "When mothers allege the father was/is

abusive or controlling, conciliators will ask the father to respond to the allegations and for admissible evidence.” The full assertion is presented in the results section.

Furthermore, the assertion that stated “women feel judged, blamed, or dismissed by the conciliator, except in cases where the father acts belligerently during conciliation” was changed again during assertion development. It was determined that including an exception in the assertion did not provide a thorough understanding of the data. Thus, the assertion was changed back to its original form, and was considered disconfirmed for women who did not feel judged, blamed, or dismissed. I then documented why I thought each participant disconfirmed each assertion rather than creating exceptions for women who did not fit the assertions. Whenever this occurred, I documented it under the participant’s section in the audit trail and included the date of the change. The completed audit trail is 106 pages, and is available for review upon request. The final seven assertions and their corresponding research questions are presented in Table 2.1. Once my chair and I were confident that I had thoroughly mined the interview data to answer the final assertions, I prepared to use the Conciliation Experiences Scale (CES) data to conduct a mixed-method analysis.

Table 2.1. Research Questions and Corresponding Assertions

Research Question	Corresponding Assertion/s
(1) At the time of mediation, what are women’s concerns about their own and their child/ren’s safety if they had abusive partners?	[A] At the time of conciliation, women who experienced IPA from their ex-husband are concerned for their child’s physical safety, if he showed signs of physical abuse toward the child before conciliation. [B] At the time of conciliation, women who experienced IPA from their ex-husband are concerned for their child’s emotional wellbeing.
(1a) How do these concerns and the father’s abusive history get relayed to the conciliator?	[C] Women relay their child’s safety concerns to the conciliator directly (e.g., they mention specific incidents or provide proof). [D] Women relay their concerns over the abuse or controlling behavior to the conciliator directly.

Table 2.1 (Continued)

<p>(2) How do conciliators respond to the allegations of the fathers' abusive behaviors?</p>	<p>[E] When mothers allege the father was/is abusive or controlling, conciliators will ask the father to respond to the allegations <u>and</u> for admissible evidence. Without evidence, conciliators will act dismissive of abuse allegations, as though they are a) she said/he said, b) mutual violence, and/or c) irrelevant. Admissible evidence includes PPOs, or evidence of child abuse (attempts to turn child against the mother, threatening the mother to the child). However, even with admissible evidence, conciliators will act dismissive of abuse allegations toward the mother as a) irrelevant, and/or b) too difficult/complex. This is especially true for non-physical abuse toward the mother, as physical abuse is seen as the only legitimate form of abuse.</p>
<p>(2a) How did those responses impact the conciliators' treatment of the women?</p>	<p>[F] Conciliators criticize or punish women for attempting to protect their child/ren in ways the conciliator does not understand.</p>
<p>(2b) How did those responses impact the custody and visitation recommendation?</p>	<p>[G] Conciliators prefer to award joint custody (50/50 split). If sole or primary custody is to be awarded, the conciliator will favor the parent who meets one or more of the following criteria: a) does not use substances, b) employed, c) promotes child/ren's education, d) ensures basic needs are taken care of (hygiene, housing, food), or e) acts professionally during the meeting (e.g. he does not act aggressively). These preferences occur regardless of who wants custody or of the occurrence of IPA against the mother. However, if sole or primary custody is to be awarded to either parent, the conciliator will prefer to give as much time with the father as possible (i.e., liberal visitation in the case of sole custody)—especially if the father requests such time.</p> <p>[H] Overall, conciliators will base their final decision on these stated preferences in assertion G. Notably, if mothers attempt to protect the child in ways the conciliator does not understand, conciliators will favor the father for custody. When the father does not want custody <i>and</i> the mother meets the above criteria, the conciliator will follow the mother's custody request. In general, conciliators do not take into account IPA in the custody recommendation. Abuse or violence is only accounted for in the custody recommendation if there is direct and admissible evidence of child abuse, but the father will still receive visitation if he requests it. Furthermore, if mothers attempt to protect the child in ways the conciliator does not understand, conciliators will favor the father for custody.</p>

Table 2.1 (Continued)

<p>(2c) Did women experience secondary victimization during conciliation?</p>	<p>[I] Women have a negative experience with conciliation, even if the custody arrangement is in their favor.</p> <p>[J] Women feel judged, blamed, disbelieved or dismissed by the conciliator.</p> <p>[K] 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/ren, and will be less likely to return to court for future custody issues, even when her or her child’s safety is at risk.</p>
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Phase 2: Mixed-Method Validation Analysis. The Conciliation Experiences Scale (CES) was used to help validate the qualitative findings, and assist in further assertion confirmation or disconfirmation. Unlike quantitative studies, qualitative research allows the researcher to gain an understanding of context while giving participants a voice (Creswell & Plano Clark, 2007). As such, qualitative methods are best suited when (a) little research exists in the area of interest, (b) the voices of those affected by the phenomenon are needed in the literature, and (c) a complex understanding of the issue is needed (Creswell, 2007). Quantitative research, on the other hand, can be used to generalize to other populations and test hypotheses (Creswell & Plano Clark, 2007). Mixed-methods, however, can offset some of the weaknesses of doing solely a qualitative or a quantitative study. The process of my mixed-method data analysis follows a concurrent triangulation design (Creswell & Plano Clark, 2007). The advantages of using a mixed-methods data triangulation design is that the qualitative and quantitative data can be analyzed separately and together, which fit the needs of this study (Creswell & Plano Clark, 2007).

The CES was designed to both validate and supplement the interview data and my assertions. For validation purposes, I expected the CES responses to correspond well with data from the interviews. For example, if during the interview a participant described how the

conciliator allowed the father to dominate the conversation, I would expect a low endorsement of the item, “the conciliator did not let my ex-partner control the conversation.” Similarly, if a participant did not tell the conciliator about any abuse or did not experience physical abuse, items such as “the conciliator said I was lying about the violence” should be rated as not applicable. The CES also has three items that assess women’s satisfaction with the conciliator’s custody recommendation, providing additional context for women’s experiences and perceptions of conciliation. Items such as these were expected to help validate the results of my assertions regarding whether women had a positive or negative conciliation experience and/or whether or not an assertion applied to them. The qualitative interview was not designed to necessarily assess women’s feelings during the conciliation, whereas this quantitative scale was specifically designed to assess positive and negative emotions women may have felt during conciliation. Having a deeper understanding of the various emotions experienced by women provided a more complex picture of women’s conciliation experiences.

In order to analyze the CES data in a systematic way, I first reviewed the scale items and developed four conceptual subscales. *Conciliator’s skills* includes items that ask about how safe the conciliator made the meeting, and if they encouraged the mother to speak and did not allow the father to dominate the conversation. *Conciliator and IPA* includes items that ask about women’s perception of the conciliator’s attitudes toward and knowledge of IPA. *Custody recommendation* items ask about their level of satisfaction with the conciliator’s custody decision. Finally, *specific actions of the conciliator* ask about specific statements that may have been made by the conciliator regarding who was to blame for the violence or if the conciliator had safety concerns for the mothers and/or child/ren.

I then developed a list of questions that could be answered by all three sources: the interview data, the assertions, and the CES scores. These 11 questions were: 1) Did she feel that the conciliator was trying his/her best to hear both sides and focus on the child/ren?, 2) Did she feel that the conciliator cared about her safety?, 3) Overall, how would she describe the conciliator's conciliation skills?, 4) How would she describe the conciliator's reaction toward knowledge of the father's abusiveness?, 5) How would she describe the conciliator's understanding of IPA?, 6) Overall, how does she feel about the conciliator's ability to handle the IPA?, 7) Overall, what was her level of satisfaction or dissatisfaction with the custody recommendation?, 8) Overall, how would she describe her interaction with the conciliator?, 9) Overall, how did she feel during the conciliation?, 10) How did the conciliator make her feel?, 11) How did her ex-partner make her feel?

For each question, I first re-read the woman's interview and final assertion data and, based on this information, predicted how she would respond on the CES. I then examined each participant's CES data, by subscale, and noted in the audit trail whether my prediction was correct, incorrect, or inconclusive. I predicted responses for fifteen women. Three did not have enough interview data to predict CES responses (Amelia, Kelly, Nicole), and one did not complete the CES (Tanya). I predicted with 100% accuracy for seven women (47%), 90% accuracy for four women (27%), 70-80% accuracy for two women (13%), and 60% or less for two women (13%). Incorrect predictions were the result of women responding based on their second conciliator or averaging their experiences across conciliators (Jackie, Ashley, Toni, Rose), and/or because they had much more complex experiences than I had originally considered (Toni, Rose, Cecilia, Celeste, Chelsea). As I had done during assertion development, I recorded developing ideas regarding general conclusions or scale improvement in my audit trail. The

prediction questions, corresponding CES items/subscale, and accuracy of predictions are presented in Table 2.2.

Table 2.2. Conciliation Experiences Scale Validation Questions and Prediction Accuracy

Validation Question and Prediction Accuracy	Corresponding CES item	Subscale
Did she feel that the conciliator was trying his/her best to hear both sides and focus on the child/ren? (80%)	Focused on what was best for my child/ren	Conciliator's Skills
	Encouraged me to voice my opinion	
	Did not let my ex-partner control the conversation	
	Encouraged my ex-partner to let me speak	
Did she feel that the conciliator cared about her safety? (87%)	Made the conciliation meeting safe for me to be there	
	Made the conciliation meeting safe for me to talk	
Overall, how would she describe the conciliator's conciliation skills? (87%)	All of the above	
How would she describe the conciliator's reaction toward knowledge of his abusiveness? (87%)	Seemed concerned about domestic violence	Conciliator & IPA
How would she describe the conciliator's understanding of IPA? (87%)	Seemed knowledgeable about domestic violence	
	Seemed to believe that I should have fought back against my ex-partner	
	Seemed to believe that I let my child/ren witness the violence	
	Blamed me for staying with my ex-partner as long as I did	
	Seemed to believe that I was partially to blame for the violence	
	Seemed to believe that I should not have fought back against my ex-partner	
Overall, how does she feel about the conciliator's ability to handle the IPA? (93%)	All of the above	
Overall, what was her level of satisfaction or dissatisfaction with the custody recommendation? (67%)	Made a fair custody recommendation	Custody Recommendation
	Made a custody recommendation that took into account the safety of my child/ren	
	Made a custody recommendation that took into account my safety	

Table 2.2 (Continued)

Overall, how would she describe her interaction with the conciliation? (80%)	Said that the violence was not serious enough to talk about during conciliation.	Specific Actions of the Conciliator
	Asked me to describe more details about the violence than I was comfortable with.	
	Said that I was partly to blame for the violence.	
	Said that he/she believed my ex-partner.	
	Said that he/she would not talk about the violence because it happened in the past.	
	Said that I was lying about the violence.	
	Accused me of causing the violence	
	Said that he/she was concerned for my safety.	
	Said that I was exaggerating about the violence.	
	Said that he/she believed me about the violence.	
	Said that there is never an excuse for violence.	
	Said that I was overreacting.	
	Said that I should have done better at protecting my children.	
	Said that the violence was not serious enough to consider in the custody determination.	
Overall, how did she feel during the conciliation? How did the conciliator make her feel? How did her ex-partner make her feel?		Emotions
See above (Emotions) (93%)	Defenseless, ashamed, helpless, disbelieved, ignored, distressed, unheard, interrogated, scared, intimidated, dismissed, blamed, threatened	Negative Emotions
See above (Emotions) (93%)	Safe, believed, heard, respected, cared for, cared about, comfortable, confident, empowered, listened to, powerful, supported	Positive Emotions

Completing the mixed-method analysis was beneficial for three reasons. First, I was able to confirm and disconfirm assertions for some participants that did not have enough detail in

their interview by using their CES responses. This enhanced the validity of my final assertions because there were fewer assertions that could neither be confirmed nor disconfirmed (due to insufficient data), and all of the assertions were confirmed or disconfirmed via triangulation, rather than from just one data source. Therefore, I was confident in the conclusions made about the seven assertions (i.e., whether they were confirmed, disconfirmed, did not apply to, or lacked sufficient information). Second, I was able to identify areas of improvement for the conciliation experiences scale (CES), and the limitations of and suggested changes to the CES are presented in the discussion section. Finally, during this validation process I discovered nuanced experiences among the participants. For example, participant Ashley described having extremely negative feelings during conciliation, yet responded that she felt empowered on the CES scale—a finding that invalidated my prediction. In other words, although the final assertions were confirmed, it became clear that women’s experiences were more complex than the assertions portrayed. Thus, additional analyses were needed.

Phase 3: Complex Interrelations Analysis. Taken together, the final assertions did not fully explain the variation of women’s conciliation experiences. Some women had positive experiences, some had negative experiences, and others had a mixed experience. In addition, there was a range of custody recommendations and women’s reactions to these recommendations. Specifically, two questions emerged after completing phase 2: 1) what factors were most influential for conciliators, and 2) why did women in our sample have varying experiences and reactions to conciliation? During phase 2, certain factors emerged as particularly important when considering the possible answers to the above questions. By grouping the data by various factors, the goal was to achieve an understanding of the various contextual factors that

shaped women's experiences and influenced the conciliator's custody recommendation. The following paragraphs describe what factors were chosen, and why, to answer each question.

A multitude of factors influenced how conciliators made decisions about custody and visitation. For example, I noticed that only in some cases were women's restraining orders taken seriously. I also noticed that most women told the conciliator about the abuse and/or related concerns (e.g., alcohol or drug use), and yet those concerns were only taken seriously in a few cases. Potential patterns about the father also became apparent. In more than one case, fathers acted belligerently during the hearing, which helped women gain their desired custody outcomes. Other characteristics about or actions of the father that appeared to influence conciliators' custody decisions included: a) his criminal history (violent or non-violent), b) his drug/alcohol use, and c) whether he did not want or could not have custody (i.e. because he was incarcerated). All of these variables were considered to be contextual factors that would influence conciliators' custody recommendation. However, these factors appeared to be applied inconsistently and I was, therefore, especially interested in understanding patterns among these variables. Specifically, what happened when certain factors were present and absent in a given case? To best examine these complexities, I created a table that contained these contextual variables, each participant's desired custody arrangement, the conciliator's custody recommendation, whether the mother thought the custody decision was fair, and whether she thought the decision took her or her children's safety into account. Three variables appeared to play an important role in understanding women's experiences. Specifically, whether or not women: 1) had a restraining order, 2) told the conciliator about the abuse, and/or 3) experienced a conciliation meeting where the father was belligerent. In addition, several items from the Conciliation Experiences Scale (CES) appeared to be particularly important. Specifically, negative emotions likely caused by

secondary victimization (i.e., feeling dismissed, unheard, and disbelieved), and positive emotions likely to occur in the absence of secondary victimization (i.e., feeling respected, listened to, and empowered). Further, opponents of mediation assert that when women do not feel safe they will be less likely to voice their concerns (Imbrogno & Imbrogno, 2000, Kurz, 1996). Therefore, I included two items that assessed women's feelings of safety during conciliation, "the conciliator made the conciliation meeting safe for me to talk," and "During conciliation, I felt safe." As before, I included each participant's desired custody arrangement, the conciliator's custody recommendation, and the three satisfaction ratings. See Table 4.1 in the results section.

RESULTS

In this section, I provide the answers to my research questions and present the corresponding assertion/s. First, I summarize and provide illustrative quotes for each research question. Second, I present the corresponding assertion/s, including how many and which women confirmed that assertion. Quotes are nearly verbatim—only stuttering or half-words have been deleted. However, original quotes can be found in the audit trail. Also, potentially identifiable information—including the gender of the child—has been bracketed. A table of the assertions and which women confirmed or disconfirmed each are presented in Table 4.1. A matrix showing assertion results by participant is presented in the APPENDIX F.

Table 3.1. Assertion Results

Assertion	No. Confirmed	Participants Confirmed*	No. Dis-confirmed	Participants Dis-confirmed
[A] At the time of conciliation, women who experienced IPA from their ex-husband are concerned for their child’s physical safety, if he showed signs of physical abuse toward the child before conciliation.	13 (68%)	Michelle, Jackie, Ashley, Cindy, Toni, Maria, Rose, Eva, Tanya, Chelsea, Nicole, Brittany, Lissette	0	N/A
[B] At the time of conciliation, women who experienced IPA from their ex-husband are concerned for their child’s emotional wellbeing.	14 (74%)	Michelle, Jackie, Ashley, Cindy, Toni, Maria, Rose, Lillian, Eva, Cecilia,	2 (11%)	Amelia, Lissette

Table 3.1 (Continued)

		Melody, Kelly, Nicole, Brittany,		
[C] Women relay their child's safety concerns to the conciliator directly (mention specific incidents or provide proof).	14 (74%)	Michelle, Jackie, Ashley, Cindy, Toni, Maria, Rose, Lillian, Eva, Cecilia, Chelsea, Nicole, Brittany, Lisette	1 (5%)	Tanya
[D] Women relay their concerns over the abuse or controlling behavior to the conciliator directly.	13 (68%)	Michelle, Jackie, Ashley, Toni, Maria, Rose, Eva, Cecilia, Melody, Chelsea, Celeste, Brittany, Lisette	1 (5%)	Tanya
[E] When mothers allege the father was/is abusive or controlling, conciliators will ask the father to respond to the allegations <u>and</u> for admissible evidence. Without evidence, conciliators will act dismissive of abuse allegations, as though they are a) she said/he said, b) mutual violence, and/or c) irrelevant. Admissible evidence includes PPOs, or evidence of child abuse (attempts to turn child against the mother, threatening the mother to the child). However, even with admissible evidence, conciliators will act dismissive of abuse allegations toward the mother as, a) irrelevant, and/or b) too difficult/complex.	8 (42%)	Jackie, Ashley, Cindy, Toni, Maria, Rose, Lillian, Nicole	2 (11%)	Eva, Melody

Table 3.1 (Continued)

<p>This is especially true for non-physical abuse toward the mother, as physical abuse is seen as the only legitimate form of abuse.</p>				
<p>[F] Conciliators criticize or punish women for attempting to protect their child/ren in ways the conciliator does not understand.</p>	<p>4 (21%)</p>	<p>Ashley, Toni, Rose, Lillian,</p>	<p>0</p>	<p>N/A</p>
<p>[G] Conciliators prefer to award joint custody (50/50 split). If sole or primary custody is to be awarded, the conciliator will favor the parent who meets one or more of the following criteria: a) does not use substances, b) employed, c) promotes child/ren’s education, d) ensures basic needs are taken care (hygiene, housing, food), or e) acts professionally during the meeting (e.g. he does not act aggressively). These preferences occur regardless of who wants custody or of the occurrence of IPA against the mother. However, if sole or primary custody is to be awarded, the conciliator will prefer to give as much time with the father as possible (i.e. liberal visitation in the case of sole custody)—especially if the father requests such time.</p>	<p>18 (95%)</p>	<p>Michelle, Jackie, Ashley, Cindy, Toni, Maria, Rose, Lillian, Eva, Tanya, Cecilia, Amelia, Melody, Chelsea, Nicole, Brittany, Lissette, Celeste</p>	<p>0</p>	<p>N/A</p>
<p>[H] Overall, conciliators will base their final decision on these stated preferences in assertion G. Notably, if mothers attempt to the protect the child in seemingly contradictory ways, conciliators will favor the father for custody. When the father does not want custody <i>and</i> the mother meets the above criteria, the conciliator will follow the mother’s custody request. In general, conciliators do not take into account IPA in the custody recommendation. Abuse or violence is only accounted for in the custody recommendation if there is direct and admissible evidence of child abuse, but he will still receive visitation if he requests it. Furthermore, if mothers attempt to protect the child in ways the conciliator does not understand, conciliators will favor the father for custody.</p>	<p>17 (89%)</p>	<p>Michelle, Jackie, Ashley, Cindy, Toni, Maria, Rose, Lillian, Eva, Tanya, Cecilia, Amelia, Melody, Chelsea, Nicole, Brittany, Lissette</p>	<p>1 (5%)</p>	<p>Celeste</p>

Table 3.1 (Continued)

[I] Women have a negative experience with conciliation, even if the custody arrangement is in their favor.	15 (79%)	Michelle, Jackie, Ashley, Cindy, Toni, Maria, Rose, Lillian, Eva, Tanya, Cecilia, Nicole, Celeste, Brittany, Amelia	4 (21%)	Chelsea, Melody, Lissette, Kelly
[J] Women feel judged, blamed, disbelieved or dismissed by the conciliator.	13 (68%)	Jackie, Ashley, Cindy, Toni, Maria, Rose, Lillian, Tanya, Cecilia, Nicole, Celeste, Lissette, Amelia	6 (32%)	Michelle. Eva, Melody, Chelsea, Kelly, Brittany
[K] 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/ren, and will be less likely to return to court for future custody issues, even when her or her child's safety is at risk.	7 (64%)	Jackie, Ashley, Cindy, Maria, Lillian, Nicole, Celeste	0	N/A

* Pseudonyms are presented to protect participants' identities.

Note. Percentages will not total 100% due to participants whose experiences did not apply to the assertion or to cases in which there was insufficient information provided to answer the assertion. See Table F.1 for more detailed information.

Research Question 1

At the time of mediation, what are women's concerns about their own and their child/ren's safety if they have abusive partners?

Many women expressed some concern over their children's physical safety. For some women, these fears arose based on prior threats their partners made about the children during the relationship. For example, some fathers threatened to fight for custody or kidnap the children if their wives left them. Some women also had concerns about physical abuse of the children by fathers, if those fathers had previously physically abused the children. In a few cases, women were concerned about instability of the fathers and that the children would be left unprotected during visitation. Several women also had concerns about extremely unsanitary living conditions, potential danger, or indirect physical harm due to fathers' actions. Others described how fathers' behaviors became erratic during separation in such a way that placed the children in potential danger or demonstrated a complete disregard for the children's wellbeing. Two examples illustrate women's concerns over losing the children (Rose) and fathers' disregard for the children's wellbeing (Maria):

He threatened me for the entire ten years that if I ever divorced him and tried to take Jessica [child] that he would take Jessica and I would never see her again. (Rose)

And he went nuts. The first week when I came back he moved out, he turned off the phone, the computer, the tv, everything in the house, everything. He knew I didn't have money so there was no means of communi[cation] I had two young kids in the house. They were his kids too I couldn't even dial 911. There was no phone. He knew I didn't have a cell phone I had just returned from [Out of the country], so I had to go to the neighbors and ask for their numbers and ask them if something were to happen, if my kids could run. I didn't know the first week, the first month was horrible when I returned when I ya know filed for divorce. He was shutting off the utilities and everything else, the car insurance, everything. And it was a very scary situation for me. (Maria)

Most mothers had serious concerns about the child/ren's emotional wellbeing. Several women described fathers' exceptional ability to manipulate others--including the children. Similarly, fathers even attempted to turn children against their mothers. For example, they told the children that the mothers were to blame for the divorce, the mothers were tearing the family apart, and/or that the mothers were mentally unstable. Unfortunately, these alienation attempts

were either successful (i.e., the children believed the fathers' allegations) or caused the child/ren emotional distress (i.e., the children did not believe the fathers' allegations, but were distraught from hearing the allegations). While fathers may not have attempted alienation, some women were concerned about the fathers' inappropriate treatment of the children. For example, some fathers discussed too many details of the divorce and custody battle with the children.

Additionally, some women felt that, because they had been the primary caretakers, fathers would be unprepared to properly care for the children in terms of providing a clean house, properly prepared food, and ability to handle emergency situations. Finally, many women were concerned that joint custody arrangements would disrupt children's stability and cause the children emotional harm. One quote in particular demonstrates a father's attempt to alienate the child against his mother (Toni):

My ex he was in a very depressive state his self when we were goin' through the divorce. And he would always, you know, be talkin' to my kid about all this adult stuff. And a lot of times my son would be like, "You left us. You abandoned us, mom." You know, those are words he wouldn't say at that age and they were coming, of course, from his dad. (Toni)

Assertions. Two assertions emerged that correspond with this research question. The first assertion is: *At the time of conciliation, women are concerned for their children's physical safety, if the father showed signs of physical abuse toward the child before conciliation.* Thirteen women (68%) confirmed this assertion (Michelle, Jackie, Ashley, Cindy, Toni, Maria, Rose, Eva, Tanya, Chelsea, Nicole, Brittany, Lissette). The other six women did not have concerns because their ex-husbands had not displayed signs of physical abuse toward the children.

The second assertion is: *At the time of conciliation, women are concerned for their children's emotional wellbeing.* Fourteen women (74%) confirmed this assertion (Michelle, Jackie, Ashley, Cindy, Toni, Maria, Rose, Lillian, Eva, Cecilia, Melody, Kelly, Nicole, Brittany).

Two women did not confirm this assertion because they felt their children were too young (e.g., under 1 year old) to be emotionally harmed (Amelia, Lissette). The remaining three women did not specify whether or not they had any concerns over their child/ren's emotional wellbeing.

In sum, women had a range of concerns for their children at the time of divorce. During the interview, all women provided concrete reasons for their concerns. Specifically, fathers either threatened to commit or exhibited a behavior that caused concern. Some of these concerns were as criminal as kidnapping or physical abuse. Other concerns were regarding the emotional wellbeing of children, which should also be taken as seriously given that emotional abuse can have potentially serious consequences.

Research Question 1a

How do these concerns and the father's abusive history get relayed to the mediator (conciliator)?

Women relayed their concerns to the conciliator in two ways. First, some women described the abuse in the divorce complaint. Others verbally described their concerns to the conciliator. Some women did both. In addition, all six women who had a restraining order against the children's father either told the conciliator or had their attorney tell the conciliator about the order. Two questions in the study interview protocol asked whether conciliators inquired about any abuse and whether women mentioned abuse, regardless if they were asked about it first. We found that conciliators inconsistently asked about abuse. Therefore, sometimes women would volunteer the information to the conciliator, whereas other women provided this information if and when the conciliator asked about any abuse.

Assertions. Two assertions emerged that correspond with this research question. The first assertion is: *Women relay their concerns about their children's safety to the conciliator directly*

(mention specific incidents or provide proof). Fourteen women (74%) confirmed this assertion (Michelle, Jackie, Ashley, Cindy, Toni, Maria, Rose, Lillian, Eva, Cecilia, Chelsea, Nicole, Brittany, Lissette). For three women, this assertion did not apply to their situation because they did not have safety concerns for their children (Amelia, Melody, Nicole). One did not provide enough information (Kelly). The remaining participant (Tanya) disconfirmed this assertion because she did not relay her concerns to the conciliator. However, this was because the father acted belligerently during conciliation and she felt she did not need to describe his behaviors:

[The conciliator] basically told [father] that if he didn't calm himself down he wouldn't have any rights. Because he was very aggressive. He was getting irritated. You could tell he was getting irritated 'cause he kept clenching his fists and doin' one of these numbers with his knee [shaking her knee up and down really fast, showing impatience] and...he was turnin' red in the face....[Ex-husband] started yelling at the person we were talking to [the conciliator] and [conciliator] 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. [laughs] You could tell. You could see it in his face that he was getting agitated. (Tanya)

The second assertion is that *women relay their concerns over the abuse or controlling behavior to the conciliator directly*. Thirteen women (68%) confirmed this assertion (Michelle, Jackie, Ashley, Toni, Maria, Rose, Eva, Cecilia, Melody, Chelsea, Celeste, Brittany, Lissette). This assertion did not apply to three women (Lillian, Amelia, Nicole) and one participant (Tanya) did not relay her concerns because the abuser was acting belligerently during conciliation. The remaining two participants did not provide enough information in the interview to confirm or disconfirm this assertion (Cindy, Kelly).

In sum, most women relayed their concerns to the conciliators. It appears that women will discuss their concerns with the conciliator when they feel it is needed. Therefore, conciliators in this sample were aware of abuse in most cases, whether or not they asked about it first.

Research Question 2

How do mediators (conciliators) respond to allegations of the fathers' abusive behaviors?

Conciliators responded in a variety of ways, and an understanding of their responses is complex. The results for this research question are interconnected with the results for research question 2c (Do women experience secondary victimization?). Some women felt conciliators thought intimate partner abuse (IPA) was too difficult or too complex to discuss, and they felt their allegations were completely dismissed. Women's testimony alone, for example, was not considered enough evidence for their concerns to be taken seriously, and the issue of evidence was also discussed in several interviews. Evidence appeared to play an important role in mothers being taken seriously. For example, one participant (Rose) showed the conciliators letters the father wrote to the child from jail, in which the father made clear attempts to alienate the child from the mother. The conciliator took this mother's concerns seriously. Other women mentioned the problem of not having "enough" or the "right" kind of evidence. Otherwise, conciliators treated the situation as "she said/he said." Eight of the nineteen women in this sample experienced no frequent severe physical or sexual abuse, but rather the abuse was more controlling or emotional—types of abuse that are extremely difficult, if not impossible, to document. This difficulty is in part due to these forms of abuse not being illegal. Therefore, when women described these behaviors and conciliators requested evidence (e.g., police reports), women were unable to provide this to the conciliators. Not surprisingly, several women described that the courts view physical abuse as the only legitimate form of 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....If he didn't hit you, it didn't happen. He didn't hit you and you didn't call the police, it didn't happen. That's basically the way I felt it is down there. (Toni)

Assertion. One assertion was made in an attempt to capture the complexity of conciliators' responses: *When mothers allege the father was/is abusive or controlling, conciliators will ask the father to respond to the allegations and for admissible evidence. Without evidence, conciliators will be dismissive of abuse allegations, as though they are a) she said/he said, b) mutual violence, and/or c) irrelevant. Admissible evidence includes restraining orders, or evidence of child abuse (attempts to turn child against the mother, threatening the mother to the child). However, even with admissible evidence, conciliators will be dismissive of abuse allegations toward the mother as a) irrelevant, and/or b) too difficult/complex. This is especially true for non-physical abuse toward the mother, as physical abuse is seen as the only legitimate form of abuse.* Eight women (42%) confirmed this assertion (Jackie, Ashley, Cindy, Toni, Maria, Rose, Lillian, Nicole). This assertion did not apply to three women (Tanya, Amelia, Brittany), as they did not tell the conciliator about any abuse. Two women disconfirmed this assertion. For one mother, the conciliator had no response (Eva), and for the other participant, the father acted belligerently during conciliation (Melody). Six women did not provide enough information in the interview to confirm or disconfirm this assertion (Michelle, Cecilia, Kelly, Chelsea, Celeste, Lissette).

These results indicate that conciliators first will ask for evidence when they receive an allegation of abuse. However, what conciliators consider as evidence varies. In general, proof of physical violence was taken seriously, but this was not the case for every participant. Women whose abuse was marked by more controlling or emotional abuse were less likely to have evidence and, therefore, were more likely to have their allegations dismissed by the conciliators.

Research Question 2a

How do mediators' responses to abuse allegations impact the mediators' (conciliators') treatment of the women?

The results for this research question are also interconnected with the results for question 2c. An important pattern emerged regarding a specific subset of women. Some women protected their children in ways the conciliators did not understand and were criticized or punished by the conciliators for their actions. For example, one mother (Toni) described how she left her child with the father because he had a gun in the home and she was scared that he would harm the child, her, and her family if she took the child at that point in time. While the mother viewed the child as protected, the conciliator responded negatively toward her leaving a child in that situation:

And then things got bad to where he ended up bein'...he had my son at first. Because I left. And I was scared to take my son with me. Because I didn't know what he was gonna do. So. I left him there....the first time we went to court, it was like, "No. You're a mother. You just left your kid here and now you're trying to say he's crazy and..." ... as a woman I could just feel [the conciliator] was turned off that I left my son here and if he was so crazy why did I leave my son here. But, you know, [the conciliator] hadn't lived with this man for, you know, ten, eleven years. [The conciliator] just doesn't know. ... I was so upset because [the conciliator] ended up making me feel like I shouldn't have custody of my son. (Toni)

Another mother (Rose) described how her child found marijuana in the father's home during visitation after the divorce. The mother demanded the father allow her to search his home, but she was unable to find any drugs. Although she believed her child, she knew she did not have evidence against the father. She continued to allow him to watch the child so she could go to work, and there were health concerns with the child being alone or being watched by her stepsister because her stepsister was not an adult. The mother told the conciliator her concerns

about his drug use and her child finding the drugs, and the conciliator responded with, “Well, if, if he’s such a bad person then why did you ever leave your daughter with him?”

Even when mothers tried to obtain evidence against fathers, conciliators did not always respond positively. In fact, one mother (Lillian) described how she was concerned for her children’s safety because of the unsanitary and moldy condition of the home. She brought the pictures of the home to a return conciliation and the following quote describes the interaction: “And I showed him the pictures and you know and the first thing he says is ‘Well, when did you take these?’ So that was very accusatory to me that I took these at a time when it wasn’t relevant to the situation?” (Lillian)

Assertion. The assertion that emerged states *conciliators criticize or punish women for attempting to protect their children in ways the conciliator does not understand*. Four women (21%) protected their children in this way, all of whom confirmed the assertion (Ashley, Toni, Rose, Lillian). Two participants did not provide enough information to confirm or disconfirm this assertion (Michelle, Kelly), and the remaining thirteen women did not attempt to protect their children in ways the conciliators did not understand.

In sum, conciliators often do not understand many of the difficult and complex situations survivors face—especially when children are involved. Conciliators may judge women negatively for acting in ways that may appear to be unsafe to outsiders, which, in turn, may place children in more danger when conciliators give the abusive fathers custody due to these misperceptions.

Research Question 2b

How do those responses impact the custody and visitation recommendations?

Most women wanted full custody (n=11, 58%) or sole physical custody (n=4, 21%) of the children. Three women (16%) wanted a joint custody arrangement, and the remaining mother felt the children were old enough to decide for themselves. From the conciliators' initial custody recommendation, seven women (37%) were given full physical and legal custody of the children, six (32%) received sole physical and joint legal custody, four (21%) had joint physical and legal custody—one mother was primary physical, one father was primary physical, and two had 50/50 split custody—and two fathers (10%) were given full physical and joint legal custody. In other words, ten (53%) women received the custody arrangement they wanted and eight women (42%) received less custody than they wanted, indicating that courts do not choose custody arrangements based solely on mother's requests and concerns.

Conciliators' decision making is complex. Women were asked during the study interview what factors they believed were taken into consideration when the conciliators made their custody recommendations. Although women's responses varied, some patterns did emerge. Several women described how the conciliators had a strong preference for joint custody and that they tried to decide custody based on a formula. If joint custody was not going to be awarded, a variety of other factors interacted in a complex way to inform conciliators' decision making. Some women described that their husbands acted so belligerently during conciliation that the conciliator was less willing to give the fathers custody. Some cited that the conciliators recognized the mothers' roles as primary caretakers and wanted to uphold that stability in the children's lives. Similarly, the parent who could better provide basic necessities (e.g., proper hygiene, healthy food) was often favored. Others referenced that conciliators favored the employed and housed parents who did not abuse substances or have a violent criminal background. Sometimes, the parents' behaviors regarding getting the children to school and

promoting school performance was considered. What was interesting, however, was how so few women felt that abuse was taken into consideration. Furthermore, even when abuse was considered, it was often not considered to a significant degree and as much visitation time was awarded to the father as possible. Several quotes illustrate women's perceptions regarding factors that influence conciliators' recommendations. Specifically, that joint custody is preferred (Jackie), abuse is not considered (Lillian), or the abuse was taken seriously because he was belligerent during conciliation (Toni). In participant Toni's case, the father was originally given full custody and she had visitation. However, due to the father's aggression, she had not been picking her child up for visitation. The quote below is from an interaction with her second conciliator.

They recommended joint custody. And I think it was because at that point in time I think they, you have a... I don't, I don't mean this to sound sterile but there's a formula. And I think that they're looking at, you know, "Well, obviously this guy," you know, "he didn't, there, there's no physical, they don't have any pictures, they don't have any police reports so," you know, "this is gonna be my recommendation because this is what we normally do now for custody cases." And so, and I, I think there's a, a trend, you know, I don't know, over the past whatever ye--, how many years it's been but, you know, joint custody seems to be the, you know, the, what they're recommending. (Jackie)

They never thought that what he did was um wrong or bad enough to allow me to get full custody of the kids when I was going for full custody of the kids. And so I didn't like how the outcome of that was. (Lillian)

Once he was in the room with [the conciliator] and how he was treating me just during the conciliation meeting, [the conciliator] could see that he had been controllin' me the whole time. So. You know, [the conciliator] says, "I'm feeling that you have been trying to get some distance 'cause this is why you're not goin' to pick up your son on the schedule that we have..." you know. I was like, "Of course. 'Cause I can't deal with this every single time I pick him up."(Toni)

Assertion. In an attempt to account for every woman's experience and perception of what factors the conciliator took into consideration, two detailed assertions emerged. The first assertion states that *conciliators prefer to award joint custody (50/50 split). If sole or primary*

custody is to be awarded, the conciliator will favor the parent who meets one or more of the following criteria: a) does not use substances, b) is employed, c) promotes child/ren's education, d) ensures basic needs are taken care (e.g., hygiene, housing, food), or e) acts professionally during the meeting (e.g., does not act belligerently). These preferences exist regardless of who wants custody or of the occurrence of IPA against the mother. However, if sole or primary custody is to be awarded, the conciliator will prefer to give as much time with the father as possible (i.e., liberal visitation in the case of sole custody)—especially if the father requests such time. Eighteen women (95%) confirmed this assertion (Michelle, Jackie, Ashley, Cindy, Toni, Maria, Rose, Lillian, Eva, Tanya, Cecilia, Amelia, Melody, Chelsea, Nicole, Brittany, Lissette, Celeste). One participant (Kelly) did not provide enough information to answer this assertion; no women disconfirmed the assertion.

The second assertion is: overall, a conciliator will base his/her final decision on the above stated preferences. Notably, if mothers attempt to protect the child in ways the conciliator does not understand, conciliators will favor the father for custody. When the father does not want custody and the mother meets the above criteria, the conciliator will follow the mother's custody request. In general, conciliators do not take IPA into account in the custody recommendation. Abuse or violence is only accounted for in the custody recommendation if there is direct and admissible evidence of child abuse, but the father will still receive visitation if he requests it. Furthermore, if mothers attempt to protect the children in ways the conciliator does not understand, conciliators will favor the father for custody. Seventeen women (89%) confirmed this assertion (Michelle, Jackie, Ashley, Cindy, Toni, Maria, Rose, Lillian, Eva, Tanya, Cecilia, Amelia, Melody, Chelsea, Nicole, Brittany, Lissette). Again, one participant did not have enough information to confirm or disconfirm this assertion (Kelly). The remaining

participant (Celeste) disconfirmed this assertion because the conciliator gave sole physical custody to the father because the mother worked two jobs and wanted to exchange the children on a Wednesday, whereas the conciliator wanted the children exchanged on a Friday. In this case, this result was shocking to both parents, as the conciliator had at first talked the father into wanting joint custody (instead of his original request for sole physical custody), but then gave him sole physical custody.

The results of this section indicate that conciliators prefer cases where divorcing parents agree on joint custody. When this is not the case, conciliators look at a variety of factors in determining their custody recommendation. These factors vary and are inconsistent, but in general, IPA is not considered heavily in the final custody recommendation.

Research Question 2c

Do women experience secondary victimization during mediation?

Women had a range of positive and negative experiences during conciliation. In order for negative experiences to count as secondary victimization, they needed to arise from the conciliators' negative or dismissive actions toward the participants. But, for some women, the negative experience was due to other factors. Therefore, women were categorized according to whether they had any positive experiences, negative experiences, and secondary victimization experiences; these categories were not mutually exclusive.

Some Positive Experiences. Thirteen women (68%) had at least a partially positive interaction and experience during conciliation (Lissette, Michelle, Toni, Brittany, Amelia, Ashley, Lillian, Nicole, Eva, Tanya, Chelsea, Melody, Kelly). These thirteen women described their conciliators as patient, understanding, and as attempting to focus on the best interests of the children. Their CES responses indicated that all felt heard, respected, cared for, and none felt

disbelieved, unheard, interrogated, blamed, or threatened. However, there was a range of responses in regards to the remaining positive and negative CES items. Three of these thirteen women had only a positive experience (Chelsea, Melody, Kelly)—all other women had a mixed (both positive and negative) experience. Three had a negative experience with their initial conciliation, but a positive experience with a later conciliation (Toni, Nicole, Lillian). A more detailed analysis of positive and negative experiences is presented in the next section.

Some Negative Experiences. Sixteen women (84%) had at least a partially negative conciliation experience (Cecilia, Cindy, Rose, Jackie, Maria, Celeste, Lissette, Michelle, Toni, Brittany, Amelia, Ashley, Lillian, Nicole, Eva, Tanya). One reason some women had a negative experience was they felt intimidated and interrogated by the conciliators. Some conciliators asked the same questions repeatedly in a tone that women perceived as questioning/judging their behaviors. 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 photograph. This interrogation was so intense for some women that they questioned whether or not they were good enough mothers. One woman even reported that the father also did not like his experience with FOC (Celeste). Another reason women had negative experiences was because they felt intimidated and flustered due to being in the fathers' presence. Many participants touched upon how they felt women, in general, have less power in conversations than men and when these men are also batterers it is even harder to speak. Several also specifically described the size of the room, emphasizing how small the room was. In fact, the room was so small that one woman described how the father was able to kick her into silence during the meeting due to their close proximity (Tanya).

However, most women reporting a negative experience also had a positive conciliation experience (n=10; 53%). Interestingly, eight of the ten women also reported that their ex-husbands acted belligerently toward the conciliator, which helped the women gain custody. Although this was a positive outcome, all 8 of them reported this as having been a negative experience because they had felt distressed and attacked at the time. This indicates that separate conciliation meetings have the potential to decrease the negative aspects of the custody negotiation process. The following quotes highlight women's negative feelings (Celeste) and feeling interrogated and discounted (Lillian):

The Friend Of the Court is, they're nobody's friend. They are nobody's friend. That was the worst—that was the worst part of the whole divorce. It was. I wouldn't wish it on anybody. It is the most terrible place in the world. When you go in there for your conciliation umm interview I mean, they don't really take into consideration what you want. They hear the parts that they wanna hear, and then they rule on what they want. I don't think they take facts into account. It was terrible and we e-opted out of there and they made us go back in. We didn't want anything to do with a friend of the court. Nothing. (Celeste)

You know they're gonna challenge you on everything you say and if you don't have clear, specific and a witness then it's just hearsay...because they're going "well that you just said that but you know we don't have a witness" and...[sighs] like like I told the conciliator I said you're not gonna take these kids away from him unless he's drunk on the floor and the kids are cutting themselves up...[laughs] yea [the conciliator] admitted it and so therefore it's pretty unpenetratable you cant just talk to them and and tell them what you're going through because you need a witness (Lillian)

Secondary Victimization Experiences. For some women, their negative experiences were due to secondary victimization. One woman, for example, was told by the conciliator that she was partially to blame for a physically violent episode that took place during the relationship (Maria). 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 conciliators, but felt unheard. Several said that the abuse was dismissed because it was too complicated of an issue for

conciliators to consider or discuss. Women also felt judged and blamed by the conciliators. For example, one woman was told, “If he’s such a con man, what the hell did you marry him for?” (Rose). Based on their CES responses, all of the women who experienced secondary victimization during the conciliation meeting reported that they did not feel cared about by the conciliators, and all except one felt disempowered. Women varied on their responses to the remaining emotion-focused items.

Women’s secondary victimization experiences had serious consequences for their future legal help-seeking. Nearly all of them indicated they would avoid going back to Friend of the Court (FOC) because they had such a negative experience with the conciliator. One mother wanted to request a safer custody arrangement, but did not object to the order because she was too worried the conciliator would give the father full custody if she did (Ashley). 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 conciliators’ reactions.

Women who wanted to change the custody arrangement, but did not feel that they could, were asked about what conditions were needed for them to file a motion for a change in custody.

Women responded with extreme situations of successful kidnapping attempts, physical violence toward the child, or severe child endangerment. Two quotes illustrate the extreme conditions

needed for a change in custody:

[He would have to be] Trying to abduct Jessica. Um, maybe something like constantly showing up at Jessica’s school. Umm, uh...constantly calling the school. You know, th--, things of that nature, like that, would have to happen before I could do anything. (Rose)

Well we had some issues and we’ve I got brought them to the attention of the conciliator and he says, “well how come you didn’t bring these t- to me before?” I said look! You don’t wanna hear anything unless [Father] is bleedin on the floor and the kids are you know tryin to commit suicide. That’s when you’re gonna take notice! I said that’s when somethin really bad and then there’s gonna be a change from you. But you don’t wanna hear about how [Father’s] breakin all these rules. [Conciliator] goes “well that’s true, we really wouldn’t do anything” (Lillian)

It appears these women were not exaggerating about the conditions needed for a legal custody change. One participant (Jackie) endured severe physical, sexual, and emotional abuse and her children also endured severe emotional abuse during the relationship. Even though this mother had a restraining order at the time of conciliation, the conciliator recommended 50/50 joint physical and legal custody. Her experience during the initial conciliation qualified as secondary victimization, as she felt dismissed, unheard, and disbelieved. She fought for a safer arrangement during the divorce, but the arrangement did not change. The father continued to be verbally abusive to the children during post-divorce visitation. However, she knew she had to wait until there was enough evidence that she should have custody, per the advice of her attorney. She did not attempt to change the custody arrangement until her youngest child was hospitalized twice for suicide attempts (due to the father's abuse) and her eldest child turned 18 years of age.

Assertions. Three assertions emerged that correspond to this research question. The first assertion is: *women have a negative experience with conciliation, even if the custody arrangements are in their favor. For some women part of their negative experience is due to feeling controlled/intimidated by, and/or being in the same room with, the fathers.* Fifteen women (79%) confirmed this assertion (Michelle, Jackie, Ashley, Cindy, Toni, Maria, Rose, Lillian, Eva, Tanya, Cecilia, Nicole, Celeste, Brittany, Amelia). The other four participants disconfirmed this assertion (Melody, Kelly, Nicole, Lissette). For two of these women, their positive experiences were due to the fathers acting belligerently enough that the conciliators listened to the mothers (Melody, Lissette). One had a positive experience because her restraining order allowed her to have a separate conciliation meeting (Chelsea). Finally, one participant

(Kelly) had a positive experience but there was not enough interview data to determine exactly why.

The second assertion states that *women feel judged, blamed, disbelieved or dismissed by the conciliators*. Thirteen women (68%) confirmed this assertion (Jackie, Ashley, Cindy, Toni, Maria, Rose, Lillian, Tanya, Cecilia, Nicole, Celeste, Lisette, Amelia) and six women disconfirmed the assertion (Michelle, Eva, Melody, Kelly, Nicole, Brittany). The CES asked whether women felt blamed, disbelieved, or dismissed and the CES data matched women's interview data for these items. Again, this assertion was disconfirmed when fathers acted belligerently (Michelle, Eva, Melody) or the parents had a separate conciliation meeting (Chelsea). One woman (Brittany) did not share her concerns about the father's abuse and, therefore, may not have felt negatively toward the conciliator. And finally, there is not enough interview data to understand why one participant disconfirmed this assertion (Kelly).

Finally, the third assertion states that *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 (64%) experienced secondary victimization (Jackie, Ashley, Cindy, Toni, Maria, Rose, Lillian, Cecilia, Amelia, Nicole, Celeste, Lisette), eight of whom (67%) confirmed this assertion (Jackie, Ashley, Cindy, Maria, Lillian, Nicole, Celeste, Toni). Of the five who did not confirm this assertion, there was not enough specific data about how women felt *conciliation* affected their feelings about possible future court involvement.

In sum, results demonstrated that most women had at least a partially negative conciliation experience. Participants' negative experiences were often due to the fathers' actions,

secondary victimization by the conciliators, or both. Most importantly, secondary victimization had negative implications for women's future legal help seeking.

This section provided the results for phases 1 and 2 of my analyses—answering the research questions and assertion development using the interview and CES data. Women had physical and emotional concerns for their children, often told conciliators about the abuse, and had varied positive and negative experiences with conciliation. In the next section, I present my findings from phase 3.

Complex Factors Affecting Conciliators' Decision Making and Women's Experiences

In this section, I provide the results of the complex interrelations analysis. First, I present factors that participants indicated influenced conciliators' custody decisions. Second, I present factors that influenced women's conciliation experiences.

Conciliators' Decision-Making

Factors found to influence conciliators' custody decisions have been grouped into two groups—the women's actions and the fathers' actions. Factors that appeared to influence the custody decisions; custody arrangements women wanted and received; and women's CES satisfaction ratings with the custody arrangement are presented in Table 3.2.

Table 3.2. Factors Influencing Conciliator's Custody Decisions, Women's Desired and Obtained Custody Arrangements, and Women's Custody Satisfaction Ratings

	WOMEN'S ACTIONS			FATHER'S ACTIONS/CHARACTERISTICS					CUSTODY DECISION			
	PPO	Told Abuse	Told Related	Alcohol or Drug User	Criminal History	Belligerent	Didn't want custody	Custody Wanted / Actual	Fair	Child safety	Her safety	
Cecilia	Y	Y						c.b / c.b	3	2	3	
Cindy		M	Y	Y			Y	a / a	5	4	3	
Rose	Y	Y	Y		Y, NV		Y	a / a	2	3	1	
Jackie	Y	Y						a / d	1	2	2	
Maria		Y	Y	Y			Y	b / b	2	2	N	
Celeste		Y						d / e	1	1	3	
Lisette		Y	Y			Y		b / b	5	N	N	
Michelle		Y				Y		b / b	3	4	4	
Toni		Y	Y	Y		Y, 2		c.a / e	3	4	1	
Brittany			Y	Y	Y, NV	Y	Y	a / b	2	2	2	
Amelia			M		Y, VIO	Y		b / d	3	2	2	
Ashley		Y	Y	Y			Y	a / a	5	2	4	
Lillian			Y	Y		Y		a / c.a	2	4	N	
Nicole		Y	Y		Y, M			a / b	4	5	4	
Eva		Y		Y		Y		a / a	5	5	5	
Tanya						Y	Y	a / a	M	M	M	
Chelsea	Y	Y		Y	Y, VIO			a / a	5	4	4	
Melody	Y	Y	Y	Y		Y	Y	a / b	4	4	4	

Y = Yes (Present) N = not applicable M = missing NV = nonviolent VIO = violent
a = Mother full custody b = Mother sole physical
c.a = Joint physical, mother primary c.b = Joint physical, father primary
d = 50/50 Joint custody e = Father full custody

Women's Actions. Six women (32%) had a restraining order at the time of conciliation, but this was inconsistently considered as a relevant factor in the conciliation meeting's structure or custody recommendation. In fact, only one participant (Chelsea) had an individual conciliation meeting, while the restraining order was entirely dismissed as an item of importance in three

cases (Cecilia, Rose, Jackie). Even if women did not feel safe to talk to the conciliators or did not have overall feelings of safety during conciliation, they still told the conciliators about their concerns. Sixteen women (84%) told conciliators about the fathers' abusive behaviors, ten of whom also shared concerns about related behaviors (e.g. alcoholism, drug use, etc). Of the three women who did not share these concerns with the conciliators, only one did not have to mention the husband's abusiveness because he acted aggressively enough during conciliation that it was not needed. The other two participants did not specify whether or not they told the conciliators.

Fathers' Actions. Nine (47%) fathers had a history of alcohol or drug use and six had a criminal history (three of whom had histories of violent offenses). Neither of these factors alone appeared to influence the custody recommendation. However, they did appear to provide women some help in obtaining their desired custody arrangement when at least one co-occurred with two other important factors—the father did not want or could not have custody and the father acted belligerently during conciliation. Seven fathers (37%) did not want or could not have custody because they were incarcerated at the time. In five of these cases, when the fathers did not want custody, the mothers received their requested custody arrangement. In the remaining two, the mothers (Melody, Brittany) wanted full custody and received sole physical with joint legal custody. Nine (47%) fathers acted belligerently during conciliation, and in nearly every case this helped the mothers gain their requested custody arrangement.

Having a restraining order and sharing concerns with conciliators did not appear to have a heavy influence on the conciliators' custody recommendations. Based on the above findings, it appears that conciliators were considering fathers' alcohol/drug use and/or criminal histories as less important when compared to other factors. The most important consideration seemed to be whether a father did not want custody and/or acted belligerently during conciliation. Without the

presence of these factors women's concerns were not taken seriously. Conciliators did not always consider women's allegations of abuse or restraining orders as significant evidence to award the mothers full or sole custody. Only in cases where the father did not want or could not have custody, or the mother requested joint custody, did the conciliator's recommendation match the mother's request. These results suggest that IPA is not a deciding, or even important, factor in the conciliators' custody decisions, even if there is a current restraining order. It appears that the actions of the father during conciliation may be one of the most important factors that conciliators consider. Understanding the patterns regarding what conciliators take into consideration and when provides some context for understanding women's perceptions of and experiences with conciliation.

Women's Experiences

Factors found to influence women's conciliation experiences have been grouped into three sections: 1) factors contributing to a positive experience, 2) factors contributing to a negative experience, and 3) secondary victimization and post-separation abuse during conciliation. Factors that appeared to influence women's experiences; custody arrangements women wanted and received; and women's CES satisfaction ratings with the custody arrangements are presented in Table 3.3.

Table 3.3. Factors Influencing Women's Experiences, Women's Desired and Obtained Custody Arrangements, and Women's Custody Satisfaction Ratings

OVERALL			WOMEN'S ACTIONS					FATHER	CONCILIATOR'S ACTIONS					CUSTODY RATINGS				
	+	-	PPO	Safe to Talk	Safe Overall	Told Abuse	Told Related	Belligerent	Respected	Listened to	Empowered	Dismissed	Disbelieved	Unheard	Custody Wanted / Actual	Fair	Child's safety	Her safety
Cecilia		Y	Y			Y							Y	Y	c.b / c.b	3	2	3
Cindy		Y			Y	-	Y				Y		Y	Y	a / a	5	4	3
Rose		Y	Y			Y	Y					M		Y	a / a	2	3	1
Jackie		Y	Y			Y						Y	Y	Y	a / d	1	2	2
Maria		Y				Y	Y		Y			Y			b / b	2	2	N
Celeste		Y		Y	Y	Y						Y		Y	d / e	1	1	3
Lisette	Y	Y		Y	Y	Y	Y	Y	Y	Y	Y	Y			b / b	5	N	N
Michelle	Y	Y		Y	Y	Y		Y	Y	Y					b / b	3	4	4
Toni	Y	Y				Y	Y	Y						Y	c.a / e	3	4	1
Brittany	Y	Y					Y	Y	Y						a / b	2	2	2
Amelia	Y	Y		Y	Y		M	Y		Y		Y			b / d	3	2	2
Ashley	Y	Y		Y	Y	Y	Y		Y						a / a	5	2	4
Lillian	Y	Y					Y	Y	Y	Y				Y	a / c.a	2	4	N
Nicole	Y	Y		Y	Y	Y	Y		Y	Y					a / b	4	5	4
Eva	Y	Y		Y	Y	Y		Y	Y	Y	Y				a / a	5	5	5
Tanya	Y	Y		M	M			Y	M	M	M	M	M	M	a / a	M	M	M
Chelsea	Y		Y	Y	Y	Y			Y	Y	Y				a / a	5	4	4
Melody	Y		Y	Y	Y	Y	Y	Y	Y	Y	Y				a / b	4	4	4
Kelly	Y		Y	Y	Y	M	M	M	Y	Y	M				N / a	4	5	4

Y = Yes (Present)

N = not applicable

M = missing

a = Mother full custody

b = Mother sole physical

c.a = Joint physical, mother primary

c.b = Joint physical, father primary

d = 50/50 Joint custody

e = Father full custody

Factors Contributing to Positive Experiences. Ten women (53%) had partially positive experiences (Lissette, Michelle, Toni, Brittany, Amelia, Ashley, Lillian, Nicole, Eva, Tanya), and three (16%) had an entirely positive experience with conciliation (Chelsea, Melody, Kelly). Women had a positive experience when they felt safe to talk and had an overall feeling of safety. Interestingly, however, women shared their concerns about fathers' abuse even when they did not feel safe to talk or did not have an overall feeling of safety during the conciliation. This indicates that women will put the needs of their children over their own safety concerns, as they are looking out for what is in the best interests of the children.

Three emotions appeared to play a significant role in contributing to women's positive experiences. When a woman felt respected, listened to, and empowered, she was more likely to have a positive experience. Empowerment, in particular, may be key to women's positive experiences. Only three women in this sample felt empowered by the conciliator (Eva, Chelsea, Melody). These three had high satisfaction ratings, received a custody recommendation very close to their request, and described some of the most positive perceptions of their conciliators. Facilitating women's positive experiences also includes avoiding negative interactions. Specifically, women with the most positive experiences did not feel disbelieved, dismissed, or unheard. Women who experienced both a positive and negative emotion often reported less satisfaction with the custody recommendation or described some negative feelings toward the conciliation process during the interview than those who had only a positive experience or. In addition to feeling empowered, women had a positive experience when their restraining orders were taken seriously. As stated above, six women (32%) had restraining orders at the time of conciliation, which played a significant role in women's experiences. Women with restraining orders either had entirely negative or entirely positive experience. In other words, when

conciliators take restraining orders seriously, this will contribute to a positive conciliation experience for survivors. Women whose orders were not taken seriously will be discussed in the next section.

As discussed in the section above, conciliators look for a variety of evidence when allegations of abuse are raised. The more evidence women have (e.g., restraining order, fathers' belligerent actions, fathers' criminal histories etc), the more likely their concerns will be taken seriously by the conciliator. Being believed by the conciliator both enhances women's satisfaction with the custody recommendation, and contributes to a more positive conciliation experience. For example, one woman had an extremely positive experience because, due to a current restraining order against the abuser, she had an individual conciliation meeting (Chelsea). In her case, she obtained a restraining order because the father began cutting himself in front of her and the children and restrained them from leaving the home—a case of severe emotional trauma for the children. It is important to note that she felt empowered due to conciliation. Two other women with restraining orders had joint conciliation meetings, but still had positive experiences because they were believed and taken seriously—most likely due to the plethora of evidence provided to the conciliator. Specifically, one of the fathers abused drugs, was belligerent during the meeting, and did not want custody (Melody); the other father had a violent criminal history and violated a current restraining order (Kelly). All three women reported that the conciliator's custody recommendation was fair, and took into account her safety and the safety of her child/ren.

Thus, women will have a positive experience when their restraining orders are taken seriously, they feel respected, listened to, empowered, and do not feel dismissed, disbelieved, or

unheard. Furthermore, more evidence against the father often contributes to more positive experiences, likely because the custody recommendations favor the mothers.

Factors Contributing to a Negative Experience. Ten women (53%) had partially negative (Lissette, Michelle, Toni, Brittany, Amelia, Ashley, Lillian, Nicole, Eva, Tanya), and six had entirely negative experiences with conciliation (Cecilia, Cindy, Rose, Jackie, Maria, Celeste). Not surprisingly, feeling unsafe contributed to a negative experience. Similarly, women were more likely to have negative experiences when they did not feel respected or listened to, and felt disbelieved, unheard, or dismissed. Disempowerment also played a role in determining negative experiences. Most women in the study sample (63%) felt disempowered by the process—even if they obtained their desired custody arrangement. Furthermore, two women reported feeling empowered on the CES, but further analysis of their interview data indicated this occurred because they overcame the conciliator's dismissive or negative actions. This indicates that about 74% (n=14) of participants would describe conciliators' actions as disempowering.

Analysis on cases where women had an entirely negative experience provides further insight into factors that appear to play a significant role in women's perceptions of conciliation. Most women with an entirely negative experience did not feel conciliators made the meeting safe nor had an overall feeling of safety in the meeting. Only one (Maria) felt listened to, none of these women felt respected, and all felt dismissed, unheard, and/or disbelieved. Notably, only three women in the total sample felt disbelieved—all of whom fell into this group. All women who had an entirely negative experience told the conciliator about the fathers' abusive behaviors, but none of these fathers acted belligerently during conciliation. Two fathers were alcoholics or drug users, and one had a non-violent criminal history. Most women reported that the

conciliators' recommendations were unfair, did not take their children's safety into account and, when applicable, did not take the women's safety into account. Only one woman (Cindy) felt empowered, however this case was discussed above as being unique (i.e., she stood up for herself and overcame the disempowering nature of the conciliator's questioning).

As discovered during assertion development, five women had both negative and positive experiences because of the fathers' belligerent behavior during conciliation (Michelle, Lissette, Brittany, Eva, Tanya). In other words, several women actually felt positive toward the conciliators, but had a negative experience simply because they were in the same room with the fathers during conciliation. Nearly all of these women felt safe to talk and had an overall feeling of safety. They all felt respected and/or listened to, and two even felt empowered (Lissette, Eva). Only one reported feeling negatively toward the conciliator (Lissette), because at first the conciliator believed the father. However, after the father became increasingly accusatory and belligerent, the conciliator took the mother's concerns seriously. This process likely contributed to her feelings of empowerment. All rated neutral or higher on their CES responses regarding the fairness and safety of the conciliator's custody recommendations. In other words, it is possible that all five women would have had a less negative conciliation experience if they had had individual conciliation meetings. These women talked about how the fathers' belligerent or accusatory statements during the conciliation were revictimizing and solely contributed to their negative experience. Most importantly, as illustrated in the quotes below, some women felt so controlled by the fathers that they could not speak during conciliation.

'cause once you get in front of [ex-husband] it's very hard to speak. Even my lawyer had a hard time talking (Tanya)

It [Him kicking her and telling her to be quiet during conciliation] made me feel like I couldn't say exactly what it, all of what I've, I wanted to say. I had to basically agree with him because if I didn't he'd give me that look like, [in a mean voice] "Don't start." (Tanya)

Secondary Victimization and Post Separation Abuse in Conciliation. Phase 1 provided evidence that secondary victimization occurs during conciliation. The focus of these analyses was to understand the interplay between secondary victimization and post-separation abuse during conciliation (i.e., the father's belligerent actions that contributed to her negative experience). Seven women (37%) felt both secondary victimization and post-separation abuse (PSA) within at least one conciliation meeting (Cecilia, Rose, Jackie, Maria, Lissette, Ashley, Nicole). Most of these seven women had the strongest negative perceptions about conciliation. None felt safe to talk, 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. Only one woman experienced brief secondary victimization, followed by the conciliator catching on to the father's belligerent behaviors within one meeting (Lissette).

One striking finding was that three of the women in this category (entirely negative experiences) had restraining orders at the time of conciliation. They still had joint conciliation meetings, and two even received their desired custody arrangement; yet all three still felt unheard, disbelieved, and/or disrespected, and that the custody recommendation was unfair and unsafe (because of the liberal visitation or joint custody awarded to the father). Further, none felt respected, listened to, or empowered. This pattern indicates two things. First, secondary victimization may be one of the most important factors contributing to a negative conciliation experience. Second, although PSA contributes to a negative experience, it influences the conciliator to take women seriously. Thus, when women make allegations and the father does not act belligerently, conciliators will be more likely to act in a secondary victimizing way, contributing to an extremely negative experience. For example, one participant (Maria) was

partially blamed by the conciliator for a physically violent attack by the father. In addition, this participant described the father as attractive and charming during conciliation. The father was easily able to dismiss the mother's allegations against him, and the conciliator sided with the father. The mother not only felt blamed by the conciliator, but she also felt extremely disempowered and revictimized by the father. This not only indicates that conciliators fail to consider women's allegations of abuse or restraining orders as significant evidence to award the mother full or sole custody, but that conciliators are also demonstrating this during the meeting. Realizing that obtaining a restraining order was "not enough" evidence for the conciliator must have been extremely frustrating, upsetting, and revictimizing for these women.

In sum, findings suggest that women will have a negative experience when they do not feel empowered; they feel dismissed, disbelieved, and/or unheard; and when they do not have a significant amount of evidence against the father that allows them to obtain their desired custody arrangement. Women will have mixed positive and negative experiences with conciliation when they have joint conciliation meetings with the fathers present and if they act belligerently during the meetings. While women may feel that the conciliators attempt to be fair to both parents, women will feel intimidated, controlled, and/or attacked by the fathers. In addition, conciliation can be a secondary victimizing experience that allows post-separation abuse to occur for women. Women will experience PSA when there are joint conciliation meetings and they feel disbelieved, unheard, and/or dismissed by the conciliator, and attacked, intimidated, or revictimized by the fathers. When both secondary victimization and PSA occur, women will sometimes have more negative experiences than women who do not experience both.

DISCUSSION

This study was designed to shed light on the custody negotiation experiences of women survivors of intimate partner abuse (IPA). When mothers are abused by their husbands, they have a variety of concerns regarding their safety and the safety of their children. The findings of this study illuminate the additional struggles endured by women who experience abuse that is physical and more emotional abuse and controlling. Specifically, physical abuse is often considered to be the only legitimate form of abuse in family court and, therefore, women who experience more emotional abuse are not viewed as “real” victims. These results replicate findings from previous studies, which found that IPA does not significantly influence family court’s custody decisions (e.g., Slote, et al., 2005), nor do mediators make custody decisions in a consistent manner for cases involving IPA (Johnson, et al., 2005). This study also contributes to the literature by discovering additional factors that may influence conciliators’ custody decisions, and by providing evidence that secondary victimization often occurs during conciliation. Furthermore, this study provides empirical evidence to inform the ongoing debate regarding mediation in the context of IPA. The following paragraphs go into more detail about the meaning of these results.

Women’s Conciliation Experiences and Conciliators’ Custody Decisions

Women had a variety of physical and emotional concerns at the time of conciliation. These concerns included: 1) the father’s previous and likely ongoing physical and emotional abuse of the children, 2) losing the children to him due to kidnapping or alienation, and/or 3) the father’s inability to provide a sanitary or stable environment for the children. These results were not surprising, given that previous studies have documented similar concerns or PSA experiences

that involve abuse, kidnapping, or poor treatment of the children (e.g., Beeble, et al., 2007; Hardesty & Ganong, 2006). All of the women in this sample provided concrete reasons for their concerns in the interview—either the father threatened to commit the behavior or he had previously exhibited the behavior in the past. In other words, women had legitimate concerns that deserved to be taken seriously. However, their concerns were rarely was rarely considered.

The failure of family court to consistently take abuse seriously has been previously documented (Slote, et al., 2005), and the results of this study replicate these findings. The majority of women relayed their concerns by specifying them in the divorce complaint, verbally discussing them with the conciliator, or both—regardless of whether the conciliator asked them about abuse. However, conciliators responded inconsistently. Some conciliators' inquiries about abuse made the women feel listened to, that the conciliator attempted to gain a complete understanding of the situation, and that the conciliator focused on the best interest of the children. Other times, however, allegations of abuse were dismissed by the conciliator, causing women to feel unheard or blamed. The women who had their concerns taken seriously often had concrete evidence to support their allegation. Concrete evidence includes the father's violent criminal background, a current restraining order, and/or his belligerent behaviors during conciliation. However, for cases where the abuse was less physical and more emotional, and when the father was not belligerent during conciliation, women did not have such evidence and consequently felt their concerns were not taken seriously.

Regardless of whether a case did or did not have evidence of abuse, conciliators responded consistently—and negatively—when mothers attempted to protect children in ways the conciliator did not intuitively understand. This finding indicates that conciliators do not possess a comprehensive understanding of the multitude of ways mother survivors of IPA may have to

protect their children from the abuser. Survivors often have years, if not decades, of experience in dealing with their abusers. They know what threats to take seriously and they know what the father will or will not do in regards to harming the children. Therefore, actions such as temporarily leaving the child with an abusive father may appear to be dangerous to an outsider when, in fact, it may have been the safest option the mother felt she had (Bancroft, 2010). The lack of this comprehensive understanding can have serious consequences. Conciliators were unable to acknowledge that mothers' efforts may have indeed protected the child, and did not recommend the safest custody arrangement. In one case, for example, the conciliator even awarded the father full physical and legal custody. Thus, it is important to understand all of the factors that contribute to conciliators' custody decisions.

Factors that influence conciliators' custody recommendations are complex, and previous research has been unable to find significant and consistent patterns regarding mediators' decision-making in IPA cases (Johnson, et al., 2005). The results of this study contribute to the literature on influential custody decision factors. It is clear that conciliators in [Deleted to Protect Privacy] took more factors into account than women's allegations or child safety concerns. Nearly every mother expressed her concerns about the father's abusiveness and/or related issues (e.g., drug abuse), and yet there was a range of custody decisions affording less custody to the mother than she requested. It appears that without additional evidence (described below), women's concerns are less likely to be taken into account and other factors will be considered in deciding the custody arrangement. Additionally, the extent to which the gender of the conciliator influences women's experiences is unknown. It is possible that gender matters both in women's responses and interactions with conciliators, and how conciliators respond to abuse allegations.

As indicated by prior research, restraining orders are helpful for mediators identifying

violence (Johnson, et al., 2005) or for mothers to gain custody (Rosen & O'Sullivan, 2005). Restraining orders are legal documents obtained when civil court finds that there is a reasonable risk of physical harm to a person. They are often difficult or stressful to obtain. In [Deleted to Protect Privacy], all restraining order hearings occur on Friday mornings as a general call. Often, survivors not only have to wait hours for their hearing to be called, but will be required to testify in front of a large crowd of strangers, and the abuser is allowed to question them during the hearing. However, restraining orders were not enough for women's concerns to be taken seriously in this sample. Five out of the six women who had restraining orders against the fathers at the time of conciliation still had a joint conciliation meeting. One participant (Jackie) even spoke about how conciliators "need evidence" to take IPA seriously, and yet the conciliator was aware of her current restraining order against the father. Three of these six women had an entirely negative experience and three had an entirely positive experience, indicating that how conciliators handle cases involving a restraining order can influence women's experiences in two possible ways. First, orders may help women's concerns get taken seriously and may allow them to have an individual meeting. The order can be especially helpful when the father "confirms" it by acting belligerently during conciliation. As indicated by this study's results, when women's concerns are taken seriously they are more likely to have a positive conciliation experience. Second, the conciliator can dismiss the legitimacy of the restraining order, causing extremely negative reactions and emotions for the women. For example, some women opted out of an individual meeting because they were not concerned for their safety at the courthouse. It is possible that conciliators interpreted this action to mean that the order was unnecessary, and generalized this action as if mothers would also feel safe outside the courthouse. When women go through the difficulty of obtaining a restraining order only to have it dismissed by the

conciliator, this contributes to an extremely negative and secondary victimizing experience. These results indicate that women's allegations and restraining orders are not enough for conciliators to take allegations of IPA seriously in all cases.

Other factors assisted in legitimizing mothers' concerns. The father's criminal history and his alcohol or drug abuse were important. Others included unemployment, lack of housing, and inability to be the main caretaker (e.g., take the child/ren to school, provide sanitary living conditions, etc). This replicates previous findings, given that Johnson and colleagues (2005) found some evidence that parental drug abuse was an important factor in influencing decisions for some IPA cases. For this study, however, none of these factors alone were enough for the conciliator to take into consideration. Rather, it was when they occurred in combination with other documentation or evidence (e.g., restraining order) that they appeared to increase the chance that women's concerns would be taken seriously.

This study illuminated two influential factors that have not previously been introduced in the literature—the father's behavior during conciliation and the father's custody request. First, when fathers did not want custody this helped women achieve custody. In nearly every case where the father did not want custody, the mother was awarded full physical and legal custody or sole physical and joint legal custody. Although it is not surprising that men who do not want custody are not given custody, it is surprising that this factor may be more influential than his abusiveness. This finding challenges two claims made by fathers' rights (FR) groups. First, FR groups claim that family court is biased against fathers. However, this study indicates that family court actually prefers to award joint custody to all divorcing couples with children. Second, FR groups assert that allegations of abuse are vastly overestimated and are invented to help mothers gain full custody. The assumption of this assertion is that allegations of abuse help mothers gain

full custody. This study, in addition to the studies presented in the literature review, do not support such an assumption. Given that abuse allegations often hurt mothers in family court, it is highly unlikely that such allegations are “invented” by mothers and their attorneys just to gain custody (D. Dutton, 2005; Jaffe, et al., 2003). Second, fathers’ actions during the meeting helped the conciliator believe they had obtained a complete picture of his behavior and her concerns. One emergent pattern was women who had only a negative conciliation experience also had a father in the meeting that did not act belligerently. This is important because it indicates that if the father acts calm, professional, or charming, the woman’s allegations are less likely to be believed by the conciliator—even if she has a restraining order against him. It may be that conciliators will consider his actions during conciliation more heavily than his criminal or abusive past. This finding contributes to previous research that has demonstrated that when abusive men act belligerently or aggressively in front of police officers, women’s concerns are taken significantly more seriously (Finn & Bettis, 2006).

In sum, IPA was not an important factor for the conciliators to consider in this sample—a finding that, unfortunately, is consistent with the previous literature (e.g. Jaffe et al., 2003, Slote et al., 2005). Even when women felt IPA was considered, they believed it was not considered to a significant degree. For example, participants Cecilia and Lillian felt IPA was taken into consideration (in Lillian’s case, the father even admitted his behaviors). But, the fathers wanted custody so the conciliator awarded joint physical custody. Further demonstrating the importance of fathers’ belligerent behaviors or violent offense histories, participants Chelsea and Michelle also felt IPA was taken into consideration and the father wanted custody. But, the father acted belligerently during the conciliation for Michelle and Chelsea had the separate meeting because of the current restraining order (violent offense) and, therefore, Michelle received sole physical

and Chelsea received full custody.

Taken in combination, study results suggest that mothers receive full or sole physical custody when the father (in order of hypothesized importance), a) does not want custody, b) acts belligerently during conciliation, and/or c) has a criminal history—especially if this history is a violent offense. Thus, although most women received custody of the child/ren, patterns regarding how such decisions were made are cause for concern. IPA allegations or evidence often did not assist survivors in gaining full or sole physical custody of the child/ren. Allegations of IPA, other relevant factors, alcohol or drug use, and restraining orders appear to be used as secondary sources of evidence in determining custody decisions, which without the first four factors, maximally produce arrangements of joint custody where the mother is given primary status. Further, the factors that appear to be most influential rely on the father’s actions during conciliation—another way batterers are able to exert control over their partners.

Secondary Victimization

While previous research has provided some data 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. Results of this study indicate that, despite some positive experiences, conciliation is largely a negative, revictimizing experience. A few women had an entirely positive experience and felt respected, listened to, and empowered during the conciliation. This is in stark contrast to the women who had only a negative experience, as none of them felt respected, and most did not feel listened to or empowered. Rather, they felt dismissed, unheard, and/or disbelieved. The majority of women, however, had both a positive and negative experience; most felt respected and listened to, but not empowered. Additionally, only a few women who had a positive and negative experience felt dismissed or unheard—none

felt disbelieved. For many, their positive experience stemmed from interactions with the conciliator, whereas their negative experience was a result of the father's negative actions. Thus, individual conciliation 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 conciliation experience.

While 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 all crime victims (e.g., Orth, 2002). However, most women in this sample experienced less physical abuse and more emotional abuse. Women commented several times that they felt the emotional abuse and controlling behaviors were not taken seriously by the conciliator, and that family court views physical abuse with police documentation as the only evidence of abuse. Thus, women whose abuse is defined mostly by non-physical abuse are unable to obtain and provide documentation of these behaviors to prove their case. This is in contrast to crimes where the victim has physical evidence of the crime (e.g., damaged property). However, even when the conciliator believes allegations of abuse, the result is not always positive. Some women were blamed and felt judged by the conciliator. Conciliators sometimes even punished mothers by giving the father custody or denying the mothers' custody/visitation request. Women who protected their children in ways the conciliator did not understand were especially subject to the conciliator's negative, judging, and dismissive behaviors. In fact, feeling unheard, dismissed, and disempowered were common feelings among women in this study. Therefore, this study provides initial evidence that secondary victimization occurs frequently in this context. Most importantly, the consequences of

secondary victimization are cause for concern, as secondary victimization prevented some women from returning to court even when they were concerned about their children's well-being. It appears that conciliators were following the rule for criminal justice systems—proof beyond a reasonable doubt. However, because family court is a division of civil court, conciliators should be following the rule of preponderance of evidence—whether it is more likely than not that the alleged action/s occurred. Therefore, it appears that any physical evidence (e.g., restraining order) should have been taken more seriously, and women's allegations could have been given more weight in conciliator's custody decisions.

Additionally, some women experienced revictimization (i.e., PSA) during conciliation, 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 him during the meeting. Some women were shocked that they were forced to negotiate custody with the father in the same room, and a few even emphasized how small the room was. The father's belligerent behaviors during conciliation were a lose-lose situation for mothers. On the one hand, it was an important factor considered by conciliators that helped mothers gain custody. On the other, it was PSA 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 conciliation. This provides evidence that separate meetings would be beneficial for such cases—something that has been advocated as a basic step towards providing safe mediation for survivors (MDVPTB, 2001).

Finally, some women experienced both post-separation abuse by fathers and secondary victimization by conciliators during conciliation. For example, one participant described how she shared concerns with the conciliator and the father was able to use his charm so that the

conciliator dismissed these concerns. This was extremely distressing, as she felt disbelieved by the conciliator and embarrassed because of how easily both the father and the conciliator denied her allegation. Most women who experienced both feelings had an extremely negative conciliation experience and often expressed the most hesitation about returning to court.

These findings contribute to the literature on the experiences of women navigating the custody negotiation process. In general, women in this study had a negative conciliation experience and the IPA did not significantly influence the custody decision. The results of this study also contribute to the debate regarding alternative dispute resolution services (e.g., mediation) in cases where IPA exists. The following section will apply these findings to the assertions made by both the proponents and opponents of mediation in such cases.

Mediation (Conciliation) in IPA Cases

This study provides empirical evidence to inform the debate regarding alternative dispute resolution services (e.g., mediation, conciliation) in cases with IPA. This study confirmed that joint custody is the preferred custody choice of mediators/conciliators (Kelly, 2004; Pearson, 1997). In addition, Johnson and colleagues (2005) found that mediators' decision making in cases of IPA were inconsistent, which was also confirmed by this study. However, this study did not replicate their findings that the father was more likely to receive custody when women alleged abuse. We found that this pattern occurred only when women protected their children in ways the conciliator did not understand, which provides an alternative explanation for Johnson and colleagues' (2005) finding. For most women in this sample, however, the allegations of abuse neither helped nor damaged their case—they were mostly just dismissed. Pearson (1997) and Johnson and colleagues (2005) found that mediators believe IPA cases are given specialized treatment, including separate meetings. However, this study demonstrated that conciliators in

[Deleted to Protect Privacy] neither screens for IPA nor provide specialized treatment, as only one in six cases where a current restraining order existed received separate meetings.

Another hypothesized advantage of mediation is that mediators will have the ability to balance the power inequities that may be occurring (Ellis & Stuckless, 2006b). This was disconfirmed, as several women described the fathers' successful attempts to intimidate and silence her *during* conciliation—while the conciliator was present. These feelings occurred among several women—even those who had mostly a positive conciliation experience.

Therefore, this study offers some confirmatory evidence for the assertion made by *opponents* of mediation that abusers will continue to control their partners during mediation and, thus, reduce women's negotiating power (e.g., Hart, 1990; Imbrogno & Imbrogno, 2000; Tishler, et al., 2004). Similarly, proponents state that mediation is collaborative and allows parents to make their own custody decisions (e.g., Cohen, et al., 1999; Ellis, 2008), but the results of this study do not confirm such an assertion. Some women initially desired joint custody (i.e., attempted to be cooperative/collaborative with the father), but then described the father's continued attempts to pursue full custody and/or control the mother. Therefore, while mother-survivors may attempt to cooperate with father-abusers, fathers will often continue to attempt to dominate and control the mother by using the children. In fact, Hardesty and Ganong (2006) studied women's custody preferences during divorce and post-divorce. They, too, found that initially women wanted a safe arrangement that would allow for a father-child relationship. But, as fathers continued to commit PSA, often through the child/ren, mothers wanted alternative arrangements. Additionally, opponents of mediation have hypothesized that abusers will successfully manipulate court staff (Dalton, et al., 2003; Hart, 1990), which was confirmed by this study. Women often expressed their concerns over the father's charisma or charm and its influence on the conciliator. Finally,

this study partially disconfirmed an assertion made by opponents of mediation—that women would be less likely to fight for the safest custody arrangement (Johnson, et al., 2005). Most women who felt unsafe still fought for the custody arrangement they felt was in the best interest of their children. However, some did express feeling intimidated and silenced by the father, in addition to concern over the conciliator’s power. Therefore, intimidation of women is still a concern, but we must acknowledge women’s strengths, actions, and agency. For example, one participant continued to argue for her desired custody arrangement, even though the conciliator clearly indicated she felt the child should go with the father. Because she continued to fight against the conciliator, the mother ended up feeling empowered.

Correspondingly, some proponents claim that mediation is an empowering process for survivors (e.g., Erickson & McKnight, 1993; Kelly, 2004). The results of this study mostly disconfirm this assertion. In the example presented above, the mother clearly did not feel empowered due to the process. She likely felt empowered because even in spite of the conciliator’s negative treatment, she continued to fight for herself, demand custody, and defend herself as a good mother. Thus, the conciliation meeting itself was not an empowering process—rather, fighting the disempowering nature of the conciliation meeting felt empowering to the woman. Most women—even those who had a partially positive experience—felt extremely disempowered by the conciliation process. Only three women felt empowered by the conciliator, and this occurred under rare circumstances. Specifically, women only felt empowered if they felt safe enough to talk, had an overall feeling of safety during conciliation, felt respected, felt listened to, and did not feel dismissed, disbelieved, or unheard. When conciliators provide a safe environment for survivors, pick up on the father’s abusiveness, and take women’s concerns seriously, the conciliators are more likely to make a fair and safe custody decision. All of these

factors are needed for a process that leads to women feeling empowered. Therefore, conciliation may have the potential to be empowering for women, under strict and rare circumstances.

Overall, the evidence provided from this study indicates that many of the claims regarding the advantages of mediation lack sufficient evidence, whereas there is more evidence supporting the assertions made by opponents of mediation in IPA cases. Nationally, family court programs would be wise to reevaluate their use of alternative dispute resolution services when IPA exists to ensure that safety for women and their child/ren is given the highest priority.

Study Limitations

There are several limitations of this study. First, most participants were highly educated (i.e., at least some college education) white women and the conclusions drawn from this study do not represent the voices and experiences of women with less education or women of color. Previous research indicates that, due to racism, women of color have less positive experiences with the legal system than white middle-class women (Gillis, et al., 2006). These results were unable to capture such differences or analyze the intersections between class, race, and gender. Therefore, the recommendations provided in the following section lack applicability to other groups of women survivors. Future research would benefit from an explicit attempt to include more women of color and of different economic/educational statuses in their sample.

A second limitation of this study is that only women whose cases had an objection to the conciliator's decisions were contacted. It is possible that this subset of women have different experiences than women who did not have objections to the conciliator's order. Third, we attempted to contact women by calling them based on the number provided in their public files. This limited our access to women who had phones, were able to keep the same phone number for a long period of time, and whose phone numbers were not confidential. Therefore, this likely

biased our sample to women who had (relatively) fewer safety concerns, more consistent living situations, and/or more income. It would be beneficial to make contact with every divorcing mother at the time of the first divorce filing in order to capture the variety of incomes, stability, safety issues, and divorce experiences. In addition, multiple recruitment methods could be utilized to adjust for women's different personal circumstances and abuse experience (e.g., in-person recruitment at court, phone calls, postcards, domestic violence shelters).

Fourth, there was not enough information to conduct an in-depth analysis on the role of attorneys. Previous literature indicates that attorneys play an important role in shaping women's experience, especially in regards to making abuse allegations and/or attempting to change the custody decision (Hardesty & Ganong, 2006). Future studies could include more questions regarding the specific role of attorneys and the advice given by the attorneys. Fifth, this was a cross-sectional study that occurred at least six months after the divorce. Some women were unable to provide specific and detailed information about meetings and processes that occurred early in the divorce process. Therefore, it was difficult to obtain a complete understanding of multiple conciliation experiences, and emotions, over time. Future research could utilize a longitudinal design to gain an in-depth understanding of women's experience at different points in the process. Finally, this was a small qualitative study on women who were relatively easy to reach because their information was public. This limits generalizability; especially because it is likely our sample experienced less severe physical and sexual violence than a more representative sample of survivors.

Study Strengths

Although there were several limitations of this study, this was a pilot study and the first known example of attempting to gain an in-depth understanding of women's custody negotiation

experiences. A strength of this study was the use of both qualitative and quantitative data. The interviews allowed us to obtain a rich amount of information to understand women's experience. The quantitative Conciliation Experiences Scale (CES) both complemented and supplemented the data. The CES data was used to validate assertions drawn from the interview and provided additional data when the interview did not provide sufficient information. Thus, the conclusions drawn from this study were strengthened because of triangulation. A second strength of this study was that it included women who experienced more emotional abuse and control than physical, and women who did not necessarily have evidence or restraining orders. Previous literature has focused on women who experienced physical abuse and/or had a restraining order, and this study provided empirical evidence that women feel family court did not consider their experiences as abuse unless they were physically abused. A third strength of this study was the rigorous tests of trustworthiness and credibility. Numerous authors have described and proposed models for establishing the trustworthiness and credibility of a qualitative study (Lincoln & Guba, 1985; Miles & Huberman, 1994). I used the following strategies to enhance the trustworthiness and credibility of the study. First, I kept an audit trail during data analysis. My audit trail documented all decisions regarding category and assertion development and, thus, allowed me to describe my method and analytic process in detail. Second, analytic induction requires investigators to conduct negative case analysis. When I came across experiences that did not fit with my assertions, I sought alternative explanations. This ensured that I was actively seeking both confirming and disconfirming evidence for my assertions. Third, I frequently discussed my ideas and assertion development with my chair (Sullivan), which provided me with the opportunity to hear alternative explanations and feedback on the clarity of my codes and assertions. Fourth, I used both qualitative and quantitative data as a method of triangulation, as

stated above. Fifth, I engaged in a process of reflexivity in order to acknowledge my bias and remain open to the emergent data. I documented such developing ideas in the audit trail. A final strength of this study was the use of a feminist framework to inform my study and analyses. A feminist framework was used to help understand inequalities that may emerge during the course of the research (Kleinman, 2007). Consistent with feminist methodology, I engaged in a continuous process of reflexivity, maintained an action orientation, attended to the emotional aspect of the research, and attended to the cultural norms and underlying assumptions that perpetuate society's gender bias (Fonow & Cook, 1991). Specifically, I (a) reflected upon and critically examined how the research process would affect and benefit participants, (b) remained aware of and reflected upon my own biases in order to enhance the trustworthiness of my interpretations, (c) anticipated the unintended consequences of my research, (d) demonstrated a concern for the emotions of participants, and (e) studied any emergent themes regarding cultural norms and assumptions that contribute to women's oppression. I also intend to use the results to create policy change to improve the divorce experience of abused mothers. Most importantly, I focused on the voices of women. My goal was to understand women's experiences through their words, and to share their voices in my results and analyses.

Policy Implications and Recommendations

During the interview, women were asked what recommendations they had for family court to improve the divorce process. This information was used in combination with my analyses to develop this section.

Take Women's Concerns Seriously and Treat Them with Respect. Many women did not feel respected or treated well by the conciliator. A common theme among women was that their concerns were not taken seriously, which was especially the case for women who had concerns

regarding non-physical abuse. These experiences had negative consequences both for how women experienced conciliation and the conciliator's custody decision. When conciliators fail to take women's concerns seriously, they will often recommend an unsafe custody and visitation arrangement, potentially placing mothers and child/ren in dangerous situations. Plus, women will not feel that family court is on their side and will avoid changing the custody recommendation even if it is unsafe. The following quotes demonstrate how women felt a lack of respect and that their concerns were dismissed:

I think the courts should be more receptive and open to the concerns of that person, like me, and not make it so doggone hard to, to get protection, to feel protected, to feel like somebody actually cares kind of a thing. After everything has been said and done and the whole process, that's pretty much what I walk away with is that I just wished I really felt like more of a caring attitude. (Rose)

He was so hostile, it should've been set that we had a designated meeting place in public so that nothing could happen... when somebody brings up concerns on safety for any reason they need to, that needs to be their top priority. You either give 'em what they want as far as, you know, supervised visits or, you know, the pick-up and drop-offs need to be somewhere public and being recorded. Like at the police station. (Ashley)

They really need to just *listen* and not be so opinionated. If, if a parent is coming in with concerns, they're, gotta be legitimate. You know? And of course the other parent is gonna say, "No, that's not happening" because they don't want to look like the idiot. (Ashley)

If [the courts] hear that the woman is going through a controlling situation that's not actually physical, they need to ma--, to find a way to get some, some, some rules or orders set aside so the harassment and all that stuff doesn't continue. Um, and I'm, I'm sure the same thing with the visitation or whatever, transferring the kid from one hou--, weekend, you know, that one house to the other or whatever. Somethin', some kind of order or whatever to help that... Because, yeah, when somebody is controlling, they are gonna find every little loophole to get around. And you need to have rules in place for them to be just, you know, kinda kept at bay. (Toni)

Adopt an Assumption Against Joint Conciliation Meetings. Several women felt revictimized and controlled due to the father's behaviors during conciliation. In addition, they felt silenced, intimidated, or too frustrated to voice all of their concerns. A few identified that women, in general, already have less bargaining power than men and, therefore, it is illogical to

force survivors to negotiate custody in the same room with their abuser. Some women would have even had an entirely positive conciliation experience if they had a separate meeting than with the father. Family court can no longer ignore this negative influence of the father's presence and would benefit by adopting an assumption against joint conciliation meetings. The following quotes illuminate women's feelings of having to negotiate custody in the same room with the abuser:

I think that that um, the conciliator would have been more useful if she had met with him and met with me and then possibly met with both of us. Because not only are there two sides to every story, you know, I do think they get a little skewed when the person you're afraid of is in the room. ...I think it was very insensitive for me to sit in that room two weeks after, you know, supposedly filing for divorce, with a person that you obviously hate enough that you want to divorce them. That's crazy! You obviously have a big beef with this person if you want them out of your life enough to file divorce with them. I'm gonna go with maybe that's a little insensitive. (Brittany)

I found that experience, [conciliation], to really be irritating. There, there needs to be a better way to figure that out. Either you interview us one on one. You know, you interview me and then you interview him, not in the same room....[If we had separate conciliations] I don't think that she woulda come at me as saying it was hearsay like she did. Because he was sitting there listening to everything I was sayin'. And he was like, "No, that didn't happen. No, that didn't happen." (Ashley)

I think [if we had separate conciliations] maybe, maybe [the conciliator] might have listened more to what I was trying to say... I felt very intimidated with the whole process, with him being right there. And you're in a very small room and, you know, we had the conciliator here and then um, he sat here with his attorney, then my attorney and then me. And... it's a very small space. (Jackie)

[If we had separate conciliations] I woulda been less nervous, I woulda been able to articulate myself better, and you know bein' in a room where you feel like you're somewhat threatened you can't function as well. (Lillian)

And I'm just like, you know, in retrospect I would have said something. I would have been outraged. I wouldn't have wanted to sit in the same room as him. I wouldn't have, I don't even want to be in the building on the same day as him. That's how much of an emotional hold this person has [voice quivering] over you (Brittany).

They need a lot more one-on-one [conciliations] versus group [conciliations]. Because a lot of moms like me have a hard time uh, expressing themselves in front of their ex'es. Which makes it very hard to discuss with the [conciliator] ...exactly how they feel without feeling like they gotta worry about what the person sitting next to them's gonna say...Because when you tend to put an

ex-husband and an ex-wife in the same room together, and the ex-husband's a little more controlling and likes to get what he wants there's no deal. It makes it very hard for the ex-wife to describe exactly how she feels about different things when he's sitting right next to her within arm's reach. And trust me, you're like one's here, one's here. You can literally touch the person sitting next to you they're so close together. And if you say something that the other person doesn't like, they can reach out and smack you whether the lady at the other realizes they're doin' it or not. (Tanya).

They don't have to have both parents in the room at the same time when they have those meetings, so they can just argue with each other. That makes no sense at all. You know? And they're just bringin' up stuff that has nothing to do with, you know, the, you know, the hearing, the, the custody or whatever. It, they have [specific] questions that could get into just about every corner. And, you know, and I know they can come up with those questions. Then you could get that information from each parent without both of them bein' in the same room together...just without the arguing, controlling, and the, and the just feelin' like you can't say what you wanna say. You know, I don't, especially for women...Not only are you in court, you're trying to be professional, ...you're tryin' to hold yourself together basically because, you know, this situation is even happening. And then, you know, here you, you've got this, this, this person who you have this problem with that's in the room with you. So then you're forgetting what you want to say, you're forgetting things you want, that are important things that you want to get out. Because you also have to be on defense of, with this person sittin' next to you. And they're gonna lie and they're gonna say whatever. And that's gonna get you upset and, like you just stay off track [laughs] the whole time because you're in this room with this antagonistic person and you just, you know, "I'm on P's and Q's." [laughs]... (Toni)

Receive Training on IPA—Especially About Non-Physical Abuse. The examples in this study indicate conciliators are unable to identify and appropriately take IPA into consideration for their custody decisions. Non-physical abuse was scarcely taken seriously during conciliation or in the custody decision. For example, one of the criteria for being exempt from conciliation is that there is no evidence of domestic violence. In other words, if there is evidence of domestic violence, divorcing parents will be mandated to attend conciliation. Thus, Friend of the Court mandates joint conciliation in most cases where they are aware domestic violence exists. This indicates a call for increased education about IPA for all family court staff, especially for cases where there is less physical violence with documentation. Participants also touched upon this need for training:

I think they should listen to a woman who has been through abuse and, you know, battered. Just because they've not been to a woman's shelter or anything like that does not mean that, you

know... the abuse has been there. You know, I think that they should take into consideration if, you know, there's other abuse that's happened, you know, not, even from your spouse but, you know, to your children from even his family, you know, to take that into consideration. You know, especially with the child's sake. Because it's gonna do more damage to your child in the long run. If they're still allowed to go to these people's home where there's still abuse, you know, if they're still abusin' your child, you know, it, it's a hard thing (Cindy).

I don't really think it was addressed, you know, at the time when we went through our divorce. I think they treated it more like this is "She's leaving him and so that's done and we don't have to deal with that issue because she's not staying in the same household with him." And I think it's hard because you have a lot of components there. I mean, they're trying to deal with the divorce itself and how do we, you know, we need to make decisions based on this. There's a formula. You know, you make so much per year, they make so much per year, and they're trying to... they're focused on getting all of that stuff done. And the children, and all those other issues. (Jackie)

[The courts] need to have more training on, okay, I know they have all these things in place for women who are in relationships where they're bein' physically abused. But they're, need to have some stuff in place for women who are bein' emotionally abused. Because obviously that is, that is somethin' that's not addressed there. At least I felt that that wasn't. And I think the reason why they kinda steer clear of it is because it's somethin' that, that the woman can't prove. You know? So... Well, at least they need to have some kind of training in it so they can ask some specific questions and get down to what's really going on there. (Toni)

Screen For IPA and Implement Precautionary Measures. Results of this study indicate that conciliators are not always able to fully understand the complex needs of cases with IPA. The [Deleted to Protect Privacy] Friend of the Court currently does not screen for physical violence, conflict, nor IPA. Rather, every divorcing couple with children is required to attend conciliation. Technically, the only exception is when a restraining order is in place. However, six women had a restraining order at the time of conciliation, and yet only one was given an independent conciliation. It is imperative that this rule be consistently followed and that restraining orders are taken seriously in every case. Ideally, additional policies could be implemented. For example, family court could screen for IPA and assign those cases a specialized, well-trained, conciliator. A specialized conciliator would particularly be needed if separate conciliation meetings were not a possibility.

Be Open To Feedback and Willing to Make Changes. The Friend of the Court is required to report data on grievances placed against them. Based on data provided in the 2003 Customer Service Report, the Friend of the Court received 534 grievance letters. Of those letters, 30% were complaints due to their policies and process, 12% due to parenting time or custody complaints, and 9% were complaints about staff. Based on these grievances, there were several recommendations included in the summary. However, none of them actually involved improving FOC, but rather, indicated they felt their negative public image and lack of *other's* education was the cause of people's grievances. Excerpts from their recommendations are presented below:

Improve the FOCs Public Image and Self Image. The FOC will anger some who are caught up in emotional family-court cases. To make matters worse, the FOC system has been the helpless lightning rod for criticisms of the *state's* conversion to MiCSES, a conversion mandated by *federal* law. The media have criticized FOCs in stories about MiCSES-caused problems and other FOC failings, both real and imagined.

Perception shapes reality. The FOC has had more than its share of bad press. That has hurt the FOC's public image and severely damaged FOC employee morale.

The courts and FOCs should make a much greater effort to publicize FOC successes. The stories are there, but good news goes underreported unless someone makes a special effort to collect it and push for its publication. The FOCB and the Supreme Court's Public Information Office should guide this initiative and advise local courts and FOC offices. (p. 5)

This indicates a need for FOC to be open minded in regards to improving their services. There is a plethora of resources, recommendations, and model codes available in handling cases with IPA. Some of these model codes and standards have been published as early as 2000, and have yet to be consistently implemented. For example, in 2001 the Michigan Domestic Violence Prevention and Treatment Board (MDVPTB) created recommendations to improve mediation in Michigan (MDVPTB, 2001). The recommendations include best practice policies such as, a) screening for domestic violence, b) allowing survivors to opt out, c) mediators' responsibilities to take all safety concerns seriously, and d) mediating each party separately. This document also

provides several forms, checklists, and tips for mediators to identify control/conflict, how to terminate mediations safely, and safety planning with survivors. In addition, in June 2010 the Michigan State Court Administrator published a proposal to revise the 2008 Standards of Conduct for Mediators. Relevant standards include: a) ensuring self-determination of parties, b) competence (i.e., adequate mediator training), and c) quality services, including ensuring safety for all clients. Finally, The Association of Family and Conciliation Courts (AFCC) also released the Model Standards of Practice for Family and Divorce Mediation (2000) that places the responsibility of identifying domestic abuse on the mediator. In cases of domestic abuse, the mediator is recommended to: a) establish appropriate security arrangements, b) require separate sessions, c) allow an advocate or friend to attend mediation with the client, d) encourage legal representation for the parties, e) refer clients to appropriate community services, f) suspend or terminate mediations safely, and g) facilitate parenting plans that protect the victim and the child/ren (AFCC, 2000). Together, these provide excellent policy and practice recommendations for providing safety-focused services for cases involving IPA. Given that conciliation is based on the same assumptions as mediation, conciliation services—or any alternative dispute resolution service—should also adhere to these principles.

Implications for Future Research

Future studies can expand upon the information gained from this study. As discussed in the limitations section, this was a cross-sectional study. A future study could interview/survey women at several time points starting from the time of divorce filing through months to years after the final divorce judgment. The information gained from this would provide more in-depth information for each of the processes involved in a divorce and post-divorce. This will also address some of the assertions made by proponents that the long-term effects of mediation are

positive and beneficial. In addition, this study focused on the lived experiences of women. Future research can also include the perspectives of different individuals involved in the process (e.g., conciliators, judges, attorneys, fathers, children) to provide a comprehensive understanding of multiple perspectives. Similarly, to enhance the validity of the conclusions, archival data records could also supplement the interview or survey data for cases. Specifically, it would be beneficial to gain an understanding of factors conciliators feel are most important in determining custody from the perspectives of conciliators, women, and based on archival data.

This study demonstrated the unique experiences for women who experienced mostly non-physical abuse. These understandings can be expanded upon through further research, and physical abuse should not be an eligibility criterion. In addition, this study provided initial evidence that secondary victimization occurs in custody negotiation settings. Future research can work towards improving the CES and confirming the results across different counties. It is important to gain a deeper understanding of the short-term and long-term effects of secondary victimization to provide needed evidence that this should be prevented.

Finally, explicit attempts should be made to include the voices of women of color in future research. All of the implications for policy, recommendations, and the above implications for research are based on the experiences of mostly white women. Therefore, it is crucial that future studies include the perspectives of women of color to ensure that there are no unintended negative consequences in policy changes that may benefit white women but cause damage to women of color.

Conclusion

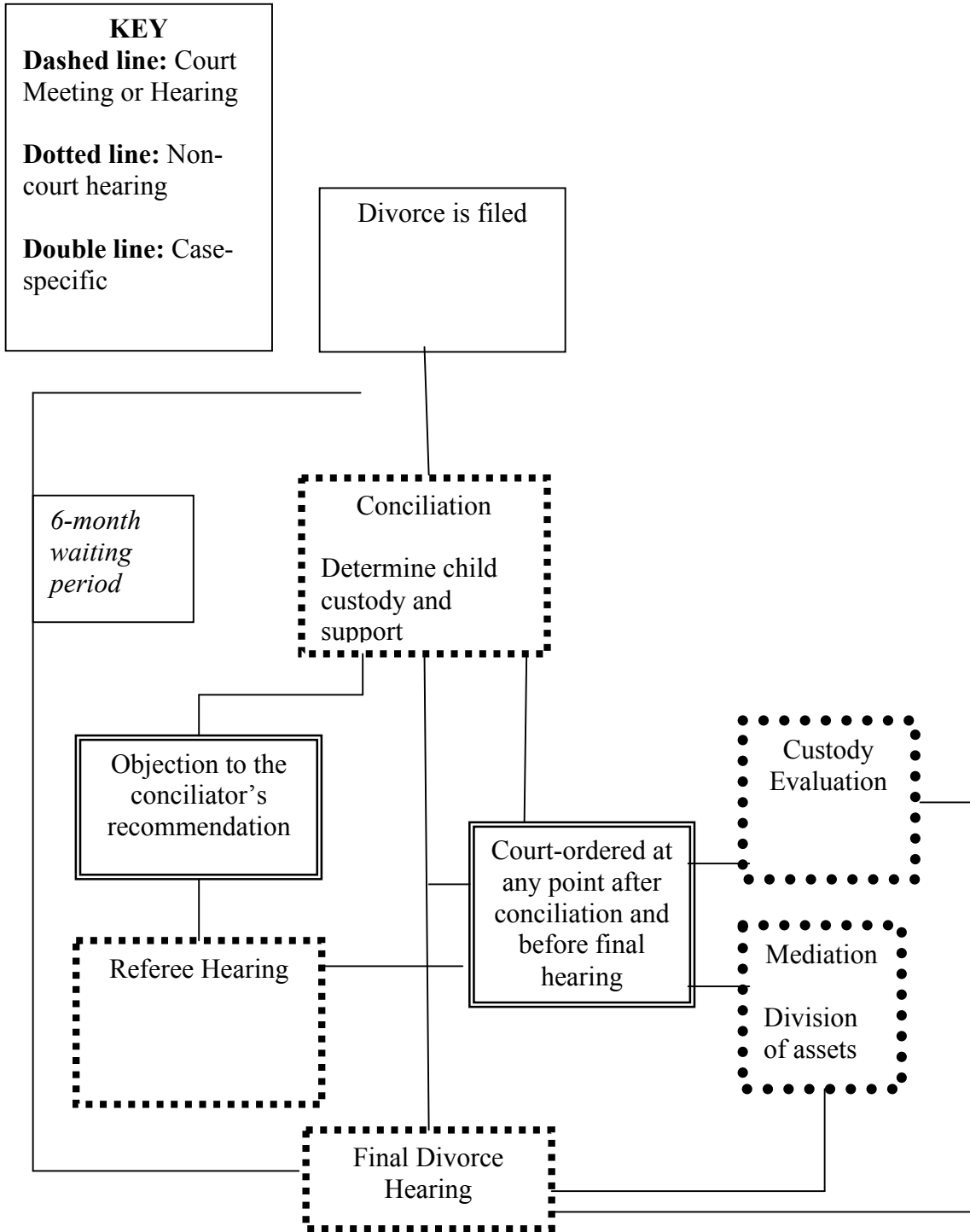
This study was a first step towards understanding women's custody negotiation experiences and the role of secondary victimization during this process. Results indicate that

intimate partner abuse (IPA) does not significantly influence conciliators' custody decision making. Rather, the father's actions and custody desires during conciliation and women's actions during the relationship appear to be more important to conciliators. Currently, there is little evidence to indicate that family court staff implements policies that demonstrate an accurate or clear understanding of the dynamics of IPA. Failing to screen for IPA, requiring parties to prove there is no evidence of IPA to opt out of conciliation are policies that contradicts all of the published standards that highly recommend individual meetings in cases of IPA. Further, emotional abuse and control are not taken seriously, and physical abuse is considered to be the only legitimate form of abuse. As is, conciliation is not working for many survivors and does not appear to produce safe custody arrangements.

APPENDICES

APPENDIX A

Figure A.1. The Michigan Divorce Process.



APPENDIX B

PARTICIPANT AGREEMENT

THE CHILD CUSTODY EXPERIENCES STUDY

The Child Custody Experiences Study is a research project conducted by women at Michigan State University to learn about women's experiences with custody cases when divorcing a controlling partner, and to learn more about their day-to-day experiences with the custody decision and visitation.

If you decide to take part in the study, you will be asked a series of questions. The questions will help researchers to understand how women ending controlling, abusive or violent relationships experience custody disputes in the court system and what their experiences are with custody and visitation decisions. The questions will be about the process of getting to the custody decision, how the custody arrangement is working, and if you have any concerns for your or your child's safety regarding visitations with the father. The interview will take about an hour of your time and will be recorded on audiotape to make sure we accurately represent what you tell us. All tapes will be destroyed three years after completion of the study, per MSU regulations. You will be given \$40 as compensation for your time at the end of the interview.

We will protect your confidentiality to the maximum extent allowable by law. Only the research team will know that you are taking part in this study. To protect your identity, you will be given a unique number that will appear on all of your information instead of your name. In this way, it is ensured that your name will not be on the tape of your interview or on the written interview sheets. Your information will be kept locked in a cabinet, with your identifying information in a separate locked cabinet from your interview tape and papers, to prevent others from finding out. When we publish the findings from this research, we will not identify you or your specific answers in any way that would allow anyone to identify you.

Further, we need to make clear that we are researchers, and not advocates. Our job is to gather information that increases our understanding of women's experiences. We cannot advocate for you in court. This research is completely separate from court proceedings: you cannot ask us to testify in court nor can you ask that the records of the interview be used in any legal proceeding.

Because of the sensitive nature of the questions, there is a risk that the questions that we ask may cause some women to become upset. It is important to remember that you are free to end the interview at any time. Information regarding local resources for women who have been in violent or controlling relationships will be made available to you, and you are encouraged to contact those organizations should you need assistance.

A benefit of this research is that the answers that women give to the questions will help to improve our understanding of the challenges faced by women who have separated from their controlling partners, but through custody or visitation decisions, still see them. This understanding will inform future research and possibly lead to policy recommendations designed to increase the safety of women and their children.

Your participation in this research project is completely voluntary. You have the right to decide not to take part in the study. You also have the right to refuse to answer any questions, and the right to withdraw from the research study at any time, even during the interview. Further, you have the right to have the audiotape recording stopped at any point, which will end the interview. If you have any concerns or questions about this study, such as scientific issues, how to do any part of it, or to report an injury, please contact the principal investigator, Dr. April Zeoli, at 517-353-9554, or email: zeoli@msu.edu, or regular mail at 560 Baker Hall, MSU, East Lansing, MI 48824.

If you have any questions or concerns about your role and rights as a research participant, would like to obtain information or offer input, or would like to register a complaint about this research study, you may contact, anonymously if you wish, Michigan State University Human Research Protection Program at 517-355-2180, FAX 517-432-4503, or email irb@msu.edu , or regular mail at: 202 Olds Hall, MSU, East Lansing, MI 48824.

If you have been given the chance to ask any questions now or at a later time and if the document has been read and explained to you and you agree to be in this study, please sign below.

I voluntarily agree to participate in this study.

Print Name: _____

Signature

Date

Signature of Person Obtaining Consent

Date

APPENDIX C

The Child Custody Experiences Study

Interview Guide

Participant Number: _____

Interviewer: _____

CHECKLIST

- Completed informed consent procedure
- Received signed consent form
- Gave participant copy of consent form
- Turned on the tape recorder
- Stated the date and time
- Stated the participant number
- Conducted interview
- Gave participant \$40 reimbursement for time
- Obtained signed receipt of \$40

SECTION A: General Information

Thank you for agreeing to be interviewed about your experiences with family court and custody and visitation. I would first like to ask you some general questions.

[Interviewer note: Explore her level of comfort in sharing information with you, e.g. Do you have any concerns about your safety in providing information to me?]

A1) Part of our conversation today will be about your child/ren’s father. For the sake of ease, we should call him by a name, however it does not have to be his actual name if you are uncomfortable with that. How would you like us to refer to him?

A2) Do you live separately from <name> ?

If yes... How long have you lived separately from <name> the child/ren’s father?

A3) Where does he currently live?

- Same house/apartment as participant
- Same building as participant
- Same neighborhood/town/city
- Same state
- Different state: _____
- Different country: _____
- Incarcerated
- Other: _____
- Don’t know

A4) Are either of you in a new relationship? Have either of you had any children since the separation?

If yes... How many?

	New relationship	New Children	New stepchildren
Mother	Yes / No	Yes → #:____/ No	Yes → #:____/ No
Father	Yes / No / Don’t know	Yes → #:____ / No / Don’t know	Yes → #:____ / No / Don’t know

A5) What are the ages and genders of the children you share with <name>? Do you mind telling me their name or making up a name so that I can refer back to them during the interview?

	Name	Gender	Age now
Child 1			
Child 2			
Child 3			
Child 4			
Child 5			
Child 6			

A6) You mentioned on the phone that your ex-husband was controlling or violent. If you don't mind, could you please describe some of his controlling or violent behaviors, or reasons why you feared for your safety?

If no physical violence mentioned: Did he ever use physical force against you? In other words, did he ever hit, slap, kick, punch, shove or otherwise physically hurt you?

If only physical violence mentioned: Were there other things that he did, actions that did not physically hurt you, that made you fear for your safety?

Follow-ups: When did these behaviors start?

Were you able to get any documentation of these behaviors? (e.g. police reports)

How long did these behaviors go on?

Did your child/ren ever witness any of these events?

SECTION B: Information about the Court Case

Before we talk about how the custody and visitation arrangement is going, let's first talk about how your court case went, if that's okay.

Experiences with the legal system can range from frustrating or worse to satisfying or better. The term "the legal system" can refer to lawyers, judges, conciliators, custody evaluators, and any others you may have had to interact with during the court case.

B1) Did you have legal representation for the custody case? Did <name>?

B2) What custody arrangement had you hoped for when divorce was originally filed for?

Follow-up: Why was that?

Did your hope for the custody arrangement change during the court process?

B3) Tell me about what happened during the court case, including your perceptions of the process. *[Interviewer note: These are the issues we're trying to get at: Were any specific safety arrangements made for you during the conciliation process and did these adjustments make you feel safer? Do you feel like the process you went through was reasonable given concerns for your safety]*

B4) Were you asked about abuse by any court official, from Friend of the Court personnel, custody evaluators, conciliators, and lawyers to judges?

B5) If you told any court official about abuse, what was the reaction of the court official? Were your concerns taken seriously, documented, and followed up on?

B6) *[Interviewer note: Ask only if she did NOT mention physical abuse.]* If your ex-husband used threats, emotional, psychological abuse, and economic abuse, but not physical abuse, were your concerns taken seriously?

B9) Did you go through conciliation?

*If no...*How did you become exempt from conciliation?

B11) Was an objection made to the custody recommendation from the Friend of the Court conciliator?

*If yes...*Who made the objection?

Why was the objection made?

B10) Did you go through mediation?

If yes... Tell me about that.

Did the conciliator refer you to mediation?

B7) Was a custody evaluation conducted?

If yes... Tell me about that.

B8) Earlier you talked about how your ex-husband was controlling or violent. Did you tell the custody evaluator about <name's> behavior?

If yes... Did the evaluator ask you questions about <name's> controlling and violent behaviors?

Did the evaluator write your statement down in the custody report?

Did the evaluator ask about your and your children's safety?

Did the evaluator give you referrals to services that could help you?

If no... What was your reason for not telling the evaluator?

B21) How were custody and visitation decisions eventually arranged?

1 = Court-ordered by Friend of the Court after the conciliation process

2 = Court-ordered by a judge

3 = You and the child/ren's father came to an agreement which the court approved

4 = Other: _____

Follow up... Tell me more about that experience.

B22) What is the custody arrangement for each of your children with <father's name>?

1 = Mother has sole physical and legal custody

2 = Father has sole physical and legal custody

3 = Joint custody: Mother as primary residential parent

4 = Joint custody: Father as primary residential parent

5 = Joint shared physical custody

6 = Other, please specify: _____

	Name	Arrangement (Mark 1-6)
Child 1		
Child 2		
Child 3		
Child 4		
Child 5		
Child 6		

[Interviewer note: Ask questions B12 and B13 about the court official who made the most recent custody decision, usually a conciliator, sometimes a judge]

B12) What factors do you think the conciliator/judge/mediator took into account in making the final custody decision?

B13) Did you tell the conciliator/judge/mediator about <name's> behavior?

If yes... Did the conciliator/judge/mediator ask you questions about <name's> controlling and violent behaviors?

Do you feel like the conciliator/judge/mediator was sympathetic to domestic violence issues or that they blamed you, they did not care, or did not take them into consideration?

Did the conciliator/judge/mediator write your statement down in the custody report?

Did the conciliator/judge/mediator ask about your and your children's safety?

Did the conciliator/judge/mediator give you referrals to services that could help you?

If no... What was your reason for not telling the conciliator/judge/mediator?

B14) Sometimes people like others are influencing what they should or shouldn't say. Did you ever feel like you were being influenced to say something about the custody decision that you didn't want to say? *[Interviewer note: We're interested in whether the father tried to influence her decisions regarding the custody case.]*

B15) Do you feel like you were listened to and that your safety and the safety of your child/ren were taken into account in the conciliation/mediation/court process and custody decision?

Follow-up: What could they have done to make the process safer?

B16) Was your or your child/ren's safety addressed during the court case or mediation?

If yes... When was this addressed? (i.e. in the court, outside of the court, during the custody evaluation, when during the process)

How was this addressed?

Do you feel like you were listened to?

If no... Why were safety issues not brought up?

Do you feel that the conciliator/judge knew about the violence?

B17) Were your children consulted in making the custody decision?

Follow-up: Did your child/ren ever express any preference for custody and visitation?

If yes... Does the custody decision reflect your child/ren's wishes?

B18) Were you accused of "coaching, scripting, brain washing your children" or otherwise inventing allegations of abuse in the home?

If yes... By whom?

Was this used during an official custody hearing?

Was the term 'Parental Alienation Syndrome' used in the courtroom or during the conciliation?

B19) How much time passed between when the divorce was filed and when you received your custody arrangement?

B20) How did you deal with custody and/or visitation during the time between your separation and the custody decision?

B23) How long has your current custody order been in place?

B24) Is there a court-mandated visitation arrangement?

If yes... What is it?

B25) Are there any conditions the court has asked you or <name> to meet? Examples of such requirements include parenting classes or alcohol or drug treatment.

SECTION C: Custody and Visitation Arrangements

Sometimes the custody and visitation arrangement put in place by the court differs from how custody and visitation is handled in everyday life. This can happen for many reasons and may or may not be true in your situation. I just want to remind you that what you tell me today will be held in confidence and not shared with the court.

C1) Could you tell me how custody and visitations are going so far?

C2) How would you describe <name's> parenting abilities?

[Interview note: Ask C3 – C4 regardless of whom is the custodial or primary residential parent. If she is not the custodial or primary residential parent, the questions refer to her visitations with the children.]

C3) How often in the past six months has <name>/you spent time with or been around (any of) your child/ren?

0 = No contact

1 = Rare or infrequent contact, with child spending little time with <name>

2 = Sporadic contact, with child spending “chunks” of time with <name>

3 = Regular but infrequent contact (once a month or less)

4 = Regular, frequent contact (more than once a month)

5 = Almost daily or daily contact

Mark a number from above in the frequency box.

	Name	Frequency of contact
Child 1		
Child 2		
Child 3		
Child 4		
Child 5		
Child 6		

C4) On average, how frequently did each of the following forms of contact happen for the child/ren with their father/you over the last 6 months?

0 = Never

1 = Once

2 = Once a month or less (2 to 4 times in the last 6 months)

3 = Two to three times a month

4 = One or two times a week

5 = 3 or 4 times a week

6 = More than 4 times a week

7 = Daily

Please mark the appropriate number in the box for each child.

	Child 1	Child 2	Child 3	Child 4	Child 5	Child 6
--	---------	---------	---------	---------	---------	---------

NAME						
Overnight visits						
Non-overnight visits						
Telephone						
Texting/Instant messaging						
Letters/cards						
Photos						
Email						
Visual technology (webcams)						
Myspace/Facebook						
Other (please specify)						

[Interviewer note: Only ask C5 and C6 if she has physical custody or is the primary residential parent]

C5) Does your ex-husband ever try to see the child/ren outside of pre-arranged visitations against your desires?

If yes...How?

How often?

Is he successful?

What have you done about it, if anything?

C6) Have you ever wanted your child/ren to have additional contacts with their father? Does <name> have any additional contacts with them outside of the pre-arranged visitation schedule that you've wanted?

If yes...Under what circumstances does this occur?

How often?

How do you feel about it?

How do the children feel about it?

[Interview note: Ask C7 – C9 regardless of whom is the custodial or primary residential parent. If she is not the custodial or primary residential parent, the questions refer to her visitations with the children.]

C7) Is visitation supervised?

If yes... Is the supervision formal or informal?

Who supervises?

Is this the same for all children?

C8) Where do visitations occur?

	Name	Is visitation supervised?	Who supervises? (relationship to child or hired staff)	Locations of visitations
Child 1		Yes No		
Child 2		Yes No		
Child 3		Yes No		
Child 4		Yes No		
Child 5		Yes No		
Child 6		Yes No		

C9) How do child exchanges occur? Are they supervised?

If yes... By whom?

SECTION D: Safety

Some women are concerned for their safety during and after a relationship has ended while other women are not. For some, ending the relationship makes them feel less safe than they felt in the relationship, while other women feel safer. Safety concerns can be for oneself or one's children, and do not always involve a physical act or threat. I'd now like to ask you some questions about your concerns and experiences.

[Interviewer note: If there have been any threats or abuse, get details about when, what happened, where, whether there were witnesses, whether it was reported, and whether there were consequences for the perpetrator.]

D1) Have you ever feared for your or your child's safety because of your ex-husband?

[Interviewer probe: during relationship but no longer, now but not during relationship, both during relationship and now]

D2) Has your ex-husband threatened you or harmed you during visitation or exchanges?

If yes...How?

What have you been able to do to try to stop this from happening in the future?

D3) Has your ex-husband threatened or harmed your child/ren during his time with them or exchanges?

If yes...How?

What have you been able to do to try to stop this from happening in the future?

D4) How safe do you believe your children are during their time with their father?

D5) Since the relationship ended, have you had to call the police because of your ex-husband?

D6) In order to feel safer, some women get a personal protection order. Do you currently have a personal protection order, or PPO?

If yes...Have you had a PPO in the past?

Has he ever violated the PPO?

Do you feel more safe, less safe, or about the same since you took out the PPO?

D7) Has your ex-husband ever (before, during, or after separation) told you he was going to call Child Protective Services on you?

If yes...When?

What happened?

Was Child Protective Services actually called?

Were there consequences?

D8) Have your children been emotionally harmed during time spent with their father or exchanges?

If yes...How?

Have you been able to do anything to try to stop this from happening in the future?

D9) How concerned are you, if at all, that your ex-husband will threaten or harm your child/ren in the future?

Follow-up: Why do you say that?

D10) Have you heard of or are you aware of any instances where <name> used drugs/alcohol in the presence of your child (before, during, or after separation)?

If yes...How?

Have you been able to do anything to stop this from happening in the future?

D11) Do you have any ongoing fear or concerns for your own safety due to contact with your ex-husband?

D12) Do you have any ongoing fear or concerns for your child/ren's safety due to contact with their father?

D13) Have you or your children gone anywhere for help regarding the situation between you and your ex-husband (before, during, or after separation)?

If yes...Where?

How helpful have these services been?

What problems, if any, did you encounter?

D14) Do you feel like your safety concerns are being met or acknowledged by the court?

If no... What changes need to be made to meet your concerns?

D15) Since the custody or visitation arrangement has been in place, have you or your child/ren wanted it changed?

If yes... Why?

What would you change it to, if you could?

D16) Have you ever tried to change your custody or visitation arrangement?

If yes... What was your experience with this? (including the outcome)

Do you feel your needs, fears, or concerns were addressed or acknowledged by the court?

Why or why not?

D17) If you ever were to want to change the custody or visitation arrangement, would you be able to do that?

[Probe: What would prevent you from doing that? What would make it more likely that you would do that? Etc.]

D17) Are you aware that there is an informational meeting available, called Access to Justice, regarding changing custody and child support arrangements?

D18) Do you have any other concerns you would like to discuss?

Now I have a paper survey that I would like for you to complete. These questions are about the conciliation process and the conciliator. [Interviewer: If you have any concerns about literacy, offer to read the survey out loud for the participant. Also, remind her which meeting was the conciliation meeting, if appropriate.]

AFTER SHE COMPLETES THE PAPER SURVEY:

Thank you so much for your time today. Your answers will help us understand the experiences of women with children who have divorced a controlling spouse. If you have further questions about the research, please contact Dr. April Zeoli, whose contact information is on your consent form. Here is your \$40. [Interviewer: Obtain signed receipt of \$40.]

___ Conducted interview

___ Completed paper survey

___ Gave participant \$40 reimbursement for time

___ Obtained signed receipt of \$40

Conciliation Experiences Survey

The following questions ask about your experiences with the [Deleted to Protect Privacy] conciliation meeting. The survey is divided into three sections. The first section asks for some general background information about you. The second series of questions asks a series of questions about the conciliator. The final section is about your reactions to the conciliation meeting.

SECTION 1

Now I just have some questions to get an idea of who the women are who completed this interview. I just want to remind you that your answers are completely confidential and won't be used to identify you in any way.

3a) How old are you? _____

3b) What is your race/ethnicity? *Please describe:* _____, *or choose from the following:*

- African American/Black
- Asian American or Pacific Islander
- Latina
- Native American
- White

3c) What is the highest school level you have completed?

- Some high school
- High school graduate or GED
- Some college
- Trade school degree or certificate
- 2-year college or associates degree
- Bachelor's degree
- Masters degree
- Doctoral degree

SECTION 2

This section will ask questions about the conciliator's behaviors, actions, and beliefs. Please indicate the degree to which you agree or disagree with the following statements.

THE CONCILIATOR:	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	Does Not Apply
1a. Made the conciliation meeting safe for me to be there.	1	2	3	4	5	N/A
1b. Focused on what was best for my child/ren.	1	2	3	4	5	N/A
1c. Seemed knowledgeable about domestic violence.	1	2	3	4	5	N/A
1d. Seemed concerned about domestic violence.	1	2	3	4	5	N/A
1e. Encouraged me to voice my opinion.	1	2	3	4	5	N/A
1f. Said that the violence was not serious enough to talk about during conciliation.	1	2	3	4	5	N/A
1g. Made the conciliation meeting safe for me to talk.	1	2	3	4	5	N/A
1h. Asked me to describe more details about the violence than I was comfortable with.	1	2	3	4	5	N/A
1i. Said that I was partly to blame for the violence.	1	2	3	4	5	N/A
1j. Did not let my ex-partner control the	1	2	3	4	5	N/A

conversation.						
1k. Encouraged my ex-partner to let me speak.	1	2	3	4	5	N/A
1l. Said that he/she believed my ex-partner.	1	2	3	4	5	N/A
1m. Said that he/she would not talk about the violence because it happened in the past.	1	2	3	4	5	N/A
1n. Said that I was lying about the violence.	1	2	3	4	5	N/A
1o. Accused me of causing the violence	1	2	3	4	5	N/A
1p. Said that he/she was concerned for my safety.	1	2	3	4	5	N/A
1q. Said that I was exaggerating about the violence.	1	2	3	4	5	N/A
1r. Seemed to believe that I should have fought back against my ex-partner.	1	2	3	4	5	N/A
1s. Seemed to believe that I let my child/ren witness the violence.	1	2	3	4	5	N/A
1t. Said that he/she believed me about the violence.	1	2	3	4	5	N/A
1u. Blamed me for staying with my ex-partner as long as I did.	1	2	3	4	5	N/A
1v. Said that there is	1	2	3	4	5	N/A

never an excuse for violence.						
1w. Said that I was overreacting.	1	2	3	4	5	N/A
1x. Seemed to believe that I was partially to blame for the violence.	1	2	3	4	5	N/A
1y. Seemed to believe that I should not have fought back against my ex-partner.	1	2	3	4	5	N/A
1z. Said that I should have done better at protecting my children.	1	2	3	4	5	N/A
1aa. Made a fair custody recommendation.	1	2	3	4	5	N/A
1bb. Said that the violence was not serious enough to consider in the custody determination.	1	2	3	4	5	N/A
1cc. Made a custody recommendation that took into account the safety of my child/ren.	1	2	3	4	5	N/A
1dd. Made a custody recommendation that took into account my safety.	1	2	3	4	5	N/A

SECTION 3

This section will ask questions about how you felt during the conciliation process. Please indicate the degree to which you felt each of the following during conciliation:

DURING THE CONCILIATION MEETING, I FELT:	Not at all	A little	Neutral	Some of the time	A lot
2a. Safe	1	2	3	4	5
2b. Believed	1	2	3	4	5
2c. Defenseless	1	2	3	4	5
2d. Heard	1	2	3	4	5
2e. Ashamed	1	2	3	4	5
2f. Respected	1	2	3	4	5
2g. Helpless	1	2	3	4	5
2h. Cared for	1	2	3	4	5
2i. Disbelieved	1	2	3	4	5
2j. Cared about	1	2	3	4	5
2k. Ignored	1	2	3	4	5
2l. Distressed	1	2	3	4	5
2m. Comfortable	1	2	3	4	5
2n. Unheard	1	2	3	4	5
2o. Interrogated	1	2	3	4	5
2p. Confident	1	2	3	4	5
2q. Empowered	1	2	3	4	5
2r. Scared	1	2	3	4	5

2s. Intimidated	1	2	3	4	5
2t. Listened to	1	2	3	4	5
2u. Dismissed	1	2	3	4	5
2v. Blamed	1	2	3	4	5
2w. Powerful	1	2	3	4	5
2x. Threatened	1	2	3	4	5
2y. Supported	1	2	3	4	5

APPENDIX D

Table D.1. Research Questions and Corresponding Interview Guide Questions and Initial Assertions

Research Question	Interview Question	Initial Assertion/s
(1) At the time of mediation, what are women's concerns about their own and their child/ren's safety if they had abusive partners?	B2) What custody arrangement had you hoped for when the divorce was originally filed and why?	(1) At the time of mediation, women who experienced IPA from their ex-husband are concerned for their child's physical safety. (1) At the time of mediation, women who experienced IPA from their ex-husband are concerned for their child's emotional wellbeing. (1) At the time of mediation, women who experienced IPA from their ex-husband are concerned about being controlled.
(1a) How do these concerns and the father's abusive history get relayed to the conciliator?	B9) Did you go through conciliation? (Probe: Tell me about that) B4) Were you asked about the abuse by any court official, from Friend of the Court personnel, custody evaluators, conciliators, and lawyers to judges? B5) If you told any court official about the abuse, what was the reaction of the court official? Were your concerns taken seriously, documented, and followed up on?	(1a) Women will relay their child's safety concerns to the conciliator indirectly (bring up other related issues, such as drinking or gun possession). (1a) Women will mention specific incidents and their actions to protect the child. (1a) Women will relay their concerns over the controlling behavior to the conciliator indirectly (requesting specifics on the conciliation order).
(2) How do conciliators respond to the allegations of the fathers' abusive behaviors?	B5) If you told any court official about the abuse, what was the reaction of the court official? Were your concerns taken seriously, documented, and followed up on?	(2) Conciliators will dismiss allegations of emotional abuse or controlling behaviors of the father. (2) When women attempt to protect their children, efforts will often not be recognized by the conciliator.

Table D.1 (Continued)

	<p>B13) Did you tell the conciliator/judge/mediator about [ex-husband's] behavior? IF YES: Did the conciliator ask you questions about his controlling and violent behaviors? Do you feel like the conciliator was sympathetic to domestic violence issues or that they blamed you, they did not care, or did not take them into consideration? Did the conciliator write your statement down in the custody report? Did the conciliator ask you about your and your child/ren's safety? Did the conciliator give you referrals to services that could help you?</p> <p>B25) Are there any conditions the court has asked you or [ex] to meet?</p>	<p>2) When women attempt to protect their children, efforts will often be judged harshly by the conciliator. (2) Conciliators will assume he is a better parent than she is.</p>
<p>(2a) How did those responses impact the conciliators' treatment of the women?</p>	<p>B5) If you told any court official about the abuse, what was the reaction of the court official? Were your concerns taken seriously, documented, and followed up on?</p> <p>B13) See above</p>	<p>(2a) Conciliators dismiss allegations of emotional abuse or controlling behaviors of the father and regard them as irrelevant. (2a) Conciliators criticize or punish women for attempting to protect their child/ren (2a) Conciliators view allegations as "he said/she said" and will not investigate further, dismissing both parties' allegations</p>
<p>(2b) How did those responses impact the custody and visitation recommendation?</p>	<p>B21) How were custody and visitation decisions eventually arranged? (Probe: Tell me more about that experience)</p> <p>B22) What is the custody arrangement for each of your children?</p>	<p>(2b) Conciliators will pressure mothers to agree to joint custody. (2b) Conciliators will make custody orders that place children in physical or emotional danger.</p>

Table D.1 (Continued)

	B15) Do you feel like you were listened to and that your safety and the safety of your children were taken into account in the conciliation process and custody decision?	(2b) Conciliators will make custody orders that allow abusive fathers to continue their abuse and control over the mother.
(2c) Did women experience secondary victimization during conciliation?	Individual Conciliation Experiences Scale (CES) responses + transcript summaries of individual conciliation experiences	(2c) Women feel judged, blamed, or dismissed by the conciliator. As a result, they are less likely to return to court for future custody issues, even when her or her child's safety is at risk.

APPENDIX E

Table E.1. Assertion Results By Participant

ID	A	B	C	D	E	F	G	H	I	J	K	% U
Michelle	C	C	C	C	U	U	C	C	C	D	N	18%
Jackie	C	C	C	C	C	N	C	C	C	C	C	0%
Ashley	C	C	C	C	C	C	C	C	C	C	C	0%
Cindy	C	C	C	U	C	N	C	C	C	C	C	9%
Toni	C	C	C	C	C	C	C	C	C	C	U	9%
Maria	C	C	C	C	C	N	C	C	C	C	C	0%
Rose	C	C	C	C	C	C	C	C	C	C	C	0%
Lillian	N	C	C	N	C	C	C	C	C	C	C	0%
Eva	C	C	C	C	D	N	C	C	C	D	N	0%
Tanya	C	U	D	D	N	N	C	C	C	C	N	9%
Cecilia	N	C	C	C	U	N	C	C	C	C	U	18%
Amelia	N	D	N	N	N	N	C	C	C	U	U	18%
Melody	N	C	N	C	D	N	C	C	D	D	N	0%
Kelly	N	C	U	U	U	U	U	U	D	D	N	55%
Chelsea	C	U	C	C	U	N	C	C	D	D	N	18%
Nicole	C	C	C	N	C	N	C	C	C	C	C	0%
Celeste	N	U	N	C	U	N	C	D	C	C	C	9%
Lisette	C	D	C	C	U	N	C	C	D	C	U	18%
Brittany	C	C	C	C	N	N	C	C	C	D	N	0%
% U	0%	16%	5%	11%	32%	11%	5%	5%	0%	5%	16%	

C: Confirmed

D: Disconfirmed

N: Did not apply

U: Not enough information to confirm or disconfirm

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