



PRACTICE GUIDES FOR FAMILY COURT DECISION-MAKING IN DOMESTIC ABUSE- RELATED CHILD CUSTODY MATTERS

(Forms and Instructions)

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Table of Contents

A.	INTRODUCTION	3
B.	A FRAMEWORK FOR IDENTIFYING, UNDERSTANDING AND ACCOUNTING FOR ABUSE	4
1.	Identifying Domestic Abuse	4
2.	Defining the Nature and Context of Abuse	5
3.	Evaluating the Implications of Abuse.....	5
4.	Taking Informed Action by Accounting for Abuse.....	5
C.	IMPLEMENTING THE FRAMEWORK	6
D.	INITIAL DOMESTIC ABUSE SCREENING GUIDE	7
E.	DOMESTIC ABUSE INTERVIEW GUIDE.....	11
F.	SAMPLE OBSERVATIONS AND INFERENCES	20
G.	PARENTING IN THE CONTEXT OF DOMESTIC ABUSE.....	23
H.	BEST INTERESTS OF THE CHILD DOMESTIC ABUSE ANALYSIS	36
I.	CASE PLANNING GUIDES	40
J.	READINESS FOR MEDIATION ASSESSMENT GUIDE	48
K.	READINESS FOR CO-PARENTING ASSESSMENT GUIDE	53
L.	GUIDE TO APPROPRIATENESS OF EARLY NEUTRAL EVALUATION.....	58



A. INTRODUCTION

This compilation of research-based practice guides is designed to support and enhance substantive and procedural decision-making by family court professionals involved in domestic abuse-related child custody matters. It provides guidance on how to identify, understand and account for the nature, context and implications of abuse at every stage of the family court proceeding by any person who is involved in the case. It promotes informed decision-making that focuses upon the lived experiences of the parents and children whose lives are being adjusted by and within the family court system.

The practice guides contained in this compilation were developed by the Battered Women's Justice Project, in consultation with the National Council of Juvenile and Family Court Judges and representatives from the Association of Family and Conciliation Courts, with generous support from the U.S. Department of Justice Office of Violence Against Women. The practice guides were informed by researchers, scholars, and expert practitioners, as well as battered and battering parents across the country and around the world.

The materials presented here function as a package. They are color-coded to denote the relationships between and among the several guides. In other words, a blue section in one chart corresponds with the blue sections in every other chart. Likewise, an orange section in one chart corresponds with the orange sections in every other chart. The parenting charts have a separate color-coding system. In the parenting charts, green areas denote "safety" and red areas denote "danger."

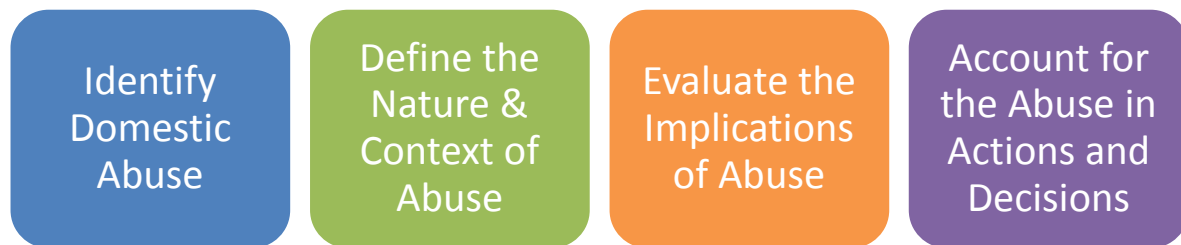
No part of this compilation is meant to be used in isolation from any other. Nor is the whole or any part of this compilation meant to be used outside of the family court setting.

This compendium is a work-in-progress. Please contact the Battered Women's Justice Project at technicalassistance@bwjp.org for periodic updates.



B. A FRAMEWORK FOR IDENTIFYING, UNDERSTANDING AND ACCOUNTING FOR ABUSE

This four-part framework is designed to help you gather, synthesize and analyze information about the context and implications of domestic abuse in order to improve informed decision-making. It can be used by anyone in any profession at any stage of the proceeding. The framework consists of the following four parts. Each part is described more fully below.



1. Identifying Domestic Abuse

The first step of the framework is to identify domestic abuse. At the outset, you must try to determine whether abuse is or may be an issue in the case. Several tools currently exist to help identify domestic abuse. A couple of them are included in this compilation, but many more are available elsewhere.

Most domestic abuse screening tools are designed for a specific purpose and a specific practice setting. Different tools look for different things for different reasons. Each has its own strengths and limitations. Consequently, it is important for you to know what you are looking for and why – and to use tools that are designed to get at what you need.

In order to promote safe and informed disclosures of domestic abuse, it is also important for you to explain to the people you screen why you are asking about abuse, how you will use the information they provide, who will have access to it, and where it might show up later in the family court process. For a more detailed discussion of how to promote safe and informed disclosures of domestic abuse, see the Initial Domestic Abuse Screening Guide and the Domestic Abuse Interview Guide in Sections IV and V below.



2. Defining the Nature and Context of Abuse

Identifying domestic abuse is an important first step, but just knowing that abuse has occurred or is still occurring does not tell you all you need to know in order to make informed decisions and take informed action. You need to know more specifically what is actually going on – what the nature and context of the abuse are. You need to know who is doing what to whom, why and to what effect. And, in the context of a family law case, you need to know what is going on with respect to parenting and the health, safety and wellbeing of the children, as well as the parent who is subjected to abuse.

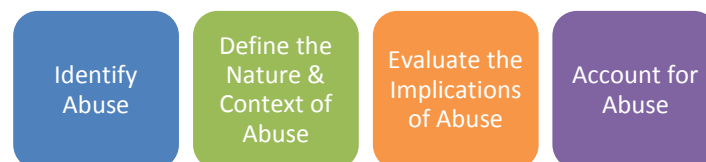
3. Evaluating the Implications of Abuse

The third step of the framework is to evaluate the implications of the abuse. It says, “Now that you know what’s going on, what does it mean for the task or decision at hand?” For instance, if you are trying to come up with a parenting plan, you need to ask what the consequences of the abuse are for parenting. What risks and problems does the abuse create for the parents and for the children? What kinds of things are standing in the way of constructive parenting and healthy childhood development?

4. Taking Informed Action by Accounting for Abuse

By virtue of custom and practice, the family court system is often more focused on “divvying things up” (including the children) than it is on “making things work.” When institutional attention turns to “divvying things up” – to dividing and allocating aspects of the child’s life between the parents – it does not always tend to the very immediate things that get in the way of “making things work” for the child and the parents. For instance, it does not always account for post-separation abuse, or ongoing coercive control, or parenting practices that jeopardize the child’s safety and well-being, or the safety and well-being of the battered parent.

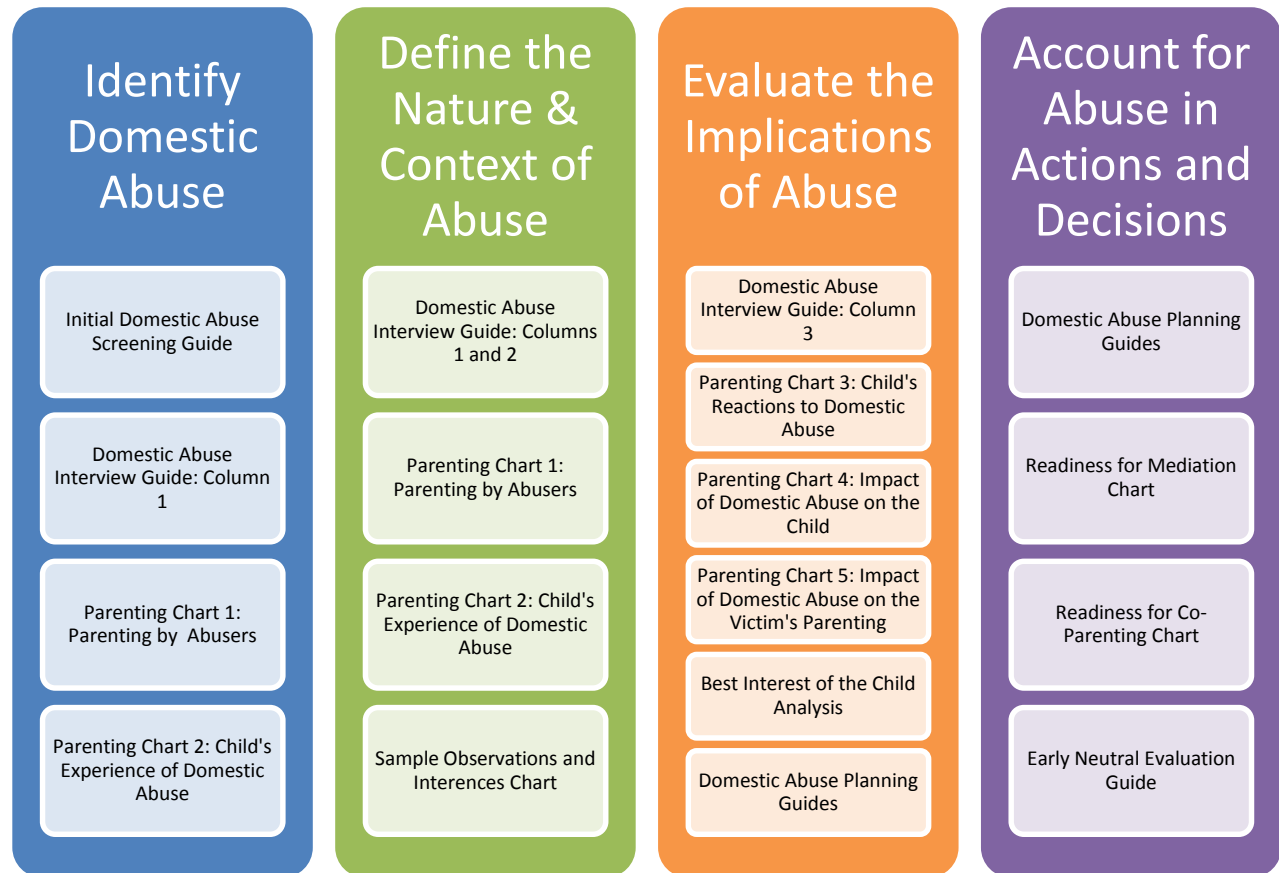
To address this problem, the last stage of the framework focuses on making informed decisions and taking informed actions that fully account for the nature, context and implications of abuse. In this way, the framework encourages you to directly address the underlying conditions that would otherwise allow the abuse – and its implications – to persist long after the family court case is officially closed.





C. IMPLEMENTING THE FRAMEWORK

Each step of the framework is supported by one or more practice guides. The practice guides applicable to each step of the framework are listed below. Each is discussed more fully in the pages that follow.



Additional practice guides are currently under development. They include guidance on early neutral evaluation, collaborative law, parent coordination, parent education, and interventions for parents who engage in domestic abuse, among others. Please contact the Battered Women's Justice Project at technicalassistance@bwjp.org for periodic updates.



D. INITIAL DOMESTIC ABUSE SCREENING GUIDE

This initial screening guide is designed to help you identify domestic abuse and coercive controlling behaviors in family law cases. It is a simple screen that attempts to detect whether domestic abuse is or may be an issue in the case. It is not a comprehensive assessment guide like the Domestic Abuse Interview Guide that appears later in this compilation. You may use this guide to conduct an initial domestic abuse screen, or you may go directly to the Domestic Abuse Interview Guide for a more comprehensive screening and assessment protocol.

Whether you start with this screening guide or the more comprehensive Domestic Abuse Interview Guide, you should systematically screen every adult who plays a parenting role in the case, or who has a significant relationship with a parent in the case, regardless of gender, marital status, sexual orientation, or parenting status.

Before you begin, you should explain to the person you are working with:

- (1) That the professional standards that guide your work require you to look into certain issues in every case, including domestic abuse, and that knowing about any history of abuse will help you carry out your functions and fulfill your professional responsibilities;
- (2) What your specific role and function is in relation to the case, including:
 - What you were appointed, hired or referred to do;
 - What steps you plan to take to carry out your functions;
 - What you will and won't share with the court, the opposing party, and others; and
 - Whether the information will appear in the record and/or a pleading or report.
- (3) The scope and/or limits of confidentiality and your duty to report suspected child abuse and certain serious crimes.



If a person discloses domestic abuse, you should:

- (1) Obtain as much information as possible in order to fully understand the context and implications of the abuse;¹
- (2) Conduct a thorough domestic abuse risk assessment² or refer the person to a qualified risk assessment specialist; and
- (3) Refer the person to a qualified domestic abuse advocate for safety planning assistance.

Remember that risk from domestic abuse is never static, that it is difficult to predict, that it can fluctuate over time, *and that it often escalates once it has been disclosed and/or the parties separate*. Consequently, screening for domestic abuse is not a one-time event, but should occur periodically over the course of your involvement in the case.

¹ The accompanying Domestic Abuse Interview Guide may assist in this effort.

² You may wish to refer to the list of risk assessment factors that appears at the end of the accompanying Domestic Abuse Interview Guide, and in the accompanying Domestic Abuse Planning Guides, for further direction.



INITIAL DOMESTIC ABUSE SCREENING GUIDE

Basic Screening Questions:

What to Listen For:

How comfortable are you interacting with _____ now?

- Do you have any concerns, fears or anxieties that I should be aware of?
- What worries you most?

Personal Interactions

Comfortable	↔	Uncomfortable
Safe/Secure	↔	Fearful/Anxious
Self-Ruled	↔	Controlled
Connected	↔	Isolated
Respected	↔	Disparaged
Self-Reliant	↔	Dependent
Supported	↔	Undermined

When you look back over time, how were practical, everyday decisions made in your relationship?

- How did you arrive at that arrangement?
- Are you comfortable with that?
- What happened when disagreements arose?

Everyday Decision-Making (food, shelter, finances, children)

Equal	↔	Dominating
Cooperative	↔	Coercive
Responsible	↔	Irresponsible
Fair	↔	Manipulative

Is there anything that gets in your way of doing the things you want or need to do in your daily life, like:

- Managing your daily affairs
- Meeting your basic needs
- Meeting the basic needs of the children
- Fulfilling your everyday responsibilities
- Making your own decisions
- Interacting with other people

Control of Everyday Life

Self-Directed	↔	Controlled
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Has there ever been any physical violence between you and _____? If so, can you tell me about that?

Physical Violence

Very rare	↔	Every day
Very minor	↔	Very severe
No harm	↔	Severe injury

Have you ever felt so ashamed, humiliated, embarrassed or fearful by something you or _____ said or did to the other that you didn't want anyone else to know about it? If so, can you tell me about what that was like for you (without revealing specifics)?

Emotional Well-being

Safe/Secure	↔	Fearful/Anxious
Self-Respect	↔	Humiliation
Autonomous	↔	Controlled

Have you or _____ ever forced the other to do sexual things the other didn't want to do or insisted on having sex when the other didn't want to? If so, can you tell me about that?

Sexual Autonomy

Voluntary	↔	Forced
Respectful	↔	Degrading



Have you or _____ ever been concerned that the other was going to physically or psychologically harm the other, the children, or pets? If so, please explain.

Fear of Physical or Psychological Harm
(self, children, pets, others)

Not fearful ←————→ Very fearful

How are parenting time arrangements currently being worked out?

- How did you arrive at that arrangement?
- Are you comfortable with that?
- Any concerns about children or fears for their safety?

Parental Decision-Making

Equal ←————→ Dominating
 Cooperative ←————→ Coercive
 Responsible ←————→ Irresponsible
 Child-Focus ←————→ Self-Focus
 Fair ←————→ Manipulative

Physical/Sexual Abuse	Emotional Abuse	Control of Daily Life	Economic Abuse
<input type="checkbox"/> Hold, pin, restrain <input type="checkbox"/> Kneel on or sit upon <input type="checkbox"/> Tie up, bind, gag <input type="checkbox"/> Push, shove, shake <input type="checkbox"/> Grab <input type="checkbox"/> Scratch, pull hair, <input type="checkbox"/> Shave <input type="checkbox"/> Twist arm <input type="checkbox"/> Bite <input type="checkbox"/> Spit on <input type="checkbox"/> Urinate upon <input type="checkbox"/> Slap <input type="checkbox"/> Hit or punch <input type="checkbox"/> Kick or stomp <input type="checkbox"/> Strike or throw object <input type="checkbox"/> Choke or strangle <input type="checkbox"/> Burn <input type="checkbox"/> Poke, stab, cut <input type="checkbox"/> Withhold food <input type="checkbox"/> Withhold medicine <input type="checkbox"/> Disable medical equip. <input type="checkbox"/> Forced sex	<input type="checkbox"/> Insult you/put you down <input type="checkbox"/> Ridicule you in public <input type="checkbox"/> Purposely humiliate you <input type="checkbox"/> Play mind games <input type="checkbox"/> Intimidate you <input type="checkbox"/> Yell or scream at you <input type="checkbox"/> Act aggressively to you <input type="checkbox"/> Get jealous/possessive <input type="checkbox"/> Accuse you of infidelity <input type="checkbox"/> Interfere with: <input type="checkbox"/> work/school life <input type="checkbox"/> social life <input type="checkbox"/> sleep <input type="checkbox"/> healthcare/medication <input type="checkbox"/> Threaten to: <input type="checkbox"/> kill you or the children <input type="checkbox"/> kill him/herself <input type="checkbox"/> harm you or the children <input type="checkbox"/> harm person you care for <input type="checkbox"/> harm or kill pets <input type="checkbox"/> Destroy things you care for <input type="checkbox"/> Threaten you w/ weapon <input type="checkbox"/> Put your life in danger <input type="checkbox"/> Disable your car <input type="checkbox"/> Drive recklessly to scare you	<input type="checkbox"/> Follow or stalk you <input type="checkbox"/> Often check up on <input type="checkbox"/> Examine mail/email <input type="checkbox"/> Check phone calls <input type="checkbox"/> Hack into email <input type="checkbox"/> Grill you <input type="checkbox"/> Time activities <input type="checkbox"/> Use others as spies <input type="checkbox"/> Invade privacy <input type="checkbox"/> Misuse social media <input type="checkbox"/> Physically restrain <input type="checkbox"/> Forbid you to leave <input type="checkbox"/> Punish you for disobeying <input type="checkbox"/> Arrive unannounced <input type="checkbox"/> Make unwanted contact <input type="checkbox"/> Leave things to scare you <input type="checkbox"/> Make you do things you don't want to do	<input type="checkbox"/> Deny money <input type="checkbox"/> Refuse to pay bills <input type="checkbox"/> Empty bank <input type="checkbox"/> Hide assets <input type="checkbox"/> Destroy your credit <input type="checkbox"/> Deny credit access <input type="checkbox"/> Run up debt <input type="checkbox"/> Forge papers <input type="checkbox"/> Refuse to pass title <input type="checkbox"/> Destroy property <input type="checkbox"/> Steal your property <input type="checkbox"/> Sell your property <input type="checkbox"/> Shut off utilities <input type="checkbox"/> Fail to pay insurance <input type="checkbox"/> Cancel insurance <input type="checkbox"/> Cancel credit cards <input type="checkbox"/> Refuse to work <input type="checkbox"/> Refuse to let you work <input type="checkbox"/> Try to get you fired <input type="checkbox"/> Hide bills <input type="checkbox"/> Hide financial info. <input type="checkbox"/> Constantly return to court



E. DOMESTIC ABUSE INTERVIEW GUIDE

The Domestic Abuse Interview Guide is designed to help you identify domestic abuse and coercive controlling behaviors in family law cases. It should be used with all adults who are parties, or who play a parental role in a case, regardless of gender, marital status, sexual orientation, or parenting status. Screening for domestic abuse is often complicated by the fact that victims: (1) may not know why it might be in the interests of their children or themselves to disclose abuse; (2) may be unclear or concerned about the ramifications of disclosure; (3) may not trust you with information about domestic abuse, in spite your good intentions; and (4) may not perceive that their current level of risk warrants disclosure. For these and other reasons, victims are often reluctant to disclose abuse. Screening for domestic abuse, therefore, is not a one-time event, but should occur periodically over the course of your involvement in the case. Bear in mind that talking about abuse may be an emotionally difficult experience for the interviewee, as well as for you. It is important to plan accordingly.

Introduction to the Interview Guide

The **first column** of this guide seeks general information across seven broad topic areas: (1) personal interactions; (2) access to resources; (3) children and parenting; (4) control of daily life; (5) emotional abuse; (6) physical abuse; and (7) sexual abuse. Below each broad topic area are examples of the kinds of things you might ask about in order to help you identify whether domestic abuse is, or may be, present. Research shows that asking behaviorally specific questions is the most effective method of screening for abuse and coercive control.

Learning about these seven broad topic areas can help you identify important issues in the case. It can help you assess the relative capacities of the parties to meaningfully participate in alternative dispute resolution processes. It can help you recognize the kinds of protections that ought to be put in place to ensure that court proceedings are safe and effective. And, it can help you and the parties with whom you are working to determine together what the most beneficial and realistic outcomes might be for themselves and their children.

The **second column** suggests follow-up areas to explore when any domestic abuse issues are identified or disclosed under column one. These discussion areas will help you gain a deeper understanding of the nature, context, severity and implications of domestic abuse and coercive controlling behaviors.

The **third column** contains a checklist of key concepts, behaviors, and dynamics to listen for in the narrative responses to the questions asked in columns one and two.



Practical Considerations

For safety reasons, care must be taken in determining where, when and how to conduct this interview. *The interview should not be conducted in the presence or proximity of any other party or interested person unless s/he is an advocate or support person and it is determined that the presence of that person will not create any confidentiality problems or threaten any applicable professional privilege, such as the attorney-client privilege.*

Before conducting the interview, you should explain to the interviewee:

- (1) That the professional standards that guide your work require that you look into certain issues in every case, including domestic abuse, and that knowing about any history of domestic abuse will help you carry out your functions and fulfill your professional responsibilities.
- (2) What your specific role and function is in relation to the case, including:
 - What you were appointed, hired or referred to do;
 - How you intend to do it;
 - What you will and won't share with the court, the opposing party, and others;
 - Whether the information will appear in the record and/or a pleading or report.
- (3) The scope and/or limits of confidentiality and your duty to report suspected child abuse and certain serious crimes.

If a person discloses domestic abuse, you should:

- (1) Obtain as much information as possible in order to fully understand its implications, without confining yourself to the topics listed in this guide;
- (2) Assess with the person the risks s/he may be facing, including risks of injury, death or other dangers, especially those arising from disclosing abuse; and
- (3) Refer the person to a qualified domestic abuse advocate for safety planning assistance and a more in-depth risk assessment, as appropriate.

Remember that risk from domestic abuse is never static, that it is difficult to predict, that it can fluctuate over time, *and that it often escalates once it has been disclosed and/or the parties separate.*



DOMESTIC ABUSE INTERVIEW GUIDE

Adapted from *Client Screening to Identify Domestic Abuse Victimization*, Domestic Abuse Committee of the Family Law Section of the Minnesota State Bar Association, 2010; Holtzworth-Munroe, Beck & Applegate (2010), *Mediator's Assessment of Safety Issues and Concerns*; and Janet Johnston, et al., *IN THE NAME OF THE CHILD* (2d ed.), Springer Publishing Co., 2009.

1. Personal Interactions	Discussion Areas:	What to Listen For:
<p>A. Let's start by talking about your current relationship with _____.</p> <p>B. How comfortable are you interacting with _____ now?</p> <ul style="list-style-type: none"> <input type="checkbox"/> Being alone together <input type="checkbox"/> Meeting face-to-face <input type="checkbox"/> Talking by phone <input type="checkbox"/> Emailing or texting <input type="checkbox"/> Public encounters <p>C. Do you have any concerns, fears or anxieties that I should be aware of?</p> <p>D. What worries you most?</p>	<ol style="list-style-type: none"> 1. Quality of interactions <ol style="list-style-type: none"> a. Ability to express views b. Trust in other's judgment c. Reliance on other's word d. Cost of disagreement e. Post-separation changes 2. Prior separations 3. Snapshots <ol style="list-style-type: none"> a. Happiest moments b. Most worrisome moment c. Scariest moments 4. Decision-making history 5. Stressors <ol style="list-style-type: none"> a. Abuse b. Alcohol/drugs c. Physical/mental health d. Criminal activity e. Poverty 	<p>Personal Interactions:</p> <p>Safe ↔ Dangerous</p> <p>Secure ↔ Fearful</p> <p>Autonomous ↔ Controlling</p> <p>Respectful ↔ Offensive</p> <p>Honest ↔ Deceptive</p> <p>Reliable ↔ Unreliable</p> <p>Consistent ↔ Volatile</p> <p>Supportive ↔ Damaging</p> <p>Cooperative ↔ Coercive</p> <p>Equal ↔ Dominant</p> <p>Trusting ↔ Suspicious</p> <p>Open ↔ Isolating</p>
2. Access to Resources	Discussion Areas:	What to Listen For:
<p>A. I'd like to get a sense of your economic wellbeing.</p> <p>B. Do you have access to your own resources, like money, bank accounts, food, housing, transportation and healthcare?</p> <p>C. Who decides how you spend money and manage your financial affairs?</p>	<ol style="list-style-type: none"> 1. History/detail 2. Ability to meet basic needs 3. Ability to meet obligations 4. Recent changes 	<p>Economic Well-being:</p> <p>Resources Not</p> <p>Accessible ↔ Accessible</p> <p>Decisions</p> <p>Cooperative ↔ Controlling</p> <p>Finances</p> <p>Secure ↔ Insecure</p> <p>Needs</p> <p>Always Met ↔ Never Met</p>



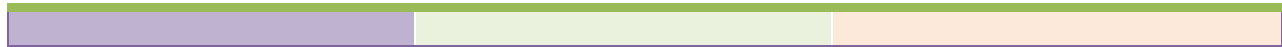
3. Children/Parenting	Discussion Areas:	What to Listen For:
<p>A. Let's talk about your children.</p> <p>B. Do you have any concerns about your children or fears for their safety?</p> <p>C. How are parenting time arrangements currently being worked out?</p> <ul style="list-style-type: none"> <input type="checkbox"/> Division of duties <input type="checkbox"/> Parenting skills/capacities <input type="checkbox"/> Parenting concerns/conflicts <input type="checkbox"/> Children's adjustment <input type="checkbox"/> Access/exchange issues <input type="checkbox"/> Satisfaction with the plan <p>D. Has _____ ever used or threatened to use the children to manipulate, control, or monitor you?</p> <p>E. How are your children doing now?</p>	<ol style="list-style-type: none"> 1. What worries you most? 2. Capacity for joint decisions <ol style="list-style-type: none"> a. Common beliefs/values b. Parental involvement c. Trust in parental judgment d. Support of other parent e. Respect for other parent f. Nurture/support of kids g. Conflict resolution skills h. Developmental stage(s) 3. Interference with care 4. Undermining authority 5. Threats to: <ol style="list-style-type: none"> a. Take children away b. Harm children c. File CPS reports d. Deport e. Evict 6. Post-separation changes 	<p>Abuser's Parenting:</p> <p>Safe ↔ Dangerous</p> <p>Secure ↔ Erratic</p> <p>Supportive ↔ Neglectful</p> <p>Child focus ↔ Self-focus</p> <p>Skilled ↔ Not skilled</p> <p>Protective ↔ Destructive</p> <p>Children's Well-Being:</p> <p>Developmental</p> <p>+ ↔ -</p> <p>Behavioral</p> <p>+ ↔ -</p> <p>Emotional</p> <p>+ ↔ -</p> <p>Cognitive</p> <p>+ ↔ -</p> <p>Social</p> <p>+ ↔ -</p> <p>Physical</p> <p>+ ↔ -</p> <p>Economic</p> <p>+ ↔ -</p> <p>Co-parenting:</p> <p>Communication</p> <p>+ ↔ -</p> <p>Judgment</p> <p>+ ↔ -</p> <p>Boundaries</p> <p>+ ↔ -</p> <p>Support</p> <p>+ ↔ -</p>



4. Control of Daily Life	Discussion Areas:	What to Listen For:
<p>A. I'd like to get a sense of how much freedom you have in your everyday life.</p> <ul style="list-style-type: none"> <input type="checkbox"/> To come/go as you please <input type="checkbox"/> To manage your own time <input type="checkbox"/> To make own decisions <input type="checkbox"/> To set your own priorities <input type="checkbox"/> To interact with others <p>Can you talk a little about that?</p> <p>B. Is there anything that gets in your way of doing the things you want or need to do?</p> <p>C. Has _____ ever:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Followed you <input type="checkbox"/> Often checked up on you <input type="checkbox"/> Examined your mail/email <input type="checkbox"/> Examined phone records <input type="checkbox"/> Hacked into email/accounts <input type="checkbox"/> Grilled you/timed activities <input type="checkbox"/> Used others to spy on you <input type="checkbox"/> Invaded your space/privacy <input type="checkbox"/> Misused social network sites <p>D. Has _____ ever physically restrained you, forbidden you from leaving, made you do things you didn't want to do, or punished you for defying his/her wishes?</p> <p>E. Has _____ ever shown up unannounced, contacted you against your will, or left something for you to find to scare or intimidate you?</p>	<ol style="list-style-type: none"> 1. Detail 2. Frequency 3. Severity 4. Intent of other's behavior 5. Meaning of behavior to you 6. Effect on: <ol style="list-style-type: none"> a. Interactions b. Relationships c. Communications d. Self/children e. Parenting skills/capacities 7. Change: <ol style="list-style-type: none"> a. Over time b. Pre/post pregnancy c. Pre/post separation 	<p style="text-align: center;">Control of Daily Life:</p> <p>Autonomy ↔ Control</p> <p>Freedom ↔ Constraint</p> <p>Support ↔ Obstruction</p> <p>Trust ↔ Jealousy</p> <p>Cooperation ↔ Coercion</p> <p>Privacy ↔ Intrusion</p> <p>Predictability ↔ Instability</p> <p>Equality ↔ Dominance</p> <p>Safety ↔ Fear/Dread</p> <p>Open ↔ Isolating</p> <p>Letting Go ↔ Stalking</p> <p>Compromise ↔ Rulemaking</p> <p style="text-align: center;">Risk Factors:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Access to firearms <input type="checkbox"/> Use/threat of weapon <input type="checkbox"/> Threat to kill <input type="checkbox"/> Step children <input type="checkbox"/> Control of daily activities <input type="checkbox"/> Violent or constant jealousy <input type="checkbox"/> Threatened/attempted suicide <input type="checkbox"/> Threat to harm children <input type="checkbox"/> Belief in capacity to kill <input type="checkbox"/> Stalking



5. Sexual Abuse	Discussion Questions:	What to Listen For:
<p>A. While it is uncomfortable to talk about these kinds of things, it's very important for me to know if ____ ever pressured or forced you to do sexual things that you did not want to do or that made you scared, uncomfortable, or ashamed. Has anything like that ever happened?</p> <p>B. Has ____ ever interfered with your decisions about birth control, pregnancy, and/or safe sex?</p> <p>C. Has ____ ever used your image, or forced or pressured you to use your own image, to engage in sexting or pornography?</p> <p>D. Is there anything else you think I should know about ____'s sexual behavior towards you?</p>	<ol style="list-style-type: none"> 1. Detail <ul style="list-style-type: none"> <input type="checkbox"/> Children <input type="checkbox"/> Family <input type="checkbox"/> Friends <input type="checkbox"/> Co-workers <input type="checkbox"/> Public <input type="checkbox"/> Nobody – just in private 3. Frequency 4. Severity 5. Intent of other's behavior 6. Meaning of behavior to you 7. Effect on: <ol style="list-style-type: none"> a. Interactions b. Relationships c. Communications d. Self/children e. Parenting skills/capacity 8. Change: <ol style="list-style-type: none"> a. Over time b. Pre/post pregnancy c. Pre/post separation 9. Injuries 10. Medical attention 11. Hospital visits 12. Calls for help/to police 13. Arrests 14. Convictions/sanctions 15. Orders for protection 16. Protection order violations 	<p>Intimate Relationship:</p> <p>Safe ↔ Harmful</p> <p>Consensual ↔ Forced</p> <p>Mutual ↔ Dominating</p> <p>Respectful ↔ Degrading</p> <p>Trusting ↔ Jealous</p> <p>Voluntary ↔ Coercive</p> <p>Secure ↔ Anxious</p> <p>Risk Factors:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Use/threat of weapon <input type="checkbox"/> Threat to kill <input type="checkbox"/> Forced sex <input type="checkbox"/> Attempted strangulation <input type="checkbox"/> Violent jealousy <input type="checkbox"/> Assault during pregnancy <input type="checkbox"/> Threat/attempted suicide <input type="checkbox"/> Threat to harm children <input type="checkbox"/> Belief in capacity to kill <input type="checkbox"/> Stalking <input type="checkbox"/> Illegal drug use <input type="checkbox"/> Alcohol dependency <p>Response to Sexual Abuse:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Fight <input type="checkbox"/> Flight <input type="checkbox"/> Freeze



6. Physical Abuse	Discussion Areas:	What to Listen For:
<p>A. Let's turn to your personal safety, both now and in the past. Has ____ ever used or threatened to use physical force or abuse against you or the children?</p> <ul style="list-style-type: none"> <input type="checkbox"/> Hold, pin down, restrain <input type="checkbox"/> Kneel, stand or sit upon <input type="checkbox"/> Tie up, bind, gag <input type="checkbox"/> Push, shove, shake, grab <input type="checkbox"/> Scratch, pull hair, shave hair <input type="checkbox"/> Twist arm <input type="checkbox"/> Bite <input type="checkbox"/> Spit on <input type="checkbox"/> Urinate upon <input type="checkbox"/> Slap <input type="checkbox"/> Hit or punch <input type="checkbox"/> Kick or stomp <input type="checkbox"/> Strike w/ or throw object at <input type="checkbox"/> Choke, strangle <input type="checkbox"/> Burn <input type="checkbox"/> Poke, stab, cut <input type="checkbox"/> Withhold food/medication <input type="checkbox"/> Disable medical equipment <p>B. What's the worst thing ____ has ever done to you?</p> <p>C. What's the scariest thing ____ has ever done to you?</p>	<ol style="list-style-type: none"> 1. Detail 2. In front of whom? <ul style="list-style-type: none"> <input type="checkbox"/> Children <input type="checkbox"/> Family <input type="checkbox"/> Friends <input type="checkbox"/> Co-workers <input type="checkbox"/> Public <input type="checkbox"/> Nobody – just in private 3. Frequency 4. Severity 5. Intent of other's behavior 6. Meaning of behavior to you 7. Effect on: <ol style="list-style-type: none"> a. Interactions b. Relationships c. Communications d. Self/children e. Parenting skills/capacity 8. Change: <ol style="list-style-type: none"> a. Over time b. Pre/post pregnancy c. Pre/post separation 9. Injuries 10. Medical attention 11. Hospital visits 12. Calls for help/to police 13. Arrests 14. Convictions/sanctions 15. Protection orders 16. Protection order violations 	<p>Physical Violence:</p> <p>Very rare \longleftrightarrow Every day Very minor \longleftrightarrow Very severe No harm \longleftrightarrow Major injury</p> <p>Risk Factors:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Increase frequency/severity <input type="checkbox"/> Access to firearms <input type="checkbox"/> Use/threat of weapon <input type="checkbox"/> Threat to kill <input type="checkbox"/> Avoidance of arrest for DV <input type="checkbox"/> Forced sex <input type="checkbox"/> Attempted strangulation <input type="checkbox"/> Violent jealousy <input type="checkbox"/> Assault during pregnancy <input type="checkbox"/> Threat/attempted suicide <input type="checkbox"/> Threat to harm children <input type="checkbox"/> Belief in capacity to kill <input type="checkbox"/> Stalking <input type="checkbox"/> Illegal drug use <input type="checkbox"/> Alcohol dependency <p>Response to Physical Abuse:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Fight <input type="checkbox"/> Flight <input type="checkbox"/> Freeze



7. Emotional Abuse	Discussion Areas:	What to Listen For:
<p>A. Let's talk more about how you and _____ relate to one another. Can you describe how _____ treats you as a person?</p> <p>B. Does _____ ever:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Insult you or put you down <input type="checkbox"/> Ridicule you in public <input type="checkbox"/> Purposely humiliate you <input type="checkbox"/> Play mind games <p>C. Does _____ ever:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Intimidate you <input type="checkbox"/> Yell or scream at you <input type="checkbox"/> Act aggressively toward you <p>D. Does _____ ever:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Get jealous or possessive <input type="checkbox"/> Accuse you of infidelity <p>E. Does _ ever interfere with:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Your work/school life <input type="checkbox"/> Your social life <input type="checkbox"/> Your sleep <input type="checkbox"/> Your healthcare/medications <p>F. Has ___ ever threatened to:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Kill you or the children <input type="checkbox"/> Kill him/herself <input type="checkbox"/> Harm you or the children <input type="checkbox"/> Harm someone you care for <input type="checkbox"/> Harm or kill pets <p>G. Has _____ ever:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Destroyed your property <input type="checkbox"/> Threatened w/ weapon <input type="checkbox"/> Put your life in danger <ul style="list-style-type: none"> <input type="checkbox"/> Disabled car/equipment <input type="checkbox"/> Driven recklessly to scare 	<ol style="list-style-type: none"> 1. Detail 2. In front of whom? <ul style="list-style-type: none"> <input type="checkbox"/> Children <input type="checkbox"/> Family <input type="checkbox"/> Friends <input type="checkbox"/> Co-workers <input type="checkbox"/> Public <input type="checkbox"/> Nobody – just in private 3. Frequency 4. Severity 5. Intent of other's behavior 6. Meaning of behavior to you 7. Effect on: <ol style="list-style-type: none"> a. Interactions b. Relationships c. Communications d. Self/children e. Parenting skills/capacities 8. Change: <ol style="list-style-type: none"> a. Over time b. Pre/post pregnancy c. Pre/post separation 	<p>Emotional Relationship:</p> <p>Safe ↔ Fearful</p> <p>Respectful ↔ Degrading</p> <p>Hopeful ↔ Hopeless</p> <p>Supportive ↔ Undermining</p> <p>Honest ↔ Manipulative</p> <p>Caring ↔ Cruel</p> <p>Secure ↔ Traumatic</p> <p>Protective ↔ Exploitive</p> <p>Risk Factors:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Access to firearms <input type="checkbox"/> Use/threat of weapon <input type="checkbox"/> Threat to kill <input type="checkbox"/> Step children <input type="checkbox"/> Forced sex <input type="checkbox"/> Attempted strangulation <input type="checkbox"/> Control of daily activities <input type="checkbox"/> Violent jealousy <input type="checkbox"/> Assault during pregnancy <input type="checkbox"/> Threat/attempted suicide <input type="checkbox"/> Threat to harm children <input type="checkbox"/> Belief in capacity to kill <input type="checkbox"/> Stalking <input type="checkbox"/> Illegal drug use <input type="checkbox"/> Alcohol dependency <p>Response to Emotional Abuse:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Fight <input type="checkbox"/> Flight <input type="checkbox"/> Freeze



Implications of Domestic Abuse for Safety and Parenting:		
Immediate Safety Concerns: <i>See Risk Assessment Factors and Questions 1(A)-(D), 3(B), 4(E), 5(F)-(G), 6(A)-(C), 7(A)-(D)</i>	Risk Assessment Factors: <ul style="list-style-type: none"><input type="checkbox"/> Increase in frequency/severity<input type="checkbox"/> Access to firearms<input type="checkbox"/> Recent separation<input type="checkbox"/> Unemployment<input type="checkbox"/> Use/threat to use lethal weapon<input type="checkbox"/> Threat to kill<input type="checkbox"/> Avoidance of arrest for DV<input type="checkbox"/> Step-children<input type="checkbox"/> Forced sex<input type="checkbox"/> Attempted strangulation<input type="checkbox"/> Illegal drug use<input type="checkbox"/> Alcohol dependency<input type="checkbox"/> Control of daily activities<input type="checkbox"/> Violent or constant jealousy<input type="checkbox"/> Assault during pregnancy<input type="checkbox"/> Threatened/attempted suicide<input type="checkbox"/> Threat to harm children<input type="checkbox"/> Belief in capacity to kill<input type="checkbox"/> Stalking<input type="checkbox"/> Major mental illness	
Immediate Economic Concerns: <i>See Questions 2(A)-(C), 4(C), 5(E)</i>		
Immediate Parenting Concerns: <i>See Questions 1(A)-(C), 2(A)-(C), 3(A)-(E), 4(A)-(E), 5(E)-(G), 6(A)-(C), 7(A)-(D)</i>		
Long-Term Concerns:		



F. SAMPLE OBSERVATIONS AND INFERENCES

The following chart identifies several observations that are commonly seen in domestic abuse-related custody cases, together with examples of corresponding inferences that might follow from those observations. The list of sample inferences is not exhaustive. It is merely meant to help you consider alternative explanations that might prompt further investigation before you arrive at any conclusions.

OBSERVATIONS AND INFERENCES

OBSERVATION:	INFERENCE A	INFERENCE B	INFERENCE C
There is no documentation of abuse.	The abuse never happened.	The abuse happened, but it was never reported.	The abuse happened and it was reported, but it was never documented.
There is no substantiation of abuse.	The abuse never happened.	The abuse happened, but there is not enough evidence to prove it happened.	Something happened, but it doesn't rise to the level of abuse.
Both parties have been violent.	The abuse is mutual. Both parties are responsible for the abuse.	The abuse is not mutual. One party is responsible for the abuse.	The abuse is not mutual. One party is the responsible for the abuse and the other party acted in self-defense or tried to pre-empt the abuse.
The victim's account of abuse keeps changing.	The victim is lying. The abuse never happened.	The abuse happened, but the victim is afraid or uncertain what to disclose.	The victim's account is a typical traumatic response to abuse.
The victim is hostile or uncooperative.	The abuse never happened.	The abuse happened and the victim has a negative disposition.	The abuse happened and the victim is frustrated, scared, or feeling manipulated in regard to matters beyond their control.



Allegations of abuse were not raised until the custody case was filed.	The abuse never happened. The victim is trying to “get a leg up.”	The abuse happened and the victim is trying to “get a leg up.”	The victim did not disclose abuse until it was necessary.
The physical abuse is relatively minor.	The abuse is nominal and not relevant to the custody case.	A low level of physical abuse is all that is required for the abuser to maintain power and control over the victim.	The physical abuse is nominal, but other risk markers could be present that indicate heightened danger.
The abuse happened a long time ago.	The abuser poses no present danger.	The abuser might pose a danger, but lacks the means to carry out further abuse.	The abuser still poses a danger by virtue of the nature of the past abuse.
The abuse happened a long time ago.	The victim seems focused on the past.	The victim is focused on the past abuse because it raises present safety concerns.	The victim is focused on the past, but the abuse is ongoing and raises present safety concerns.
The victim-parent has gone back to the alleged abuser.	The abuse never happened or, if it did, it wasn't that bad.	The victim-parent isn't really afraid of the alleged abuser.	The victim-parent is managing multiple risks from abuse and going back is the safest option.
The alleged abuser seems nice enough.	The abuse never happened.	The abuse happened, and the abuser has a pleasant disposition.	The abuse happened and the abuser is a good manipulator.
There has been no direct abuse of the child.	The child is entirely unaware of and not affected by abuse.	The child has witnessed or is exposed to abuse.	The child is experiencing the aftermath of abuse.
The child seems to have a close bond with the alleged abuser.	The child wouldn't be aligned with the abuser unless the allegations of abuse are false.	The child's alignment with the abuser is a safety or risk management strategy.	The child's alignment with the abuser is a result of traumatic bonding.



<p>The child does not want to have anything to do with the alleged abuser.</p>	<p>The victim-parent is turning the child against the other parent.</p>	<p>The child has a good reason for not wanting to have anything to do with the alleged abuser.</p>	<p>The child is going through a normal developmental stage, trying to establish his/her own identity.</p>
<p>The victim-parent does not want the alleged abuser to have contact with the child.</p>	<p>The victim-parent is turning the child against the other parent.</p>	<p>The abuser does not pose a risk to the child, but the child and/or the victim-parent thinks the abuser does.</p>	<p>The abuser poses a risk to the child.</p>
<p>The victim-parent wants the alleged abuser to have contact with the child.</p>	<p>The alleged abuser poses no risk to the child.</p>	<p>The alleged abuser poses a risk to the child, but the victim-parent is afraid to say so.</p>	<p>The alleged abuser poses a risk to the child, but the victim-parent thinks contact is safer than no contact.</p>
<p>The child is angry with the victim-parent.</p>	<p>The alleged victim-parent is responsible for the abuse and/or its aftermath.</p>	<p>The alleged victim-parent is not responsible for the abuse or its aftermath, but the child thinks so.</p>	<p>The alleged abuser is undermining the victim-parent's authority or relationship with the child.</p>
<p>The victim-parent has discussed the abuse with the child.</p>	<p>The victim-parent is drawing the child into "adult matters."</p>	<p>The victim-parent is trying to help the child manage his/her own reactions to the abuse.</p>	<p>The victim-parent is trying to protect the child from further abuse.</p>
<p>The child seems to be doing well, in spite of the abuse.</p>	<p>The child is unaffected by the abuse.</p>	<p>The child is skillful at hiding from or denying abuse.</p>	<p>The child is managing the abuse through academic, athletic or outside achievement.</p>
<p>Child protective services has determined that child sexual abuse allegations are "unsubstantiated."</p>	<p>Child sexual abuse never happened.</p>	<p>Child sexual abuse happened, but there is insufficient evidence to prove that it happened.</p>	<p>Something happened, but it doesn't rise to the level of child sexual abuse.</p>



G. PARENTING IN THE CONTEXT OF DOMESTIC ABUSE

The next six charts are designed to help you analyze the nature, dynamics and implications of parenting *in the context of domestic abuse*. Each chart has a specific purpose and is intended to facilitate a specific analysis.

The first chart, which is captioned *Parenting by Abusers* (Chart 1 of 6), is meant to assess the parenting capacities of abusers. It is only to be used after you have determined that one of the parties has engaged in domestic abuse – and it is only to be used to consider the parenting behaviors and decisions *of the abusive parent*. It is not meant to assess the victim parent.

The next three charts, which are captioned *Child's Experience of Domestic Abuse* (Chart 2 of 6), *Child's Reactions to the Experience of Domestic Abuse* (Chart 3 of 6), and *Impact of Domestic Abuse on Child* (Chart 4 of 6) are meant to assess the experiences and effects of the parenting behaviors and decisions of the abusive parent *on the child*.

The last two charts, which are captioned *Impact of Domestic Abuse on Victim's Parenting* (Chart 5 of 6) and *Impact of Domestic Abuse on Co-Parenting* (Chart 6 of 6), are meant to assess the effects of the parenting behaviors and decisions of the abusive parent *on the victim's parenting* and the *co-parenting relationship*. They are not intended to be used to analyze the abuser's parenting – nor are they intended to assess the impact of domestic abuse on *other aspects of the victim's life* beyond parenting and co-parenting.

Be sure to select and apply the appropriate chart for the specific analysis you are undertaking. Misapplication of these charts can distort your analysis and lead to harmful outcomes for battered parents and their children.

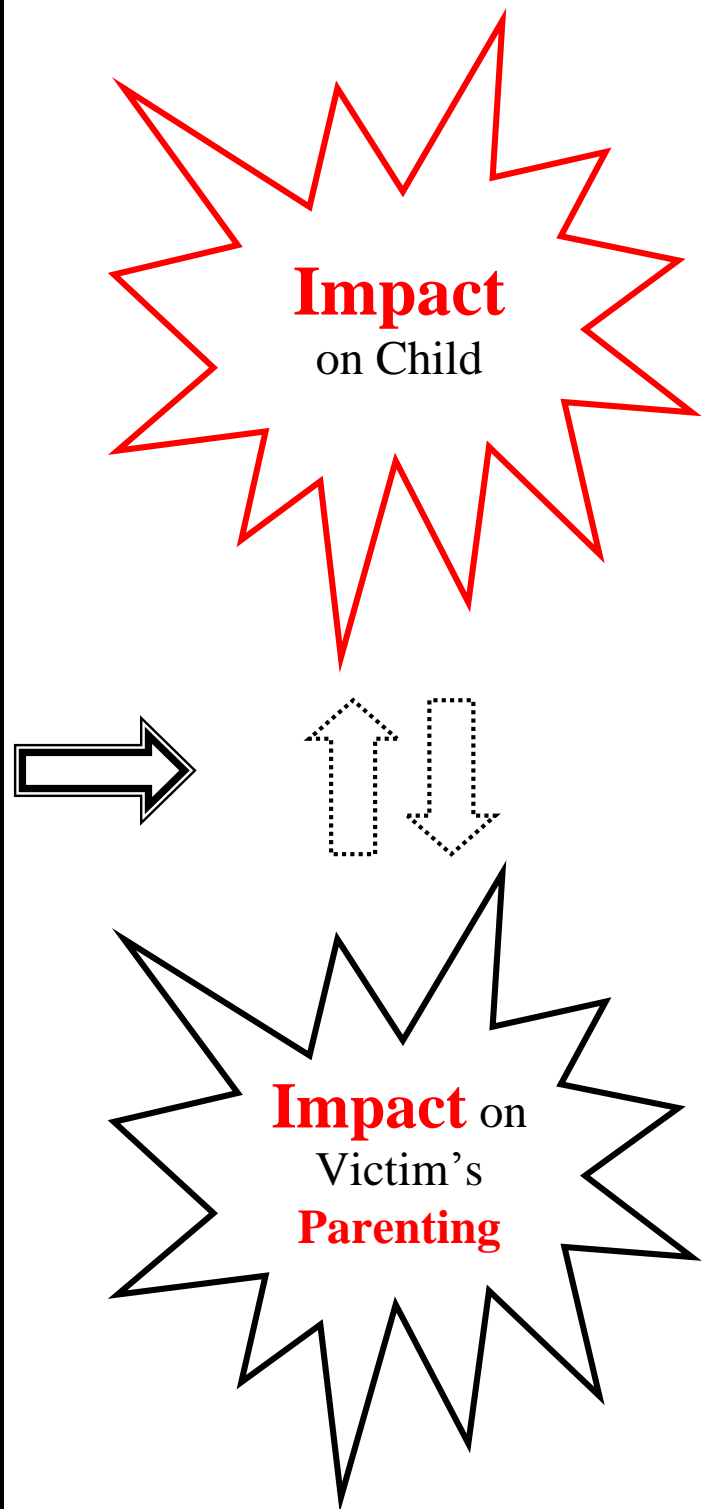
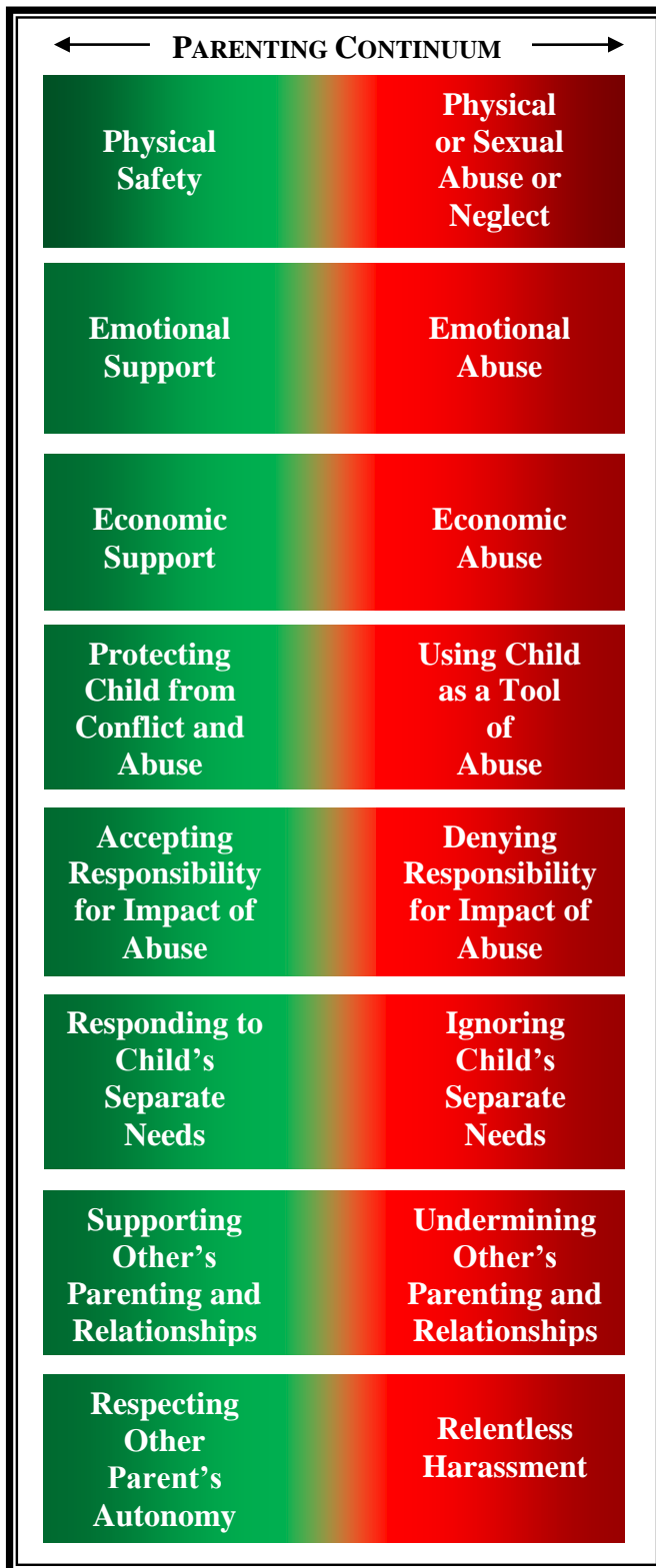
Family Court-Specific Design

These charts were designed specifically for family court practitioners (lawyers, judges, custody evaluators, guardians ad litem, CASAs, mediators, parenting coordinators, parent educators, etc.) *for use in family court settings*. They were not developed for use in other settings, such as child protection or criminal justice proceedings.

Be sure to exercise discretion and caution in applying these charts to non-family court settings.



PARENTING BY ABUSERS (Chart 1 of 6)





Physical or Sexual Abuse or Neglect of Child: Decisions and behaviors that directly harm the child's physical safety, security and well-being, including but not limited to:

- Hitting, punching, slapping, pushing child
- Using excessive/coercive discipline
- Refusing to tolerate age-appropriate behavior
- Violating child labor laws (forced labor)
- Denying food, clothing, necessary medical care
- Forcing other parent to participate in child abuse
- Abducting or threatening to abduct child
- Forcing child into criminal activity
- Promoting truancy
- Having inappropriate sexual contact
- Sexually exploiting/grooming child
- Exposing child to pornography
- Using child in pornography
- Forcing child to have sex with others
- Violating child's physical privacy
- Abandoning child
- Exposing child to drugs
- Willfully violating health or housing codes

Emotional Abuse of Child: Wide-ranging decisions or behaviors that directly or indirectly harm the child's emotional safety, security, development, and/or well-being, including but not limited to:

- Rejecting child
- Denigrating child's feelings
- Calling child names
- Making child feel stupid or inadequate
- Demanding demonstrations of affection/loyalty
- Isolating child from friends or family
- Embarrassing, humiliating or shaming child
- Promoting gender bias or disrespect of women
- Refusing to meet child's basic emotional needs
- Creating a chaotic or unpredictable home life
- Missing visits or appointments
- Exposing child to abuse
- Modeling bad behavior
- Harming or threatening to harm animals or pets
- Breaking promises
- Vacillating between parenting styles
- Violating child's boundaries
- Denying support or affection to child
- Interfering with school or homework
- Micro-managing or monitoring child
- Disrupting child's structure or routines
- Destroying child's toys or personal items
- Mocking child's interests or ambitions
- Fluctuating involvement with child
- Threatening to harm or kill parent or child
- Saying one thing and doing another
- Exposing child to aftermath of abuse
- Morally corrupting child
- Inducing fear or terror
- Threatening suicide

Economic Abuse: Decisions to or behaviors that unnecessarily harm the child's economic stability or security, including but not limited to:

- Refusing to provide available financial support
- Interfering with other parent's work
- Withholding important financial information
- Trading money or support for time with child
- Shutting off utilities
- Disabling vehicles
- Stealing property from child or other parent
- Denying other parent access to resources
- Depleting bank accounts
- Destroying other parent's credit
- Preventing other parent's access to credit
- Refusing to pay insurance premiums
- Cancelling insurance
- Selling other parent's or child's property



Using Child as a Tool of Abuse: Decisions to or behaviors that employ the child to manipulate, control, threaten or harm the other parent, including but not limited to:

- Drawing child into abuse
- Using child to monitor other parent
- Pitting child against other parent
- Separating children from their siblings
- Encouraging child to disrespect other parent
- Rewarding child for rejecting other parent
- Threatening to harm child
- Threatening to take child from other parent
- Using child to bargain with other parent
- Dividing child's loyalties
- Using child to coerce other parent
- Hurting child in order to hurt other parent
- Using custody to harass other parent
- Disrupting established visitation schedule
- Using visitation to access other parent
- Threatening to seek custody to hurt parent
- Degrading other parent to child
- Neglecting child on visits

Denying Impact of Abuse on Child: Decisions or behaviors that fail to acknowledge and repair the damage resulting from one's own abuse, including but not limited to:

- Failing to acknowledge damage from abuse
- Interfering with other parent's treatment efforts
- Refusing to seek counseling for abuse
- Interfering with other parent's care of child
- Interfering with child's counseling/healthcare
- Justifying abuse
- Being intolerant of criticism for abuse
- Demanding respect in the face of abuse
- Failing to acknowledge child's needs
- Failing to respond to child's needs
- Disregarding child's needs
- Refusing to apologize for abuse
- Forcing unwanted engagement with child
- Blaming others for abuse

Ignoring Child's Separate Needs: Beliefs that the child's interests, needs and perceptions are either: (1) indistinguishable from the other parent's interests, needs and perceptions; or (2) attributable to the other parent, including but not limited to:

- Elevating one's own needs above the child's needs
- Believing one's own needs and child's need are identical
- Believing that oneself and one's child think and feel the same way
- Believing that one knows exclusively what is best for the child
- Believing that one's own pain is mirrored in the child
- Obsessive attachment to the child
- Seeing no value in the child's contact with the other parent, absent sufficient cause
- Believing that child's mind is being poisoned by the other parent
- Believing that the child is mirroring the other parent
- Believing that the other parent and the child are conspiring



Undermining the Other's Parenting or Relationship with Child: Decisions to or behaviors that either: (1) interfere with the other parent's ability to parent or exercise parental authority; or (2) disrupt or harm the child's relationship with the other parent, including but not limited to:

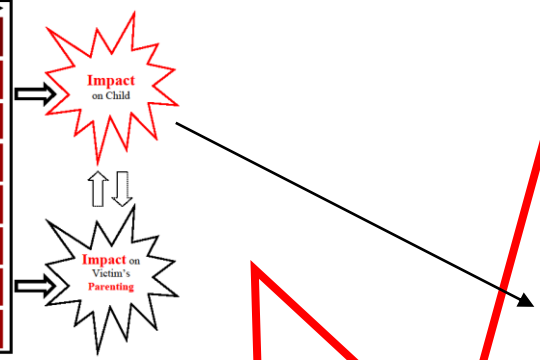
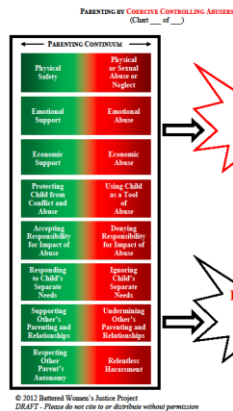
- Refusing to enforce established rules
- Violating established parenting agreements
- Withholding information concerning the child
- Disrupting child's schedule or routine
- Sharing too much information with child
- Disrespecting other parent's new partner
- Ignoring child's allergies or illnesses
- Refusing to agree to rules or structure
- Making false allegations to authorities
- Under- or over-medicating child
- Using new partner to replace other parent
- Disparaging other parent in front of child
- Criticizing other parent
- Manufacturing tensions

Relentless Harassment: Decisions to or behaviors that disrupt the everyday life of, and create persistent instability, insecurity or unpredictability for the child and/or the other parent, *usually under the guise of some seemingly legitimate principle (like safety, equality, fairness, duty, or parental concern)*, including but not limited to:

- Constantly disrupting the child's schedule
- Constantly disrupting the child's routines
- Engaging in harassing litigation
- Making false reports to authorities
- Fluctuating parental involvement
- Monitoring other parent's whereabouts
- Making unreasonable demands on time
- Making oneself look good in harmful ways
- Hacking into other parent's computer
- Cutting off phone service
- Constantly raising "technical arguments"
- Missing visits and appointments
- Interfering with the other parent's work
- Interfering with school, sleep or social life
- Interfering with health care
- Disparaging other parent to family/friends
- Constantly changing rules or expectations
- Stalking other parent or child
- Cancelling or rescheduling appointments
- Disrupting utilities
- Disrupting other parent's transportation
- Setting off home alarm system
- Showing up unannounced
- Sabotaging other parent at every turn



CHILD'S EXPERIENCE OF DOMESTIC ABUSE (Chart 2 of 6)



- Exposure during pregnancy
- Direct intervention in abuse
- Direct harm during abuse
- Participation in abuse
- Direct observation of abuse
- Indirect observation of abuse
- Retreat from abuse
- Witness to initial effects
- Experience of aftermath
- Knowledge of abuse
- Seemingly unaware of abuse

Adapted from George W. Holden, *Children Exposed to Domestic Violence and Child Abuse: Terminology and Taxonomy*, 6 CLINICAL CHILD & FAM. PSYCH. REV. 151 (2003).



Exposure to abuse during pregnancy: The developing fetus experiences abuse *in utero*, where, for instance, an abuser:

- Kicks or punches a pregnant partner
- Terrorizes a pregnant partner
- Sexually assaults a pregnant partner
- Deprives a pregnant partner of sleep
- Pushes or shoves a pregnant partner
- Attempts to induce miscarriage
- Coerces a pregnant partner to use drugs
- Denies or interferes with prenatal care

Direct intervention to stop abuse: The child takes affirmative steps to make the abuse end, such as:

- Pleading with the abuser to stop
- Calling for help
- Locking the windows and doors
- Attempting to distract the abuser
- Blocking abuser's access to victim
- Pulling the abuser off the victim
- Physically assaulting the abuser
- Shooting or stabbing the abuser

Direct harm from abuse: The child suffers verbal, physical or emotional harm during the course of abuse, where, for instance:

- The abuser intentionally injures the child
- The abuser accidentally injures the child
- The victim accidentally injures the child
- The abuser punishes the child for intervening
- The abuser shames the child for being weak
- The abuser uses the child's toys as weapons
- The child gets caught in the crossfire
- The victim harms child to pre-empt injury
- The child injures self attempting to escape
- The abuser blames the child for the abuse
- The abuser tells the child he or she is next
- The abuser ridicules the child for crying

Direct participation in abuse: The child joins in the abuse of the victim parent, by way of force, coercion, identification with the abuser, or self-preservation:

- The abuser uses the child to spy on the victim
- The abuser orders the child to abuse the victim
- The abuser rewards the child for participating
- Child joins abuser in taunting the victim
- The abuser draws the child into abuse
- Child mimics the abuser's role modeling

Direct observation of abuse: The child is an eyewitness to the abuse, where, for instance, the child:

- Watches an assault of one parent by the other
- Observes coercive power
- Is present to hear pleas for help or screams
- Is present during a verbal assault
- Sees the abuser intimidate the other parent
- Witnesses the victim's degradation



Indirect observation of abuse: The child hears but does not see the abuse, where, for instance, the child hears:

- Threats or screams
- Pleas for help or mercy
- Gunfire
- Breaking objects, furniture or windows
- Verbal abuse or degradation
- Blows to the victim's head or body

Retreat from abuse: The child takes cover from abuse by:

- Running away from home
- Locking him/herself in the closet
- Pretending like nothing is wrong
- Tuning out the world
- Hiding under the bed
- Using alcohol and/or drugs

Witnesses initial effects of abuse: The child observes the immediate effects of abuse, including, but not limited to:

- Blood, bruises, and other injuries
- Ambulances and emergency vehicles
- Damaged property
- Police officers and first responders
- A parent being arrested or restrained
- Intense emotions or traumatic responses

Experiences the aftermath of abuse: The child faces life altering change as a result of the abuse, including, but not limited to:

- Parental anxiety and/or depression
- Shelter or relocation
- New school and/or faith community
- Chaos, uncertainty and unpredictability
- Disrupted visits and exchanges
- Separation from the abuser
- Reorganization of family structures
- Broken social ties and support systems
- Breakdown in trust and/or confidence
- Economic instability

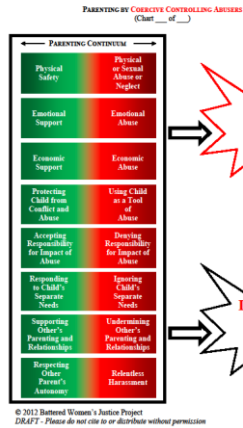
Hears about abuse from others: The child is told about (or overhears) conversations regarding the abuse.

Seemingly unaware of abuse: According to sources, the child lacks knowledge of the abuse because:

- The abuse occurred away from home or while the child was away; or
- The abuse occurred when caregivers believed the child was asleep.



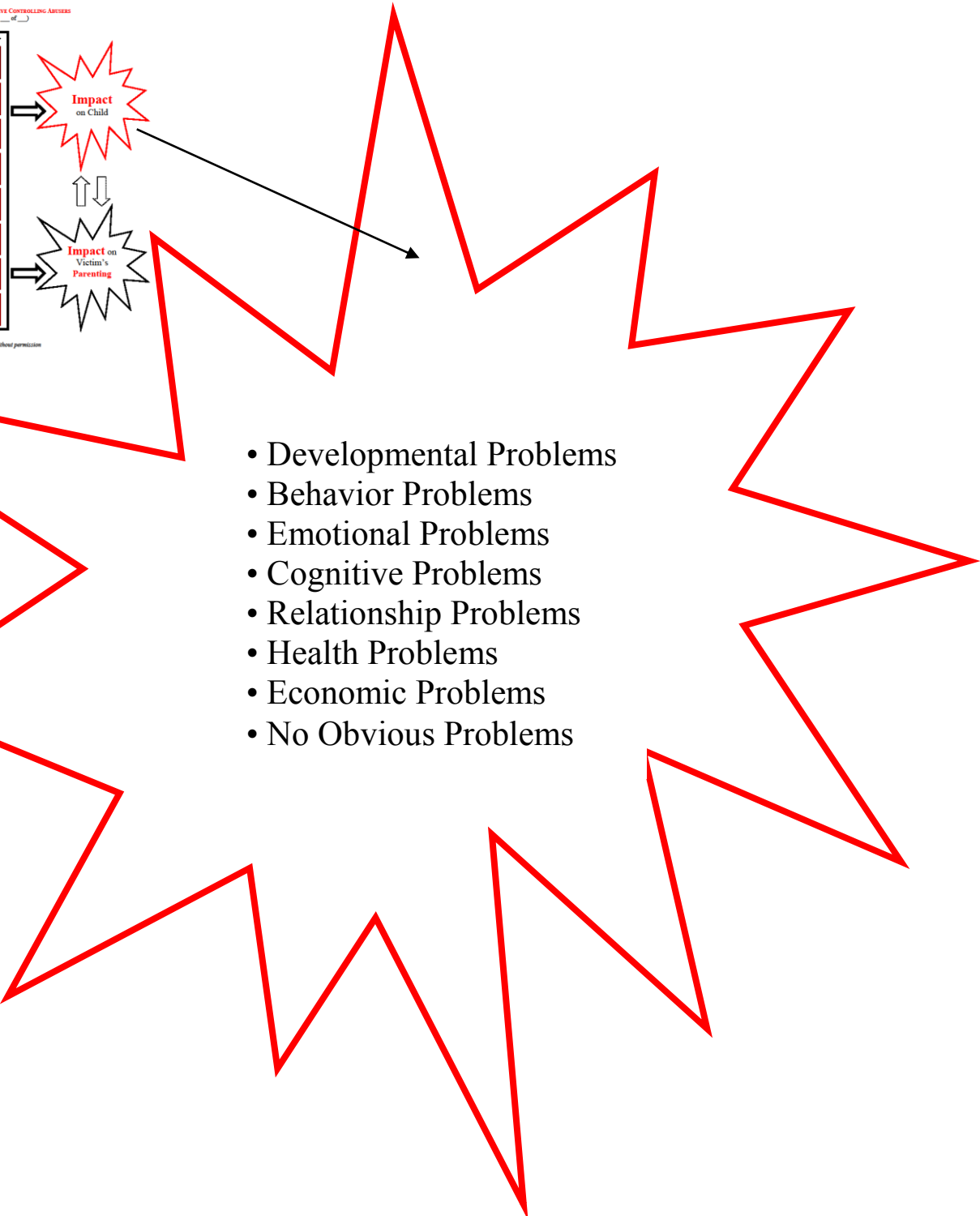
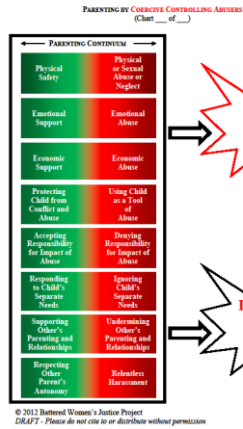
CHILD'S REACTIONS TO THE EXPERIENCE OF DOMESTIC ABUSE (Chart 3 of 6)



- Fear ● Anxiety ● Trauma ● Confusion ● Doom
- Distrust ● Insecurity ● Anger ● Guilt ● Shame
- Responsibility ● Complicity ● Vengeance ●
- Moodiness ● Abandonment ● Isolation ● Rage
- Betrayal ● Helplessness ● Fatigue ● Apathy
- Worthlessness ● Indignance ● Uncertainty ●
- Protectiveness ● Defensiveness ● Restlessness
- Hypervigilance ● Distractedness ● Headaches ●
- Disappointment ● Hopelessness ● Sleeplessness



IMPACT OF DOMESTIC ABUSE ON THE CHILD (Chart 4 of 6)



- Developmental Problems
- Behavior Problems
- Emotional Problems
- Cognitive Problems
- Relationship Problems
- Health Problems
- Economic Problems
- No Obvious Problems



Developmental Problems: Over- or under- stimulation of neural connections and pathways during infancy that can lead to lifelong challenges, such as:

- Failure to meet physical/emotional milestones
- Maladaptive stress responses
- Negative expectations about being:
 - Loved
 - Confident
 - Safe to explore the world
 - Neglected
 - Treated with hostility
- Poor sleep and awake functioning
- Emotional detachment/poor engagement
- Increased risk of:
 - Heart attack and stroke
 - Hypertension and depression
 - Alcoholism and diabetes
 - Hyperthyroidism
 - Malnutrition and gastrointestinal disease

Behavioral Problems: Outward conduct or actions that create difficulties for the child, including but not limited to:

- Self-harm (cutting, attempted suicide, drug use)
- Delinquency or criminal behavior
- Running away
- Physical aggression and/or bullying
- Hyperactivity
- Regressive behaviors, such as:
 - Baby talk, thumb sucking, nail biting
 - Crying spells, fear of the dark, clinginess
- Truancy
- Unregulated temper
- Verbal abuse
- Sexual promiscuity
- Defiance of authority
- Parentified behaviors, such as:
 - Caretaking of parents and siblings
 - Excessive enmeshment with parent(s)

Emotional Problems: Internal, often unconscious behaviors that cause a child to have difficulty coping, including but not limited to:

- Nightmares or sleep disruptions
- Distraction or inability to focus
- Anxiety or restlessness
- Fear of being alone
- Difficulty separating from parents
- Lack of interest in school, friends, activities
- Exaggerated startle response
- Re-living abuse through play
- Withdrawal
- Hypervigilance
- Insecurity
- Low self regard

Cognitive Problems: Difficulties with thinking, learning, concentrating, or processing information, including but not limited to:

- Poor skill development
- Underachievement at school
- Poor or distorted memory
- Poor verbal abilities
- Distraction or inability to focus
- Poor analytical skills



Relationship Problems: Interpersonal interactions that create difficulties for the child, including but not limited to:

- Inappropriate social responses to others
- Ambivalent attachment with caregivers
- Bullying or peer victimization
- Abusive dating relationships
- Diminished ability to trust others
- Lack of empathy
- Manipulation or coercion to get needs met
- Aggression toward siblings/parents/peers
- Difficulty making or keeping friends
- Diminished self-confidence

Health Problems: Physical manifestations that include, but are not limited to:

- Headaches
- Asthma
- Bed-wetting
- Rashes
- Autoimmune deficiencies
- Stomach aches
- Intestinal problems
- Eating disorders
- Allergies
- Chronic fatigue

Economic Problems: Damage or harm to the child's economic stability or security, including but not limited to:

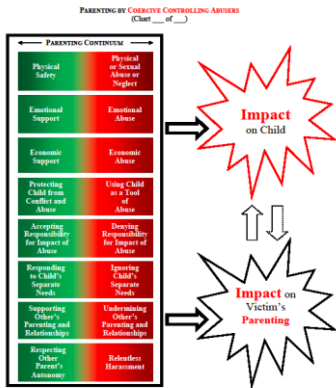
- Poverty
- Exclusion from extracurricular activities
- Exclusion from higher education
- Increased responsibilities at home
- Homelessness
- Social isolation
- Increased responsibility to work
- Care for younger children

No Obvious Problems: Some children, particularly adolescents and older children, may cope with abuse in the home by re-directing their energies towards outside or adult activities and interests, including but not limited to:

- Academic achievement
- Engagement in extracurricular activities
- Artistic or creative endeavors
- Assumption of parental responsibilities, like:
 - Providing care for younger siblings
 - Preparing meals and/or keeping house
 - Making appointments
 - Supervising or monitoring parents' activities
- Involvement in sports
- Participation in social activities
- Volunteer work



IMPACT OF DOMESTIC ABUSE ON VICTIM'S PARENTING (Chart 5 of 6)



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HEIGHTENED RESPONSIBILITY FOR PROTECTION OF CHILD

- Monitoring abuser's moods/behaviors
- Appeasing abuser
- Regulating child's actions to avoid abuse
- Shielding child from abuse
- Intervening when child is being abused
- Directly challenging/confronting abuser
- Leaving with the child

HEIGHTENED RESPONSIBILITY FOR CARE OF CHILD

- Inability to trust or rely on abuser to provide care
- Decoding signals from child about child's needs
- Hiding attempts to meet child's needs in face of harm
- Teaching child that abuse is unacceptable
- Supporting the everyday needs of child

LOSS OF CONTROL OVER OWN PARENTING

- Navigating around abuser's control
- Being subject to scrutiny by courts/services
- Securing access to resources or support
- Managing safety in the midst of chaos

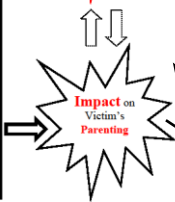
Adapted from Simon Lapierre, *Striving to be "Good" Mothers: Abused Women's Experiences of Mothering*, 19 CHILD ABUSE REV. 342 (2010); Simon Lapierre, *More Responsibilities, Less Control: Understanding the Challenges and Difficulties Involved in Mothering in the Context of Domestic Violence*, 40 BRITISH J. SOC. WORK 1434 (2010).



IMPACT OF ABUSE ON THE CO-PARENTING RELATIONSHIP
(Chart 6 of 6)

PARENTING BY COERCIVE CONTROLLING ABUSERS
(Chart ___ of ___)

PARENTING CONTINUUM	
Physical Safety	Physical or Sexual Abuse or Neglect
Emotional Support	Emotional Abuse
Economic Support	Economic Abuse
Protecting Child from Conflict and Abuse	Using Child as a Tool of Abuse
Accepting Responsibility for Impact of Abuse	Denying Responsibility for Impact of Abuse
Responding to Child's Separate Needs	Ignoring Child's Separate Needs
Supporting Other's Parenting and Relationships	Undermining Other's Parenting and Relationships
Respecting Other Parent's Autonomy	Retaliation/ Harassment



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Parental Communication & Interaction

- Measured ↔ Volatile
- Constructive ↔ Unproductive
- Child-focused ↔ Parent-focused
- Concrete ↔ Indefinite
- Trustworthy ↔ Unreliable
- Safe ↔ Dangerous

Parental Decision-Making

- Practical ↔ Impractical
- Child-centered ↔ Parent-centered
- Responsible ↔ Irresponsible

Parental Roles and Boundaries

- Well-defined ↔ Unclear
- Child-centered ↔ Partner-centered



H. BEST INTERESTS OF THE CHILD DOMESTIC ABUSE ANALYSIS

The Best Interests of the Child Domestic Abuse Analysis is designed to help you think about the ways in which domestic abuse shapes each of the statutory best interest factors enumerated under state law. The sample here addresses the Ohio best interest factors. You can adapt this chart to your state law – or contact the Battered Women’s Justice Project at technicalassistance@bwjp.org to request state-specific resources.

BEST INTERESTS OF THE CHILD DOMESTIC ABUSE ANALYSIS

BEST INTEREST FACTORS OH. REV.CODE §3109.04(F)(1):	WHAT DO WE KNOW?	HOW DOES DOMESTIC ABUSE SHAPE WHAT WE KNOW?
The wishes of the child’s parents regarding the child’s care	What are the parents’ wishes?	How does domestic abuse impact parents’ wishes? <ul style="list-style-type: none"> <input type="checkbox"/> Do parents have any fears or worries? <input type="checkbox"/> What are the past/current arrangements? <input type="checkbox"/> How do wishes account for child’s safety? <input type="checkbox"/> Are wishes realistic given context of abuse?
The wishes and concerns of the child , as expressed to the court	What are the wishes and concerns of the child?	How does domestic abuse impact child’s wishes? <ul style="list-style-type: none"> <input type="checkbox"/> What is the impact of abuse on the child? <input type="checkbox"/> What is the impact of trauma on the child? <input type="checkbox"/> Does child have any fears or worries? <input type="checkbox"/> Has abuse interfered with child’s daily life?
The child’s interaction and interrelationship with the child’s parents, siblings, and any other person who may significantly affect the child’s best interest	What do the child’s interactions and interrelationships look like?	How does abuse impact child’s relationships? Look for indications of: <ul style="list-style-type: none"> <input type="checkbox"/> Physical/sexual abuse of parent or child <input type="checkbox"/> Emotional abuse of parent or child <input type="checkbox"/> Interference with parental authority <input type="checkbox"/> Interference with child’s privacy <input type="checkbox"/> Interference with other parent’s privacy <input type="checkbox"/> Use of child to spy on other parent <input type="checkbox"/> Use of child to manipulate other parent <input type="checkbox"/> Isolation of child from friends or family <input type="checkbox"/> Isolation of child from social activities <input type="checkbox"/> Age inappropriate actions/behaviors



BEST INTEREST FACTORS	WHAT DO WE KNOW?	HOW DOES ABUSE SHAPE WHAT WE KNOW?
The child's adjustment to home, school, and community	How is the child functioning in relation to home, school and community?	How does abuse impact child's adjustment? <ul style="list-style-type: none"> <input type="checkbox"/> Any effect on home, school, social life? <input type="checkbox"/> Isolation/interference with daily activities? <input type="checkbox"/> Threat to child's basic needs? <input type="checkbox"/> Does child have fears, concerns, anxieties?
The mental and physical health of all persons involved in the situation	What, if any, mental and/or physical health concerns exist?	How does abuse impact the health of parents/child? <ul style="list-style-type: none"> <input type="checkbox"/> Impact on the safety of parents/child? <input type="checkbox"/> Emotional impact on parents/child? <input type="checkbox"/> How do parents and children cope? <input type="checkbox"/> Affect on healthcare decision making? <input type="checkbox"/> What supports have been sought? <input type="checkbox"/> What other supports are available?
The parent most likely to honor and facilitate court-approved parenting time rights or visitation and companionship rights	Are the parents honoring and facilitating court-approved parenting time and, if not, what is getting in the way?	How does abuse impact parenting time? <ul style="list-style-type: none"> <input type="checkbox"/> Is access plan safe for parents and child? <input type="checkbox"/> Are there any concerns, fears, anxieties? <input type="checkbox"/> What is the level of parental involvement? <input type="checkbox"/> Any threats to harm or take child away? <input type="checkbox"/> Any recent/post-separation changes?
Whether either parent has failed to make all child support payments	Has either parent failed to make all child support payments and, if not, what is getting in the way?	How does abuse impact child support payments? <ul style="list-style-type: none"> <input type="checkbox"/> Indications of economic abuse? <input type="checkbox"/> Indications of economic exploitation? <input type="checkbox"/> Have economic arrangements changed?
Whether either parent or household member has been convicted of or pleaded guilty to child abuse or neglect, domestic abuse, a sexually oriented offense, or any crime resulting in physical harm to a family or household member	Has either parent or a household member of either parent been convicted of or pleaded guilty to one of the enumerated offenses – and, if so, what is the nature and context of that conduct?	How does abuse impact the other parent or child? <ul style="list-style-type: none"> <input type="checkbox"/> Implications of abuse for parenting? <input type="checkbox"/> Impact of abuse on the child?



BEST INTEREST FACTORS

WHAT DO WE KNOW?

HOW DOES ABUSE SHAPE WHAT WE KNOW?

Whether the residential parent or one of the parents subject to a shared parenting decree has **continuously and willfully denied the other parent's right to parenting time** in accordance with a court order

Has either parent continuously and willfully denied the other parent's right to parenting time and, if so, what are the circumstances surrounding that denial?

How does abuse affect parenting time decision-making?

- Is the access arrangement safe for child?
- Is the access arrangement safe for parents?
- Any concern, fears, anxieties about access?
- History of parental involvement?
- Any threats to harm or take child away?
- Any post-separation changes?

Whether either parent has **established a residence, or is planning to establish a residence, outside this state**

Has either parent established a residence, or is either parent planning to establish a residence, outside this state and, if so, what are the circumstances surrounding that decision?

How does abuse impact relocation decision-making?

- How does relocation account for child safety?
- How does it account for child wellbeing?
- Will relocation meet child's basic needs?
- Will relocation meet parents' basic needs?
- Any threats to harm or take child away?

Other Considerations

Does abuse raise other considerations?

- Personal interactions
- Access to resources
- Children and parenting
- Control of daily life
- Emotional abuse
- Physical abuse
- Sexual abuse
- Other



I. CASE PLANNING GUIDES

The following Case Planning Guides, one specifically designed for evaluators and guardians, and the other created especially for legal professionals and advocates, help account for the nature, context and implications of abuse in family court decision-making, depending upon your role and function in the case.

The guides synthesize the information you’ve collected from the Initial Domestic Abuse Screening Guide, the Domestic Abuse Interview Guide and the Domestic Abuse Parenting Charts. Each guide is divided into sections concerning the parties’: (1) everyday interactions; (2) economic well-being; (3) children and parenting; (4) emotional well-being; (5) physical well-being; and (6) other considerations. It asks you consider the implications of abuse for purposes of assessing dispute resolution alternatives and for evaluating potential parenting and co-parenting arrangements.

DOMESTIC ABUSE PLANNING GUIDE FOR EVALUATORS & GALs

Everyday Interactions:

This section relates to the parties’ everyday interactions with their separating partner. Knowing how the parties relate to one another will help evaluators and GALs develop recommendations about how best to manage and ultimately resolve the case. The family court system generally prefers – and often expects – parents to resolve parenting arrangements in a cooperative, non-adversarial way. This assumes that parents can engage with one another in an honest, fair, respectful, and trusting manner. It also assumes that parents can put the interests of their children ahead of their own and support the other partner’s efforts to effectively supervise, nurture and care for their children. Domestic abuse often conflicts with these basic assumptions.

Quality of Interactions:		Implications:	Options:
Autonomous	↔	Controlling	What does this mean for: <input type="checkbox"/> Dispute resolution? <input type="checkbox"/> Parenting? <input type="checkbox"/> Co-parenting?
Equal	↔	Unequal	
Safe	↔	Dangerous	
Secure	↔	Vulnerable	
Predictable	↔	Volatile	
Honest	↔	Deceptive	
Respectful	↔	Degrading	
Voluntary	↔	Coercive	
Trusting	↔	Jealous	
Supportive	↔	Undermining	
Responsible	↔	Irresponsible	
Liberating	↔	Isolating	



Economic Well-being:

This section relates to the parties' personal and economic independence. Knowing about access to resources and support systems, and the extent to which the parties are able to organize, arrange and manage their daily lives without undue interference from the other, helps evaluators and GALs recommend dispute resolution mechanisms and parenting arrangements that would be most appropriate and feasible under the circumstances.

Access to Resources:		Implications:	Options:
Self-sufficient	←————→ Income Food Housing Transportation Bank Accounts Credit Insurance	Dependent What does this mean for: <input type="checkbox"/> Dispute resolution? <input type="checkbox"/> Parenting? <input type="checkbox"/> Co-parenting?	
Management of Affairs: Autonomous ←————→ Controlling			

Children and Parenting:

This section relates to the needs of the children and the ability of the parents to meet those needs. Knowing about children and parenting issues will help evaluators and GALs identify parenting arrangements that meet the specific developmental, emotional, material, and practical needs of the children to the greatest extent possible.

As a rule, courts prefer parenting arrangements that provide parents with equal decision-making authority and unrestricted access to the children. This assumes that parents and children have the right “equipment” to make that work, including sufficient trust, maturity, resources, flexibility, and capacity to share responsibilities. Domestic abuse, and especially emotional abuse, often conflicts with these basic assumptions.

Parenting Decisions by the Abusive Parent:		Implications:	Options:
Physical safety	←————→	Phys/sex abuse	
Emotional support	←————→	Emotional abuse	
Economic support	←————→	Non-support	
Shelter from abuse	←————→	Tool of abuse	
Repair of harm	←————→	Denial of harm	
Attuned to needs	←————→	Unaware of needs	
Consistent	←————→	Inconsistent	
Responsible	←————→	Irresponsible	
Involved	←————→	Under-involved	
Supportive	←————→	Disruptive	
Positive model	←————→	Negative model	
		What does this mean for: <input type="checkbox"/> Dispute resolution? <input type="checkbox"/> Parenting? <input type="checkbox"/> Co-parenting?	



Co-Parenting Decisions by the Abusive Parent:		Implications:	Options:
Physical safety	↔	Phys/sex abuse	What does this mean for: <input type="checkbox"/> Dispute resolution? <input type="checkbox"/> Parenting? <input type="checkbox"/> Co-parenting?
Emotional support	↔	Emotional abuse	
Repair of harm	↔	Denial of harm	
Parental support	↔	Upheaval	
Parental respect	↔	Denigration	
Honest dealings	↔	Manipulative	
Dependable	↔	Unreliable	
Autonomous	↔	Controlling	
Respects privacy	↔	Violates privacy	
Flexible	↔	Overly rigid	
Reasonable	↔	Irrational	

Co-Parenting Decisions by the Abused Parent:		Implications:	Options:
Protective	↔	Abusive	What does this mean for dispute resolution, parenting and co-parenting?
Reactive	↔	Aggressive	

Emotional Well-being:

This section relates to the parties' experience of psychological and emotional abuse in the relationship, if any. Knowing about potential emotional abuse can help evaluators and GALs plan an approach to the case and evaluate parenting options that will account for these kinds of behaviors.

Abused Parent's Sense of Self:		Implications:	Options:
Self-confidence	↔	Insecurity	What does this mean for: <input type="checkbox"/> Dispute resolution? <input type="checkbox"/> Parenting? <input type="checkbox"/> Co-parenting?
Dignity/honor	↔	Embarrassment	
Stability	↔	Chaos	
Certainty	↔	Self-doubt	
Trust	↔	Jealousy	
Autonomy	↔	Interference	
Social support	↔	Isolation	
Peace of mind	↔	Trauma/anxiety	
Good health	↔	Health problems	
Safety	↔	Risk of harm	
Security	↔	Threats of harm	
Free agency	↔	Entrapment	



Abusive Parent's Influence:		Implications:	Options:
Equitable	↔	Entitled	What does this mean for: <input type="checkbox"/> Dispute resolution? <input type="checkbox"/> Parenting? <input type="checkbox"/> Co-parenting?
Supportive	↔	Controlling	
Trusting	↔	Possessive	
Respectful	↔	Intrusive	
Fair handed	↔	Manipulative	
Responsible	↔	Demanding	
Protective	↔	Intimidating	
Non-violent	↔	Violent	
Secure	↔	Disruptive	
Accountable	↔	Unaccountable	
Honest	↔	Deceitful	
Stable	↔	Unpredictable	

Physical Well-being:

This section relates to the parties' experience of physical and/or sexual abuse in the relationship, if any. Knowing about a history of physical abuse and/or sexual impropriety will help evaluators and GALs assess whether either party or the children are at risk of danger or harm. If so, the evaluator or GAL can make appropriate referrals for safety planning and advocacy and integrate safety planning into all dispute resolution processes and proposed parenting arrangements, including restrictions on access and/or supervised exchange where appropriate.

Risk Assessment Factors:	Implications:	Options:
<input type="checkbox"/> Increase in frequency/severity of abuse <input type="checkbox"/> Access to firearms <input type="checkbox"/> Recent separation <input type="checkbox"/> Unemployment <input type="checkbox"/> Use or threatened use of lethal weapon <input type="checkbox"/> Threat to kill <input type="checkbox"/> Avoidance of arrest for domestic abuse <input type="checkbox"/> Step-children <input type="checkbox"/> Forced sex <input type="checkbox"/> Attempted strangulation <input type="checkbox"/> Illegal drug use <input type="checkbox"/> Alcohol dependency <input type="checkbox"/> Control of daily activities <input type="checkbox"/> Violent or constant jealousy <input type="checkbox"/> Assault during pregnancy <input type="checkbox"/> Threatened or attempted suicide <input type="checkbox"/> Threat to harm children <input type="checkbox"/> Victim's belief in abuser's capacity to kill <input type="checkbox"/> Stalking <input type="checkbox"/> Major mental illness	What does this mean for: <input type="checkbox"/> Dispute resolution? <input type="checkbox"/> Parenting? <input type="checkbox"/> Co-parenting?	



DOMESTIC ABUSE PLANNING GUIDE FOR LEGAL PROFESSIONALS

Everyday Interactions:

This section relates to the client’s everyday interactions with his/her separating partner. Knowing how the parties relate to one another will help the lawyer and client decide how best to manage and ultimately resolve the case. The family court system generally prefers – and often expects – parents to resolve parenting arrangements in a cooperative, non-adversarial way. This assumes that parents can engage with one another in an honest, fair, respectful, and trusting manner. It also assumes that parents can put the interests of their children ahead of their own and support the other partner’s efforts to effectively supervise, nurture and care for their children. Domestic abuse often conflicts with these basic assumptions.

Quality of Interactions:		Implications:	Options:
Autonomous	↔	Controlling	What does this mean for: <input type="checkbox"/> Dispute resolution? <input type="checkbox"/> Parenting? <input type="checkbox"/> Co-parenting?
Equal	↔	Unequal	
Safe	↔	Dangerous	
Secure	↔	Vulnerable	
Predictable	↔	Volatile	
Honest	↔	Deceptive	
Respectful	↔	Degrading	
Voluntary	↔	Coercive	
Trusting	↔	Jealous	
Supportive	↔	Undermining	
Responsible	↔	Irresponsible	
Liberating	↔	Isolating	

Economic Well-being:

This section relates to the client’s personal and economic independence. Knowing about access to resources and support systems, and the extent to which the client is able to organize, arrange and manage his/her daily life without undue interference from the other, helps the lawyer and client decide what sorts of dispute resolution mechanisms and parenting arrangements would be most appropriate and feasible under the circumstances.

Access to Resources:	Implications:	Options:
Self-sufficient ↔ Dependent Income Food Housing Transportation Bank Accounts Credit/Insurance	What does this mean for: <input type="checkbox"/> Dispute resolution? <input type="checkbox"/> Parenting? <input type="checkbox"/> Co-parenting?	
Management of Affairs: Autonomous ↔ Controlling		



Children and Parenting:

This section relates to the needs of the children and the ability of the parents to meet those needs. Knowing about children and parenting issues will help the lawyer and client identify parenting arrangements that meet the specific developmental, emotional, material, and practical needs of the children to the greatest extent possible.

As a rule, courts prefer parenting arrangements that provide parents with equal decision-making authority and unrestricted access to the children. This assumes that parents and children have the right “equipment” to make that work, including sufficient trust, maturity, resources, flexibility, and capacity to share responsibilities. Domestic abuse, and especially emotional abuse, often conflicts with these basic assumptions.

Parenting Decisions by the Abusive Parent:		Implications:	Options:
Physical safety	↔	Phys/sex abuse	What does this mean for: <input type="checkbox"/> Dispute resolution? <input type="checkbox"/> Parenting? <input type="checkbox"/> Co-parenting?
Emotional support	↔	Emotional abuse	
Economic support	↔	Non-support	
Shelter from abuse	↔	Tool of abuse	
Repair of harm	↔	Denial of harm	
Attuned to needs	↔	Unaware of needs	
Consistent	↔	Inconsistent	
Responsible	↔	Irresponsible	
Involved	↔	Under-involved	
Supportive	↔	Disruptive	
Positive model	↔	Negative model	

Co-Parenting Decisions by Abusive Parent:		Implications:	Options:
Physical safety	↔	Phys/sex abuse	What does this mean for: <input type="checkbox"/> Dispute resolution? <input type="checkbox"/> Parenting? <input type="checkbox"/> Co-parenting?
Emotional support	↔	Emotional abuse	
Repair of harm	↔	Denial of harm	
Parental support	↔	Upheaval	
Parental respect	↔	Denigration	
Honest dealings	↔	Manipulative	
Dependable	↔	Unreliable	
Autonomous	↔	Controlling	
Respects privacy	↔	Violates privacy	
Flexible	↔	Overly rigid	
Reasonable	↔	Irrational	

Co-Parenting Decisions by Abused Parent:		Implications:	Options:
Protective	↔	Abusive	What does this mean for dispute resolution, parenting and co-parenting?
Reactive	↔	Aggressive	



Emotional Well-being:

This section relates to the client’s experience of psychological and emotional abuse in the relationship, if any. Knowing about potential emotional abuse can help the lawyer and client plan an approach to the case and evaluate parenting options that will account for these kinds of behaviors.

Client’s Sense of Self:			Implications:	Options:
Self-confidence	↔	Insecurity	What does this mean for: <input type="checkbox"/> Dispute resolution? <input type="checkbox"/> Parenting? <input type="checkbox"/> Co-parenting?	
Dignity/honor	↔	Embarrassment		
Stability	↔	Chaos		
Certainty	↔	Self-doubt		
Trust	↔	Jealousy		
Autonomy	↔	Interference		
Social support	↔	Isolation		
Peace of mind	↔	Trauma/anxiety		
Good health	↔	Health problems		
Safety	↔	Risk of harm		
Security	↔	Threats of harm		
Free agency	↔	Entrapment		

Opposing Party’s Influence:			Implications:	Options:
Equitable	↔	Entitled	What does this mean for: <input type="checkbox"/> Dispute resolution? <input type="checkbox"/> Parenting? <input type="checkbox"/> Co-parenting?	
Supportive	↔	Controlling		
Trusting	↔	Possessive		
Respectful	↔	Intrusive		
Fair handed	↔	Manipulative		
Responsible	↔	Demanding		
Protective	↔	Intimidating		
Non-violent	↔	Violent		
Secure	↔	Disruptive		
Accountable	↔	Unaccountable		
Honest	↔	Deceitful		
Stable	↔	Unpredictable		



Physical Well-being:

This section relates to the client's experience of physical and/or sexual abuse in the relationship, if any. Knowing about a history of physical abuse and/or sexual impropriety will help the lawyer and client assess whether either party or the children are at risk of danger or harm. If so, the lawyer can make appropriate referrals for safety planning and advocacy and integrate safety planning into all dispute resolution processes and proposed parenting arrangements, including restrictions on access and/or supervised exchange where appropriate.

Risk Assessment Factors:	Implications:	Options:
<ul style="list-style-type: none"><input type="checkbox"/> Increase in frequency or severity of abuse<input type="checkbox"/> Access to firearms<input type="checkbox"/> Recent separation<input type="checkbox"/> Unemployment<input type="checkbox"/> Use or threatened use of lethal weapon<input type="checkbox"/> Threat to kill<input type="checkbox"/> Avoidance of arrest for domestic abuse<input type="checkbox"/> Step-children<input type="checkbox"/> Forced sex<input type="checkbox"/> Attempted strangulation<input type="checkbox"/> Illegal drug use<input type="checkbox"/> Alcohol dependency<input type="checkbox"/> Control of daily activities<input type="checkbox"/> Violent or constant jealousy<input type="checkbox"/> Assault during pregnancy<input type="checkbox"/> Threatened or attempted suicide<input type="checkbox"/> Threat to harm children<input type="checkbox"/> Victim's believe in abuser's capacity to kill<input type="checkbox"/> Stalking<input type="checkbox"/> Major mental illness	<p>What does this mean for:</p> <ul style="list-style-type: none"><input type="checkbox"/> Dispute resolution?<input type="checkbox"/> Parenting?<input type="checkbox"/> Co-parenting?	

Other Considerations:



J. READINESS FOR MEDIATION ASSESSMENT GUIDE

This guide is designed to help you assess whether parents possess sufficient capacity to successfully mediate child custody disputes. It walks you through a structured analysis that corresponds to the four-part framework discussed earlier in this compilation. It establishes a number of mediation benchmarks and then provides a list of considerations to help you determine whether mediation can safely proceed, with or without accommodation, whether mediation should be delayed until the mediation benchmarks can be met, or whether another form of dispute resolution should be considered.

READINESS FOR MEDIATION ASSESSMENT GUIDE

Successful mediation requires safe involvement; knowing and voluntary participation; good faith and fair dealing; and autonomous decision-making by all parties.

Identify Domestic Abuse	Understand the Nature & Context of Abuse (for purposes of mediation)	Determine the Implications of Abuse (benchmarks for mediation)	Account for Abuse in Actions and Decisions (for any unmet benchmark)
<ul style="list-style-type: none"> Does universal, comprehensive and systematic screening reveal any signs or indications of physical, sexual, emotional, economic, or coercive controlling abuse? 	<ul style="list-style-type: none"> What is the quality of the parents' interactions with each other? What risk, if any, does either parent pose (or ever posed) to any other family member's physical, sexual, or emotional safety, security or well-being? In what ways, if any, does either parent exercise (or ever exercised) disproportionate authority or control over the other or otherwise threaten the other's capacity for self-determination? In what ways, if any, does either parent believe that their rights or needs are more important than the rights and needs of other family members? In what ways, if at all, does either parent interfere (or ever interfered) with the other's access to necessary and/or available information or resources? 	<ul style="list-style-type: none"> Are relationships free from violence, threats of violence, and coercive control? <input type="checkbox"/>Y <input type="checkbox"/>N Are both parents free from traumatic effects of abuse, like PTSD, major depression, fear or forboding, memory loss, or processing difficulties? <input type="checkbox"/>Y <input type="checkbox"/>N Are there comparable interests at stake for both parents? <input type="checkbox"/>Y <input type="checkbox"/>N Do both parents feel free to participate, not participate, or withdraw from participation without fear or threat of reprisal? <input type="checkbox"/>Y <input type="checkbox"/>N Are both parents willing and able to participate in good faith, deal fairly and comply with the ground rules and agreements? <input type="checkbox"/>Y <input type="checkbox"/>N Do both parents feel they can negotiate freely and make autonomous decisions without fear or threat of reprisal? <input type="checkbox"/>Y <input type="checkbox"/>N 	<ul style="list-style-type: none"> Modify the mediation process? Delay mediation? Utilize a different dispute resolution process?



GUIDING PRINCIPLES FOR MEDIATION

Safe Involvement is....

- Free from actual or perceived violence, threats of violence, and/or coercive control
- Restricted to clearly defined issues and/or disputes
- Consistent with pre-established, enforceable rules and expectations
- Subject to immediate recess, adjournment or termination by any party for any reason

Knowing and Voluntary Participation requires *informed consent*, which includes....

- Understanding the mediation process
- Understanding the mediator's style and approach to mediation, and limits of authority
- Awareness and appreciation of the nature and consequences of the issues to be decided
- Relinquishment of right to offer evidence, examine witnesses, and make a record
- Relinquishment of right to obtain a decision on the merits or file an appeal
- Freedom to participate, not participate, or withdraw from participation without pressure, fear, or threat of repercussion from the other party, the mediator or the court system

Good Faith and Fair Dealing require....

- Acceptance of and adherence to pre-established ground rules for mediation
- Respect for the legitimate needs and interests of the other parent and children
- Complete, accurate and timely disclosure of relevant information
- Willingness and ability to explore options and proposals
- Willingness and ability to share decision-making authority
- Intention and commitment to honor promises and agreements

Autonomous Decision Making is, from the perspective of each party....

- Voluntary (free from undue pressure, duress, coercion, threats, manipulation or intimidation)
- Sufficiently informed
- The product of one's own deliberation and judgment



BENCHMARKS FOR MEDIATION

Use the following benchmarks to gauge the parties' readiness to mediate. If all of the benchmarks are met, then mediation can proceed without accommodation at the election of the parties. If, on the other hand, any benchmark is not met, then the parties may not be ready for mediation. You should proceed with mediation only if the specific concerns you've identified can be ameliorated to the satisfaction of the parties. (See next section for prospective safeguards).

Relationships are free from violence, threats of violence, and coercive control:

Notes:

Parents are free from the traumatic effects of abuse:

Notes:

Interests at stake for both parents are relatively comparable:

Notes:

Both parents feel free to participate, not participate, or withdraw from participation without fear of harm or threat of reprisal:

Notes:

Both parents are ready, willing and able to participate in good faith, deal fairly with one another, and comply with rules:

Notes:

Both parents can and will negotiate freely and make autonomous decisions without fear of harm or threat of reprisal:

Notes:

SAFEGUARDS FOR MEDIATION

Modify the mediation process: If any of the mediation benchmarks are not met, the mediator must determine whether it is possible to modify the mediation process to effectively ensure safe involvement, knowing and voluntary participation, good faith and fair dealing, and autonomous decision-making by all parties. In making this determination, mediators should consider:

**Safe involvement:**

Whether it is possible to design and implement a safety protocol to keep parties safe both in and outside of mediation sessions; and, if so, what the terms of that safety protocol should be.

Knowing and voluntary participation:

Whether anything further can be done to assure that the parties understand the mediation process and the consequences of the issues to be decided; and, if so, what those steps should be.

Whether more clearly defining, limiting, or narrowing the issues to be decided can address and overcome a party's reluctance or inability to participate in mediation; and, if so, what refinements would be necessary, fair and sufficient.

Whether it is possible to design and implement a mediation termination protocol to ensure that parties can safely end or suspend mediation without fear of harm, threat of reprisal or other negative consequence and, if so, what the terms of that termination protocol should be.

Good faith and fair dealing:

Whether it is possible to prevent the parties from manipulating the process or coercing the other party during or between mediation sessions; and, if so, what safeguards would be necessary, fair and sufficient.

Whether it is possible to ensure compliance with and enforcement of agreements governing the mediation process and behavior between mediation sessions; and, if so, how compliance will be monitored and enforced.

Whether it is possible to repair whatever harm is caused by non-compliance with agreements; and, if so, what reparations would be necessary, fair and sufficient.

Autonomous decision making:

Whether it is possible, with proper support, to assure that both parties can and will make free and informed decisions; and, if so, what supports would be necessary, fair and sufficient.

Delay mediation: If any of the mediation benchmarks are not met – and it is not possible to modify the mediation process to effectively ensure safe involvement, knowing and voluntary participation, good faith and fair dealing, and autonomous decision-making by all parties – the mediator must determine whether delaying mediation would give the parties sufficient time and opportunity to meet the required benchmarks. In making this determination, mediators should consider:

What issues would have to be addressed before participation in mediation would be reconsidered?



- What interventions would potentially ameliorate identified concerns?
- How will it be determined whether the intervention(s) have been effective?
- Whether a postponement would exacerbate the problem(s), unnecessarily delay a resolution, create further uncertainty or instability for the children, or result in undue hardship for one or more parties or the children.

Utilize a different dispute resolution process: If any of the mediation benchmarks are not met – and it is not possible to effectively modify the mediation process or delay mediation – the mediator should consider utilizing a different dispute resolution process.



K. READINESS FOR CO-PARENTING ASSESSMENT GUIDE

This guide is designed to help you assess whether parents possess sufficient capacity to make co-parenting work. It walks you through a structured analysis that corresponds to the four-part framework discussed earlier in this compilation. Then, it provides a list of potential safeguards that could be incorporated into a parenting plan to properly account for the nature, context and implications of abuse, if any.

At the outset, it is important to identify who the *functional* co-parents are going to be; that is, who is going to be co-parenting with whom? While we often assume that co-parenting arrangements are between the two legal parents or guardians of the child, in reality, parenting authority and parental responsibilities are sometimes delegated or relegated to someone else, like extended family members, new partners, professional caretakers, or others. This guide is intended to assess the *functional* parents' readiness for co-parenting. The functional parents may or may not be the two legal parents or guardians of the child – and they may or may not be the actual parties to the legal proceeding in which the parenting arrangement is being decided.

READINESS FOR CO-PARENTING ASSESSMENT GUIDE

Successful co-parenting requires safe parental involvement, secure parent-child relationships, low parental conflict, effective parental communication, and clear boundaries between partner and parental roles.

Identify Domestic Abuse	Understand the Nature & Context of Abuse (for purposes of co-parenting)	Determine the Implications of Abuse (co-parenting benchmarks)	Account for Abuse in Actions and Decisions (for any unmet benchmark)
<ul style="list-style-type: none"> Does a structured interview reveal any signs or indications of physical, sexual, emotional, economic, or coercive controlling abuse? 	<ul style="list-style-type: none"> What is the quality of the parents' interactions with each other? What is the quality of the parents' interactions with each child? Does either parent interfere with the other's access to necessary and/or available resources? Does either parent threaten the other's capacity for self-determination? Does either parent pose a risk to any other family member's physical, sexual, or emotional safety, security or well-being? 	<ul style="list-style-type: none"> Are relationships free from violence, threats of violence, and coercive control? <input type="checkbox"/>Y <input type="checkbox"/>N Do parents recognize and support children's needs? <input type="checkbox"/>Y <input type="checkbox"/>N Do children feel safe, secure and supported by parents? <input type="checkbox"/>Y <input type="checkbox"/>N Is communication between parents direct, civil, constructive, and focused on the children? <input type="checkbox"/>Y <input type="checkbox"/>N Do parents separate their role as parent from their role as partner? <input type="checkbox"/>Y <input type="checkbox"/>N 	<ul style="list-style-type: none"> Is there cause to: <ul style="list-style-type: none"> Limit or monitor the abusive parent's access to a child or victim-parent? Limit or monitor the abusive parent's decision-making authority? Monitor the abusive parent's compliance with the parenting plan? Require the abusive parent to participate in remedial interventions and/or other services? Support the victim-parent's efforts to protect a child? Strengthen a child's support system?



GUIDING PRINCIPLES FOR CO-PARENTING

Safe Parental Involvement is....

- Free from violence, threats of violence, and/or coercive control
- Age and developmentally appropriate
- Focused on and supportive of the child
- Based on mastery of basic parenting skills and parental decision-making
- Consistent with established rules and expectations

Secure Parental Relationships are....

- Free from violence, threats of violence, and/or coercive control
- Stable and predictable
- Focused on and responsive to the needs of the child

Cooperation Between Parents requires....

- Mutual responsibility and shared authority
- Absence of violence, threats of violence, exploitation and/or coercion
- Willingness to consider alternate viewpoints
- Capacity to recognize and respond to others' needs (emotional maturity)
- Ability to compromise and reach agreement on important issues

Effective Parental Communication is....

- Open and direct
- Civil and bi-directional
- Constructive (not harmful or damaging and more than the mere sharing of information)
- Focused on the children

Clear Boundaries Between Partner and Parental Roles mean....

- Parents are able to separate their role as parents from their role as partners
- Limits between partner and parental roles are clear and unambiguous



BENCHMARKS FOR CO-PARENTING

Use the following benchmarks to gauge the parties' readiness to co-parent. If all of the benchmarks are met, then co-parenting can proceed without accommodation at the election of the parties. If, on the other hand, any benchmark is not met, then the parties may not be ready for co-parenting. You should proceed with co-parenting only if the specific concerns you've identified can be ameliorated to the satisfaction of the parties. (See following sections for specific co-parenting challenges and prospective safeguards).

Relationships are free from violence, threats of violence, and coercive control:

Notes:

Parents recognize and support child's needs:

Notes:

Children feel safe, secure and supported by parents:

Notes:

Communication between parents is direct, civil, constructive, and focused on the child:

Notes:

Parents separate their role as parent from their role as partner:

Notes:

SAFEGUARDS FOR CO-PARENTING

If any of the co-parenting benchmarks are not met, the practitioner must determine whether it is possible to employ safeguards to effectively ensure safe parental involvement, secure parent-child relationships, cooperation between parents, effective parental communication, and clear boundaries between partner and parental roles. In making this determination, practitioners should consider the following co-parenting safeguards, among others:

Limit or monitor abusive parent's access to child or victim parent:

- Limit methods of communication with child (no in-person, telephonic or social media contact)
- Prescribe methods of communication (email only, text only, My Family Wizard, etc.)
- Restrict frequency of inter-parental communication or communication with child
- Restrict content of communication (define scope and boundaries, etc.)



- Restrict length of communication (1 page, 10-minutes, etc.)
- Limit access to sensitive information (account numbers, SSNs, medical & school records, etc.)
- Issue and/or enforce no contact orders and orders for protection
- Require neutral exchange locations (school, place of business, etc.)
- Require third party exchanges (friend, family member, professional, etc.)
- Restrict visitation to a place (grandparent's home, public park, church, counseling center, etc.)
- Restrict visitation to a geographic area (25-mile radius, in town, in state, in country, etc.)
- Prohibit visitation outside a geographic area (not out-of-town, out-of-state, or out-of-country)
- Condition visitation on having a third party present (friend, family member, professional)
- Limit who can be present during visitation (no new partners, no known criminals, etc.)
- Restrict what can happen during visitation (no alcohol, drugs, weapons, dangerous activities)
- Require professionally supervised or monitored visitation
- Set benchmarks for unsupervised access (no abuse, threats of abuse, inappropriate contact)
- Condition visits on compliance with terms (sobriety, BIP, car seat, valid drivers' license)
- Appoint a post-visitation monitor to make sure visits are safe and go as planned
- Periodically monitor and conduct risk and danger assessments
- Define consequences for non-compliance with access restrictions

Limit abusive parent's rulemaking or decision-making authority:

- Grant sole legal custody to non-abusive parent
- Grant sole legal custody to non-abusive parent with deviations under defined circumstances
- Grant parallel legal custody
- Grant parallel legal custody with deviations under prescribed circumstances
- Appoint a parenting consultant to confer with the abusive parent on all major decisions
- Appoint a parenting monitor to oversee and assess parenting decisions by the abusive parent
- Restrict abusive parent's access to information that is susceptible to misuse
- Limit abusive parent's ability to dispose of real or personal property or to dissipate assets
- Appoint a special master to monitor and effectuate property distributions and settlements

Monitor abusive parent's compliance with parenting plan:

- Conduct review hearings
- Establish schedule for abusive parent to show compliance with parenting plan
- Establish automatic consequences for non-compliance with parenting plan
- Appoint a compliance monitor paid for by the abusive parent

Enforce terms of parenting plan:

- Hold abusive parent accountable for unjustified and/or intentional parenting plan violations
- Establish self-executing terms to effectuate pre-defined consequences for non-compliance

Require abusive parent to participate in remedial interventions and/or other services:

- Refer abusive parent to a batterer intervention program for assessment and services
- Refer abusive parent to a parenting after violence program for assessment and services

**Support victim parent's efforts to protect child:**

- Link parental decision-making authority to parental responsibility for child's care
- Designate victim parent as the custodian of records
- Provide victim parent with information about/access to available community-based services
- Establish self-executing parenting plan enforcement mechanisms
- Allow direct and expedited access to parenting plan enforcement mechanisms
- Establish automatic bill-paying processes for abusive parent's financial obligations
- Require abusive parent to submit periodic parenting plan compliance reports
- Limit the grounds upon which abusive parent may object to victim parent's decision-making
- Delineate reasonable house rules in the parenting plan or order
- Allow the victim parent to relocate with the child in accordance with the law

Strengthen child's systems of support:

- Ensure that the parenting plan accommodates child's interests, activities, and supports
- Provide sufficient parenting time flexibility to adapt to child's developmental and social needs
- Structure parenting time to maintain access to child's support system
- Connect child and victim parent to available community-based resources



L. GUIDE TO APPROPRIATENESS OF EARLY NEUTRAL EVALUATION

This guide is designed to help you assess whether parents possess sufficient capacity to successfully engage in early neutral evaluation. It walks you through a structured analysis that corresponds to the four-part framework discussed earlier in this compilation. Then, it provides a list of potential safeguards that could be incorporated into an early neutral evaluation process to properly account for the nature, context and implications of abuse, if any.

Guide to Appropriateness of Early Neutral Evaluation

During early neutral evaluation (ENE), experts hear the factual and legal assertions of each party and render a nonbinding opinion predicting a judicial decision on the merits. Successful early neutral evaluation requires safe involvement, knowing and voluntary participation, knowledge of relevant facts and applicable law, ability to persuasively articulate facts and legal arguments, and autonomous decision-making by each party.

Identify Domestic Abuse	Understand the Nature & Context of Abuse <i>(for purposes of ENE)</i>	Determine the Implications of Abuse <i>(benchmarks for ENE)</i>	Account for Abuse in Actions and Decisions <i>(for any unmet benchmark)</i>
<ul style="list-style-type: none"> Does universal, comprehensive and systematic screening reveal any signs or indications of physical, sexual, emotional, economic, or coercive controlling abuse? 	<ul style="list-style-type: none"> What risk, if any, does either party pose to any other family member's physical, sexual, or emotional safety, security or well-being? In what ways, if at all, does either parent interfere with the other's access to necessary and/or available information or resources? In what ways, if any, does either parent interfere with the other's ability to assert a contrary viewpoint or challenge something with which he or she does not agree? In what ways, if any, does either party exercise disproportionate authority or control over the other or otherwise threaten the other's capacity for self-determination? 	<ul style="list-style-type: none"> Are relationships free from violence, threats of violence, and coercive control? <input type="checkbox"/>Y <input type="checkbox"/>N Are both parents free from traumatic effects of abuse, like PTSD, major depression, fear or forboding, memory loss, or processing difficulties? <input type="checkbox"/>Y <input type="checkbox"/>N Do both parents feel free to fully participate, not participate, or withdraw from participation without fear or threat of reprisal? <input type="checkbox"/>Y <input type="checkbox"/>N Are both parents knowledgeable about relevant facts and applicable law? <input type="checkbox"/>Y <input type="checkbox"/>N Are both parents able to make persuasive factual and legal arguments and do so without fear or threat of reprisal? <input type="checkbox"/>Y <input type="checkbox"/>N Are both parents willing and able to negotiate freely and make autonomous decisions (that may be contrary to evaluators' recommendations) without intimidation or threat of reprisal? <input type="checkbox"/>Y <input type="checkbox"/>N 	<ul style="list-style-type: none"> Modify the early neutral evaluation process? Utilize a different dispute resolution process?



Guiding Principles for Successful Early Neutral Evaluation

Safe Involvement is . . .

- Free from actual or perceived violence, threats of violence, and/or coercive control
- Consistent with pre-established, enforceable rules and expectations
- Subject to immediate recess or termination by any party for any reason or for no reason at all

Knowing and voluntary participation requires informed consent, the elements of which include:

- Understanding the early neutral evaluation process
- Understanding the role played by evaluators
- Understanding the limits on the evaluators' authority
- Awareness and appreciation of the nature and consequences of the issues to be decided
- Understanding that the early neutral evaluation process will not include verification of assertions or the right to offer evidence, examine witnesses, make a record, obtain a decision on the merits, or file an appeal
- Freedom to participate, not participate, or withdraw from participation without pressure, fear, or threat of repercussion from the other party, the evaluators or the court system

Knowledge of relevant facts and law involves . . .

- Awareness of and access to relevant information
- Ability to verify facts asserted
- Understanding of the substantive and procedural law on which the evaluators' opinion will be based

Ability to make persuasive factual and legal arguments involves . . .

- Willingness and ability to formulate a compelling factual narrative based on the law governing the case
- Willingness and ability to clearly and cogently speak on one's behalf
- Willingness and ability to promptly respond to questions and correct misinformation

Autonomous decision making is, from the perspective of each party . . .

- Voluntary (free from undue pressure, duress, coercion, threats, manipulation and/or intimidation)
- Sufficiently informed
- The product of one's own deliberation and judgment
- Potentially contrary to the recommendations of the evaluators
- Potentially contrary to the assertions and arguments of the other party



Benchmarks for Successful Early Neutral Evaluation

Use the following benchmarks to gauge the appropriateness of early neutral evaluation. If all of the benchmarks are met, then early neutral evaluation can proceed without accommodation at the election of the parties. If, on the other hand, any benchmark is not met, then the early neutral evaluation may not be appropriate. You should proceed with early neutral evaluation only if the specific concerns you've identified can be ameliorated to the satisfaction of the parties. (See next section for prospective safeguards).

Relationships are free from violence, threats of violence, and coercive control:

Notes:

Parents are free from the traumatic effects of abuse:

Notes:

Both parents feel free to participate, not participate, or withdraw from participation without fear of harm or threat of reprisal:

Notes:

Both parents have knowledge of relevant facts and law:

Notes:

Both parents are capable of persuasively articulating facts and legal arguments.

Notes:

Both parents can and will negotiate freely and make autonomous decisions without intimidation or threat of reprisal:

Notes:



Safeguards for Successful Early Neutral Evaluation

Modify the early neutral evaluation process: If any of the early neutral evaluation benchmarks are not met, the evaluators must determine whether it is possible to modify the early neutral evaluation process to effectively ensure safe involvement, knowing and voluntary participation, knowledge of relevant facts and applicable law, ability to persuasively articulate facts and legal arguments, and autonomous decision-making by each party. In making this determination, evaluators should consider:

Safe involvement:

Whether it is possible to design and implement a safety protocol to keep parties safe both in and outside of the early neutral evaluation session; and, if so, what the terms of that safety protocol should be.

Ideas:

Knowing and voluntary participation:

Whether anything can be done to assure that the parties understand the early neutral evaluation process and the consequences of the issues to be decided; and, if so, what those steps should be.

Ideas:

Whether more clearly defining, limiting, or narrowing the issues to be discussed can address and overcome a party's reluctance or inability to participate in early neutral evaluation; and, if so, what refinements would be necessary, fair and sufficient.

Ideas:

Whether it is possible to design and implement an early neutral evaluation termination protocol to ensure that parties can safely end or suspend early neutral evaluation without fear of harm, threat of reprisal or other negative consequence and, if so, what the terms of that termination protocol should be.

Ideas:



Knowledge of relevant facts and law:

□ Whether the parties' knowledge of and access to relevant information and applicable law can be sufficiently improved so that the parties can provide an adequate basis for the evaluators' opinion, and if so, what steps should be taken.

Ideas:

Ability to make persuasive factual and legal arguments:

□ Whether steps can be taken to enable the parties to make factual and legal arguments, and if so, what steps should be taken.

Autonomous decision making:

□ Whether it is possible, with proper support, to assure that both parties can and will make free and informed decisions; and, if so, what supports would be necessary, fair and sufficient.

Ideas:

□ Whether it is possible to provide sufficient support to assure that parties are able to freely oppose the recommendations of the evaluators.

Ideas:

□ Whether it is possible to provide sufficient support to assure that each party is able to freely oppose the assertions and arguments of the other party.

Ideas:

Utilize a different dispute resolution process: If any of the early neutral evaluation benchmarks are not met – and it is not possible to effectively modify the process or delay early neutral evaluation – the parties should consider utilizing a different dispute resolution process.