



From Awareness to Action

BRIEF

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Parenting time-sharing practices of parenting plan evaluators in the context of family violence: what does the research reveal?



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Knowledge and practices relating to the consequences of parental separation and those relating to the consequences of family violence (FV) have long developed in parallel with each other, thus leading to the emergence of different institutional cultures in the services provided to the clientele concerned (Johnston & Ver Steegh, 2013). This may have contributed to the persistent difficulties encountered by family justice system services in attempting to accurately identify FV in families involved in post-separation disputes and to address these issues through the implementation of safe parenting arrangements (Jaffe, Crooks, & Poisson, 2003). Parenting plan evaluation is an integral part of such services. It is a process whereby recommendations on the sharing of parenting time (or other issues surrounding the needs of a child in the context of a contentious parental separation) can be made to the court by an expert, also called parenting plan evaluator (PPE) (OPQ, OPTSQ, & ACJQ, 2006). PPE reports are an important piece of evidence in such cases, since judges generally follow the PPE's recommendations when making an order (Semple, 2011; Saini, 2008). In view of the importance of this type of report, some studies have paid particular attention to this practice, which is carried out by professionals (represented mainly by psychologists in law firms and, to a lesser extent, by social workers) charged with assessing contentious family situations in the context of FV. This brief aims to summarize the main studies conducted on this subject.

Various methods have been used by researchers to investigate the practice of PPE reports, including an analysis of PPEs' responses to fictitious clinical vignettes. Two of these studies (Hans, Hardesty, Haselschwerdt, & Frey, 2014; Hardesty, Hans, Haselschwerdt, Khaw, & Crossman, 2015) involved 600 PPE from 48 U.S. states. Participants were asked to respond to clinical vignettes containing several consecutive segments. With their help, it was possible to verify changes resulting from the addition of information on a family situation according to the various segments, particularly with regard to custody rights (single parent or joint custody with the mother or the father). Several different vignette segments were studied in these two research projects. The results showed that the PPE widely recommended joint custody (82% and 77%) in cases of custody disputes without elements of violence. In another situation, involving violence committed by the father and pointed out by the mother, only a third of the PPE changed their initial recommendation in favour of custody granted to the mother. It should also be noted that the type of violence presented (scenario of situational violence presented to half of the sample and coercive control presented to the other half) had little influence on this change (Hans et al., 2014; Hardesty et al., 2015). Counter-allegations of mutual violence were in turn shown to lead to strong support for shared custody (Hans et al., 2014). In addition, the study by Hardesty et al. (2015) revealed that the perception of the mother's behaviours (hostile or favourable to the father) played a crucial role in recommending sole custody to the mother. Therefore, if the mother encouraged co-parenting, custody recommendations were more likely

to be in her favour, whereas her perceived hostility towards the father likely put her at a significant disadvantage in the different scenarios proposed to the parenting plan evaluators (PPE) in Hardesty et al. (2015), over and above other factors such as the type of violence committed or the presence of a contact ban. Another study (Saunders, Tolman & Faller, 2013) also used a clinical vignette with elements of violence, and collected the recommendations made by the participating PPE (N= 465 PPE in the U.S.) across their caseloads. It emphasized that beliefs about FV and custody (e.g. victims of violence make false allegations of abuse, FV is not relevant to custody decisions) were the factor that best explained the custody recommendations made (granting custody to the perpetrator, not recommending supervised access to the perpetrator), over and above other participant characteristics (demographic and professional characteristics and level of knowledge acquired about FV).

PPEs' beliefs are also central to the analysis of their discourse. A few studies have used qualitative methods to explore the question of PPE practices in the context of FV. A study carried out by Haselschwerdt et al. (2011) with 23 PPE examined their opinions on taking FV into account in the context of custody and rights of access assessments (relevance of conducting such assessments, position regarding false allegations and recommendations made in this type of case). The results of this study showed that the PPEs interviewed had two opposing conceptions. The so-called "feminist" PPEs' (N=9) identified multiple forms of FV during the interviews, placing control and power at the heart of the relational dynamic. In their assessment process, these PPE looked for evidence of control and adapted their recommendations according to the type of violence identified, while prioritizing the safety of FV survivors (e.g. by recommending supervised visits for perpetrators). It was their understanding that false allegations are rarely made, and they questioned the child-rearing skills of the FV perpetrators, while underscoring the negative consequences of FV on children in the event of exposure. In contrast to this perspective, the PPE aligned themselves with a "family" understanding of violence (N=14), and evoked external causes to explain the occurrence of FV, such as breakup-related stress. According to this conception of the problem, when violence is committed, responsibility is seen as being shared between the partners, FV is perceived as being generally mutual, and attempts to gain control are viewed as being bidirectional. In this context, the PPE questioned the parents' child-rearing skills, and particularly those of the person claiming to be the victim, because of their resentment and victimization. Lastly, the evaluators estimated that 40% to 80% of the FV allegations in their files to be erroneous (versus 10% in the group with a so-called feminist perspective). Consequently, the PPEs' recommendations were based on the importance of co-parenting (Haselschwerdt et al., 2011). These findings of highly contrasting views among the PPE echo those of Sanders et al. (2015) in a study of 10 psychologists performing parenting plan evaluation assessments in six U.S. states. While most of the PPE believed that FV could have occurred without any official documentation of abuse being available, a few PPE suggested that allegations of violence are generally used to gain an advantage in court. Opinions also varied widely on the frequency of FV in their cases, ranging from being found in the majority of cases to being rare or non-existent. There was also no consensus on the definition of FV, with some PPE (N=2) referring only to physical violence for the purpose of defining it, and only one PPE mentioning Johnson's typology and the concept of coercive control for that same purpose.

The only Canadian study we identified that focuses on the practices of the PPE in the context of FV is Vincent's (2019) master's thesis, which carried out a critical feminist analysis of 15 PPE reports from the files of women who had received services from shelters for FV victims between 2010 and 2018. Most of the reports reviewed in Vincent's (2019) study classified victim-reported episodes of violence as "incidents" and preferred the notion of "parental conflict" to that of FV. When the expression "parental conflict" was used, it tended to assign symmetrical responsibility to the conflict and resulted in a custody arrangement based on the joint responsibility of both parents (Vincent, 2019). The overall conclusion of Vincent's study was that PPE tend to trivialize or deny FV despite the presence of external evidence (contents of court files or police reports detailing the violence). Similar results were obtained in a British study in which 70 PPE reports produced between 2006 and 2007 were analyzed. In that study, maintaining contact was the most frequent recommendation, with an emphasis on co-parenting and parent-child bonding despite the evidence of FV and the child's expressed reluctance to maintain such contact (Macdonald, 2016).

In addition, two surveys conducted in the United States (not representative of the entire population of PPE studied) showed that, while the vast majority of the PPE trained in FV attached importance to the issue of such violence in their practice and studied the presence of FV in the families assessed, a minority (between 30 and 38%, depending on the study) systematically screened for FV using specialized tools (Bow & Boxer, 2003; Saunders et al., 2011). Some of these PPE (15%) named, as examples of specialized tools, general tools used to measure personality or psychopathology (Saunders et al., 2011).

Despite the limited amount of research on this subject, and its undeniable methodological limitations, particularly with regard to the representativeness of the samples and the validity of the measures employed, the results obtained show the major challenges and gaps that remain in this field, and invite us to make efforts to bring evaluation practice up to standard. In addition, a number of studies carried out with other players in the justice system, namely, judges (e.g. Naughton et al., 2015; Shea Hart & Bagshaw, 2008) and lawyers (ex. Saunders et al., 2011), together with an analysis of case law (e.g. Bernier, Gagnon, & Fédération des maisons d'hébergement pour femmes, 2019) and the extensive research conducted with FV survivors who have made their way through the family justice system (e.g. Coy et al., 2015; Gutowski & Goodman, 2019; Khaw et al., 2018; Miller & Manzer, 2018; Roberts, Chamberlain, & Delfabbro, 2015; Zeoli et al., 2103) are consistent with the problems targeted in studies dealing specifically with evaluation. All of this research also indicates that efforts need to be focused on training the PPE and other professionals, particularly with regard to the differentiated analysis of the dynamics of violence and to universal and systematic screening for FV using a range of tools specific to this issue. Beyond the formal training of professionals, it is a priority to work on deconstructing the myths surrounding FV, which may have developed not only within an institutional culture emphasizing co-parenting, the normalization of separation and the autonomy of families in taking charge of their post-separation reorganization (Johnston & Ver Steegh, 2013), but also within different social groups that have different representations of FV. Research employing rigorous methodologies will be needed to assess whether recent social and legislative changes have altered perceptions and practices in this professional field.

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