



Family Mediation and Domestic Violence



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Introduction to Libby and Jon



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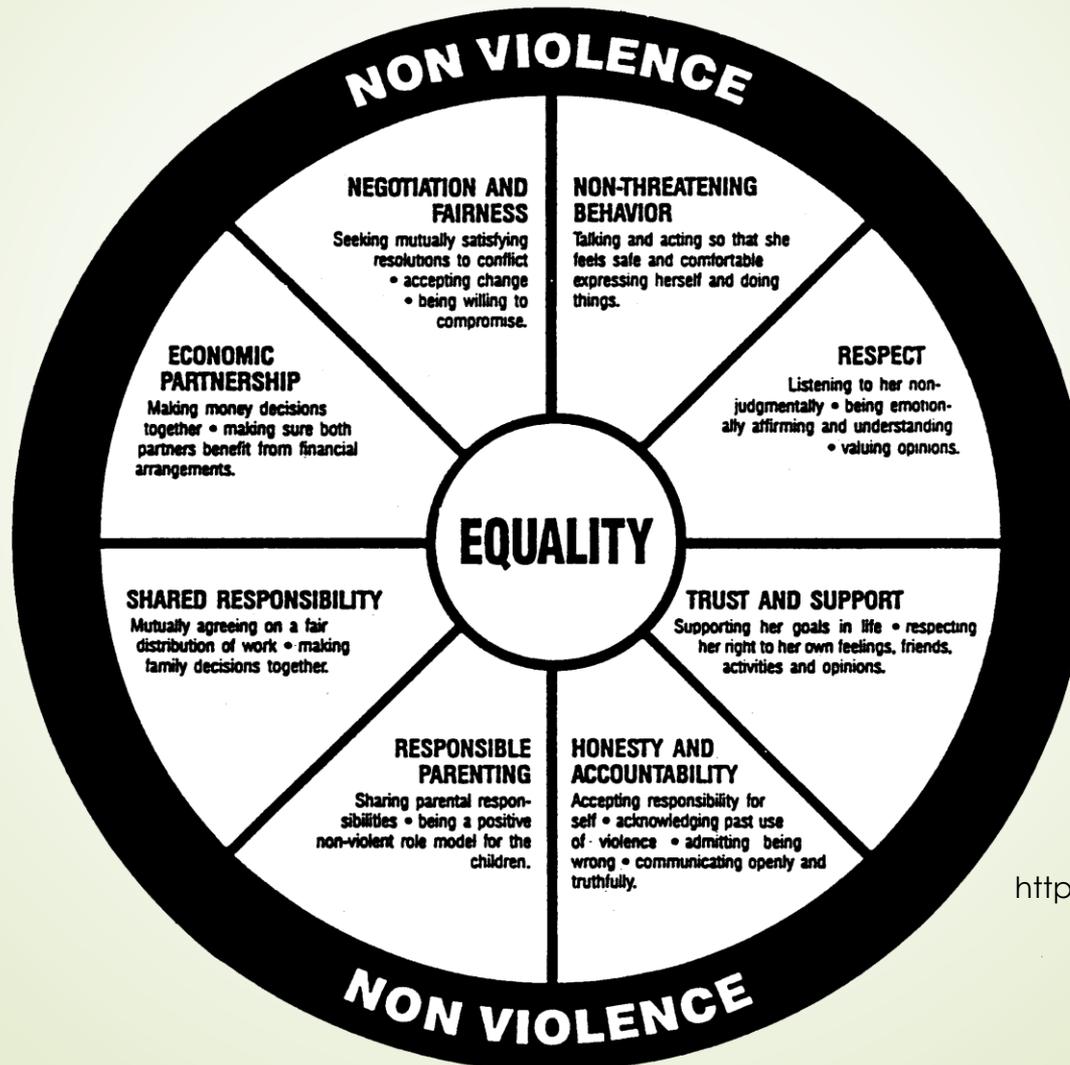
Jon is the Clinical Director of the Institute of Specialist Dispute Resolution, a provider of tailored family dispute resolution processes for families presenting with complex issues. The Institute also provides training and clinical supervision for mediators in Australia

Introduction

3

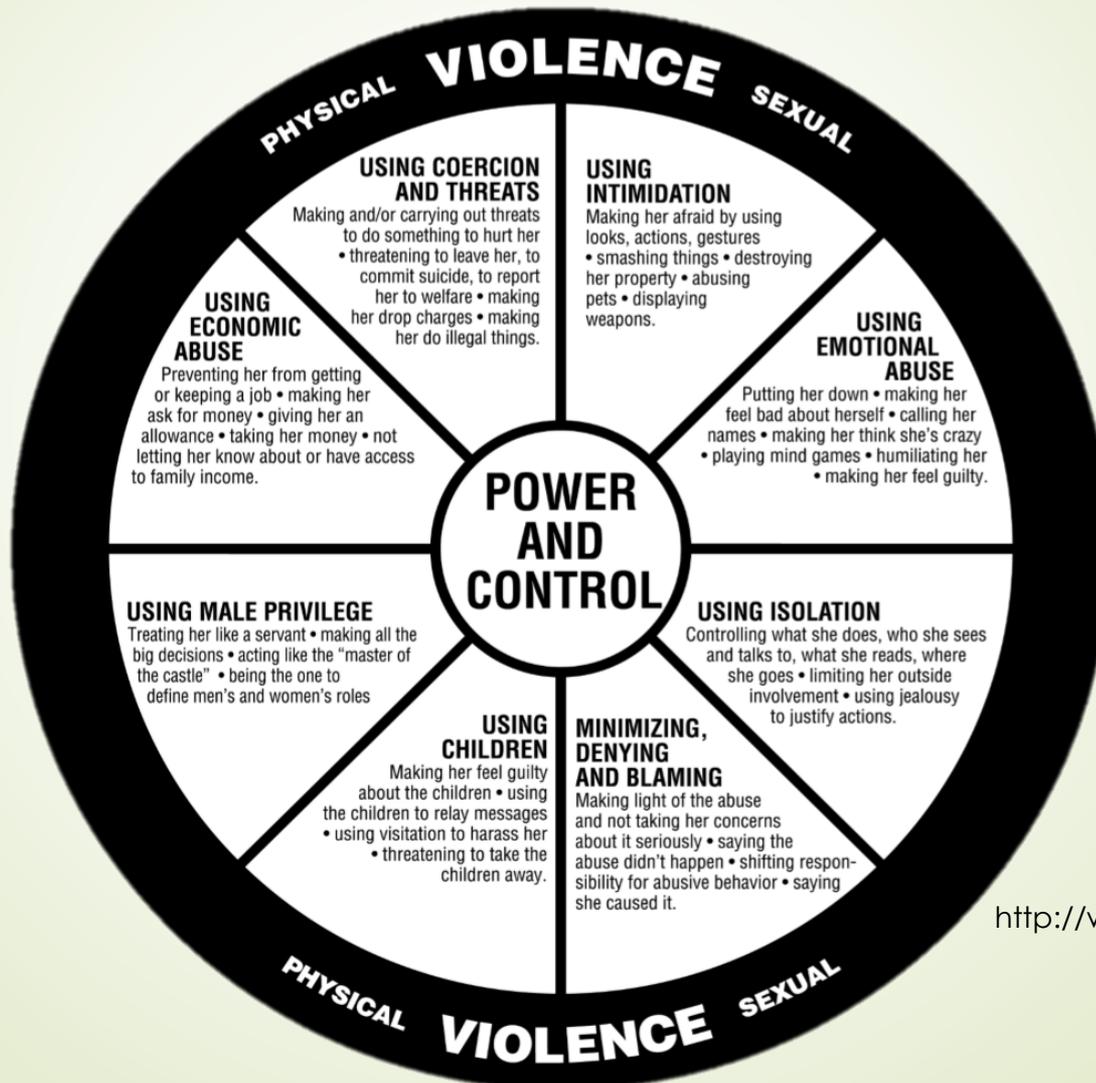
The presence of family violence is likely to create power differentials that make mediation more challenging. The misuse of power and control within intimate partner relationships can make any negotiation of future parenting arrangements impossible. The challenge we mediators face is that standard dispute resolution models struggle to manage the specific challenges of both resolution of disputed issues and working with the highly complex families. This teleconference will begin to draw together theory and practice models from Australia and North America that prioritise family safety in complex cases. Theory will be outlined and case examples provided of models for ensuring safer post-separation family mediation processes.

What is a safe relationship?



The Duluth Model
<http://www.theduluthmodel.org/>

What is an unsafe relationship?



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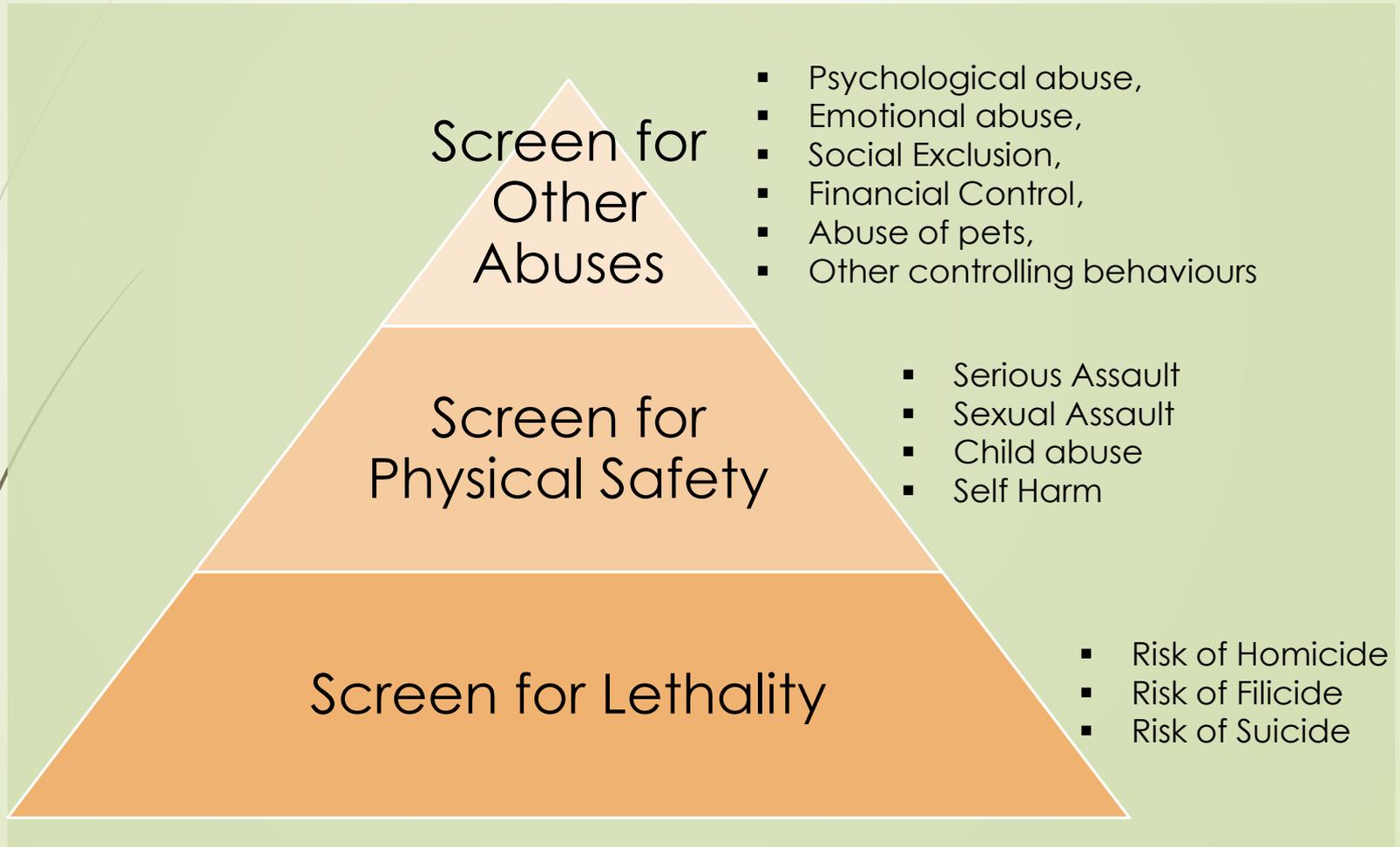
Risk and DV

- Identifying Risk.
 - **Victim's perception of fear**
 - **Professional judgement**
 - **Risk indicator Tools**

Several Risk assessment tools such as:

- DOORS (Detection of Overall Risk Screen) Australia
- CRAF (Common Risk Assessment Framework) Victoria Australia
- MASIC (Mediators Assessment of Safety Issues and Concerns) USA
- SARA (Spousal Assault Risk Assessment) USA

Re thinking Screening and Risk Assessment



Risk Indicators

We need to be aware of high risk indicators. For example:

- Victim fear
- History of violence
- Presence of guns
- Previous use of a weapon
- Threats with weapons
- Threats to kill
- Threats to pets
- Previous serious injury
- Threats of suicide
- Drug or alcohol misuse
- Obsessiveness/ extreme jealousy or dominance
- Strangulation

Levels of Violence: Doors

- Arguments for and against identifying the levels of risk. But in reality it is unlikely that any practitioner is able to treat all of their files like they are high risk. The exercise of professional judgement applies, but are there resources to help us to determine what are higher risk cases.
- DOORS
 - Isolated Low Level Risks
 - Moderate Pattern of Risks
 - Acute and Severe Recent Risks

DOORS Framework (2012) McIntosh, J.E. and Ralfs, C.
<http://www.familylawdoors.com.au/>

DOORS Levels of Violence

A: Isolated Low – Level Risks

- Recently low level or “cool” risks evident for client and/or their children.
- Low or moderate general wellbeing risks: isolated and clearly situational risks to safety which are adequately managed and not likely to become dangerous as the family law process progresses; client and or their children is supported. The pattern of risk across the domains does not amount to a need for immediate action.

DOORS Framework (2012) McIntosh, J.E. and Ralfs, C. p.62
<http://www.familylawdoors.com.au/>

B: Moderate Pattern of Risk

- Recent moderate or 'warm' risks evident for client and/or their children. Includes a clear pattern of well being risks to parents or their children, with possible escalating risks as the family law process continue.
- Usually involves concomitant risks, where adequate assistance is not already in place, and risks a likely to intensify without support.

DOORS Framework (2012) McIntosh, J.E. and Ralfs, C. p.62
<http://www.familylawdoors.com.au/>

C: Acute and severe recent risks, isolated or patterned

- Recent acute or “hot” risks evident for client and/or their children. Often involves a pattern of historical risks, recently increasing in intensity where adequate assistance is not in place and risks are recent. May include recent onset acute mental health issues.
- Includes anything that requires a notification to the relevant authority.

DOORS Framework (2012) McIntosh, J.E. and Ralfs, C. p.62
<http://www.familylawdoors.com.au/>

What is Safety Planning?

- Safety planning is working with the client to map out their options to maximise the client and their children's safety.
- As all situations are different, so are all safety plans, and safety plans need to be tailor made for each client.
- We need to recognise that the client is **the expert** in their situation.
- Safety Planning is something that we do with the client rather than for the client, otherwise we may replicate the dynamics of the abuse.

What is Safety Planning?

- ▶ When making a safety plan, it is critical to address and understand the relationship between the victim and the perpetrator, particularly when there is a continuing emotional attachment or when children are involved.
- ▶ *Professionals are more likely to be able to support victims to develop realistic safety plans when they have a true understanding of all the elements they need to integrate and to take into account.*

Common Risk Assessment Framework 2nd ed 2012 p.51

At a minimum, the safety plan should:

- ▶ List the contact numbers for a family violence organisation
- ▶ List emergency contact numbers
- ▶ Identify a safe place for the victim to go if she is in danger and how to get there
- ▶ Identify a friend, family member or neighbour who can assist in an emergency, and how to contact them
- ▶ Identify a way for the victim to get access to money in an emergency
- ▶ Identify a place to store valuables and important documents so that the victim can access them when needed
- ▶ Specifically address any barriers to the victim implementing the safety plan e.g. Leaving a pet behind.

Common Risk Assessment Framework 2nd ed 2012 p.51

What is Domestic and Family Violence Safety Plan?

Safety Plans are intended to optimize the safety of the person who has experienced violence's at every stage:

- Detailed Plans in case of dangerous situations'
- Identify safe friends and safe places
- Identify the essential items to take should one need to leave home
- Include information about local DV Resources and legal rights
- Build on what the person is already doing to survive

Safety Planning for Legal Professionals

- ▶ Ask your client when is the best time to call and only speak to your client about the case. Do not leave messages with other family members or voice mail until your client has told you that it is safe.
- ▶ If questioned by other family members do not indicate who you are – give an innocuous reason for your call – taking a survey
- ▶ Use a private number so that if the client's phone is checked, it is not obvious that she has been talking to a solicitor. (Also tell your client that you are doing this so they will know that it is you calling)

adapted from Safety Planning: Tools for Attorneys www.stoprelationshipabuse.org

Safety Planning for Legal Professionals

- Send mail to your clients only when your client has advised you that it is safe.
- Time letters that you send to the other party and let your client know when they are being posted so that they can prepare and take extra safety precautions.
- Keep your client's whereabouts confidential, including addresses, phone numbers or information about the children. Victims/survivors are often tracked down through third parties such as court personnel.
- If your client fails to respond to your calls, make an effort to confirm that your client is safe.

Advise clients to

- Call 000 if they are at risk of harm
- Record all contact with their ex-partner in a diary
- Report any breaches of protection orders to the Police
- Seek medical treatment if injured by ex partner and disclose to medical staff that the injuries are the result of domestic violence. Make sure that the injuries are photographed
- Refer your client to local Domestic Violence Services

Safety Planning in Summary

Working in alliance with your client:

- ▶ Promoting safety is the primary principle
- ▶ Start with talking about your client's existing safety planning & helping them to name it
- ▶ Always build from the existing plan
- ▶ Educate or acknowledge that perpetrator tactics will change in response to her behaviour, especially major changes



21

What is Safe Practice?

Safety focused practitioners:

- Separation is a risk indicator for family violence. So there is a Family Violence potential in all of our case work.
- Separation is more than physical separation:
 - Financial
 - Social
 - Psychological
 - Emotional
- At separation emotions run high and any interventions from family mediators must take this into account. Some problematic behaviors begin as protective/survival responses. This does not make them acceptable.
- Works from a strengths position that there is **hope**.

Principles of Safe Practice

☑ SAFETY

- In the fullest sense of the word. All of self, all of family. Continuous risk assessment and safety planning.

☑ TRUSTWORTHINESS

- Doing what we say we will. Solid practice policies. If anything under promising and over delivering.

☑ CHOICE

- Informed choice of service.
- Variation in models of practice to suit the needs of the case.
- Choice rather than mandated involvement. Freedom to discontinue at any time.

☑ COLLABORATION

- Strategic use of a range of practitioners all working towards a safe outcome.
- Information sharing policies and practices

☑ EMPOWERMENT

- Decision making remains with the parties. Advise on outcomes is limited.
- Parties do as much work for themselves as possible.

Safe Practice Model Strategies

☑ **NATURE OF FAMILY MEDIATION PRE MEDIATION**

- Engagement through the party story
- Challenge through the alternate story
- Use of preparatory coaching and psycho education
- Resolution of conflicted issues in the pre mediation session

☑ **NATURE OF THE FAMILY MEDIATION JOINT SESSION**

- Shuttle mediation is not always a requisite.
- Mediation models need to limit exploration of past issues (tightly corralled sessions)
- Session length kept to manageable proportion
- Indicators of trauma/toxic stress identified and acted upon
- Conditional mediation approaches considered
- Professional support people in the mediation room
- Increased use of caucuses and breaks

☑ **SAFETY, TRUSTWORTHINESS, CHOICE, COLLABORATION AND EMPOWERMENT**

Pre Mediation

- Space, time, safety.
- Safer behaviors, not attitudinal change.
- Continuous safety assessment and planning.
- A trauma informed approach:
 - Tell me about you?
 - Where are you from?
 - What are you seeking in mediation?
- Evidential truth and the story from the person affected by trauma:
 - Stories are not always internally consistent
 - Stories can be incomplete
 - Stories can change

Family Mediation

- Conditional mediation, agenda set before the mediation, tightly managed exploration, clear agreements.
- Breaks in the process. Use of the outdoors for breaks
- Mediator uses containment strategies through out the process. Until the client self regulates, the regulation of the room as actively managed by the mediator.
- Multi session mediation, with short term agreements to assist in the formation of a new (safer) history.
- Accountability frameworks to the mediation process
- Continuous safety assessment and planning

Parenting Readiness Scale Items

(Yasenik and Graham 2015)

- The scale identifies how each parent:
 - values parenting roles,
 - sees the self as part of a process and the impact she/he has on others,
 - is able to have a feeling/view and accept a different feeling view expressed by another family member,
 - is able to manage their own feelings and behaviors during stressful moments,
 - can take some distance from personal experience and find a way to be neutral about another,
 - can solve problems that arise despite feeling state, and can view the self as a parent first.

Child and Youth Concerns Scale

(Yasenik and Graham 2015)

- A new way to understand child concerns.
- Looks at the concerns of children and places within the language of attachment:
 - Concerns about time
 - Concerns about physical space
 - Concerns about psychological space
 - Concerns about emotional space
 - Understanding of parental separation
 - Concerns about family relationships
 - Concerns about community
 - Concerns about peers
 - Other concerns