

# Family Violence And Family Mediation

Domestic Violence and Incest Resource Centre (DVIRC)  
Relationships Australia (Victoria) (RAV)

# Paper Overview

- **Context**
- **Purpose of Partnership**
- **RAV & DVIRC concerns**
- **Common Ground**
- **Current Practice Methods**
- **Research Project**
- **Early Themes/Outcomes**
- **Quotes**

## Changes Are Afoot

- **There is pressure from policy makers to encourage separating parents to utilize mediation and other PDR services**
- **There appears to be a push towards a compulsion to mediate**
- **Impending and significant increase in PDR services that will stretch the clinical competencies within the sector**

# Purpose of the Partnership

- **How can we ensure that victims of family violence are not disadvantaged or put at risk by these changes, while at the same time allowing them to benefit from some of the opportunities that PDR can potentially deliver?**

# RAV's Concerns

- **Relationships Australia has had a relatively small, highly skilled team of practitioners working in family mediation**
- **There will be an increase in quantity and complexity of cases due to compulsion**
- **There will need to be a corresponding increase in training of service providers**

- **There is a need to develop a model of practice for mediators when working with mandated clients with family violence**
- **It is time to articulate much of the expertise already used by RAV mediators into a clear (or clearer) model of practice**
- **It is always time to explore ways of improving practice, in particular, learning from the experiences of clients**

# DVIRC's Concerns

- **DVIRC's concerns arise from a history of research and experience from direct service delivery that demonstrates that mediation is not appropriate in cases of family violence.**
- **Screening tools are not effective in excluding such couples: in particular, screening tools often highlight physical violence at the expense of emotional abuse.**
- **As a result, many more victims of abuse will be required to mediate following separation.**

- **This requires us to think pragmatically about the ways in which we can best support and resource women to safely participate in mediation**
- **PDR expansion needs to be supported by specialized training in identifying, responding to and working with families where violence is present**

# Common Ground

- **More family violence affected clients will present for mediation**
- **Specialist family violence training is required**
- **Effective practice models need to be articulated (and developed)**
- **There is a need to screen out inappropriate (ie improve screening) and work better with those who are included**

**While our respective sectors could and have argued about the inherent problems in mediating where violence is present, both RAV and DVIRC recognize that there are also valid reasons why women may prefer to use mediation or other ADR processes than the Family Court.**

# R&D Partnership

**RAV and DVIRC have formed a research and practice partnership to evaluate the experiences of women victims of violence who have undertaken mediation, with a view to:**

- **Identifying and develop good practice**
- **Developing training for practitioners**
- **Developing resource and supports for women clients affected by family violence**

# Current Practices

## RAV

# Criteria for Inclusion in Mediation

Willingness, Safety, Capacity

# Willingness

- **In its historical and “purest” form mediation required all clients to be voluntary.**
- **Lack of willingness meant many family violence affected clients who would not have been appropriate did not present or were not referred to mediation.**
- **This can no longer be relied upon as a “natural” filter**

# Safety

- Safe from physical and emotional harm. Clients need to **be safe** and **feel safe** prior, during and after mediation

# Capacity

- **How has the experience of family violence (physical & emotional) affected the capacity of the victim to participate effectively in mediation?**
  - **Trauma, intimidation, fear, threat**
- **Can (modified) mediation process alleviate, overcome, compensate?**

# Modified Mediation Processes

- **Safety concerns (before, during and after)**
  - **Separate waiting rooms / exit points**
- **Continuous assessment**
- **Shuttle mediation**
- **Non neutral mediator**
- **Co-mediation**
- **Third party support for victim (coach, support worker, friend, lawyer)**
- **Frequent individual sessions with mediator**

# Research Project

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# Research - 1996 Keys Young

- **The incidence of physical and other forms of abuse is high**
- **Agencies reported around 30% of clients had experienced family violence, while almost three quarters reported they had experienced some type of violence or abuse**
- **Positive mediation experiences occurred when...**

## RAV/DVIRC study

**Asking women victims of abuse about their experiences of mediation. Our particular areas of interest reflect our services: RAV is keen to build a comprehensive model of service delivery, while DVIRC would like to develop resources for victims attending mediation.**

# Method

- **DVIRC** : Sample of clients recruited from website
- **RAV**: Past and current clients who have been assessed as affected by family violence. Some screened out of mediation, some proceeded with mediation.
- Interview tool based on an expanded version of the Keys Young instrument.

# Responses/Themes so far..

- **What went wrong**
  - **Lack of validation**
  - **Dismissive of experience**
  - **“I was easily dominated”**
  - **“I wasn’t emotionally strong enough”**
  - **“I didn’t appreciate how difficult it would be”**
  - **“Neutrality is like saying your story doesn’t exist”**

## **What helped (or would have)**

- **A better explanation of the process, not just written information (ie preparation)**
- **Mediators were, good at picking up physical violence (not so good at discussing and taking into account emotional violence and control)**

## **What helped (or would have)**

- **Acknowledgement, validation of experience**
- **Time out, help with working out strategies, managing ex-partner, checking in.**
- **Extra support, counseling, coaching (?) prior**
- **Awareness/appreciation and management of the triggers (“it just took that look”)**

# The Learning So Far

- **Mediators need to validate experience of victim – acknowledge/believe and yet remain neutral**
- **Assess capacity in light of experience and provide external support (counselling prior, coach prior and during)**

- **Continuously check in**
- **Provide time out**
- **Understand impact of non-physical abuse**
- **Understand trauma and how it affects capacity**
- **Screen out cases that are not appropriate**

**“I think that the mediation centre was like a department store. They only strictly dealt in mediation and I just wasn’t in the right department to go talking about my stuff”**

**“I felt that my disclosure was dismissed. ... there were questions about physical violence, and violence towards children. There weren’t questions about the control, like control of freedom and control of money”**

- **“Mediators have to have some level of neutrality, but they need to also know what that costs the person. I think for mediators to actually understand some of the effects of abuse on women, how incredibly difficult it is just to even talk about it, to name it. That to be visible is so dangerous, to even understand the triggering process, that can take you back into an emotional timeless abused state is not a very easy place to be when you’re trying to answer questions”**

- **“I would have liked some compassion. I would have liked her to validate and actually believe the truth”**
- **“She had us in separate rooms but I could hear him talking. I could hear his voice. We had to sneak past his waiting area to go to the toilet”**



# Future Plans

- Consult within the family violence and mediation sector
- Consult with family violence affected clients (pro and retrospective research project)
- Design a modified practice model to cope with mandated clients
- Evaluate, learn, modify, evaluate....

# Behavioral Questions Screening

- How were decisions made during the marriage/relationship?
- What happens when the two of you fight?
  - Can you give me an example
- Tell me about your worst fight
- What do you think you might fight about in mediation?

- How do you and your spouse act when angry?
  - Can you give me an example
- What types of things make you angry?
- Describe an occasion when your spouse was angry
- What did he/she do? What did you do?
- Have either of you ever used threats?
- Shoving or pushing?
- Choking, biting, hitting or kicking?
- Have either of you prevented the other from leaving the situation?
- Have either of you destroyed the other's property or harmed pets?
- Have either of you forced the other to do anything against his or her will?