

The Intersection of Child Custody Disputes and Child Protection Investigations: Secondary Data Analysis of the Canadian Incidence Study of Reported Child Abuse and Neglect (CIS-2008)

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Abstract:

Objectives: Identifying child custody dispute characteristics that are associated with child maltreatment investigations are important for improving child protection services. Our objectives were to explore the characteristics of child custody disputes within the context of child protection investigations and to determine the ways in which child maltreatment investigations involving child custody disputes differ from those investigations that do not involve such disputes.

Methods: Data were from the Canadian Incidence Study of Reported Child Abuse and Neglect (collection 2008) from 112 child welfare sites across Canada.

Results: Of the estimated 235,842 child maltreatment investigations in Canada in 2008, estimated 29,218 investigations involved child custody dispute cases (12.4%). Approximately 22.7% of child custody dispute investigations involved allegations of neglect, 16.7% involved an allegation of physical abuse 20.3% involved exposure to domestic violence, 9.7% involved emotional maltreatment, and 5.3% involved an allegation of sexual abuse.

Implications: Child protection workers must not assume that maltreatment allegations are false or unfounded simply because a custody dispute is also present. More attention is needed to explore ways to engage with families involved in child custody disputes so that they can better cope with the complexities of family breakdown.

Conflict of Interest:

The authors declare no conflicts of interest.

Keywords:

custody disputes, child maltreatment, child protection

Introduction

Family breakdown rarely occurs without the presence of interparental conflict (Drapeau, Gagne, Saint-Jacques, Lepine, & Ivers, 2009), as many parents will experience an acute-reaction period of conflict immediately following separation and divorce (Hetherington & Kelly, 2002; Saini, 2012). Parents unable to resolve their conflicts often turn to the family courts, child protection agencies and other legal and mental health professionals to help them resolve disputes over custody and access of their children (Bala & Birnbaum, 2010). Although the majority of families will resolve conflict over time, an estimated 5 to 12% of families will remain in very high-conflict situations despite the passage of time and the level of assistance of legal and mental health professionals (Bala & Birnbaum, 2010; Bala, Birnbaum, & Martinson, 2010; Saini & Birnbaum, 2007). Although there is no specific definition of a “high conflict” custody case, research has concluded that high conflict families most often are involved in prolonged disputes regarding child custody and access (Hetherington & Kelly, 2002; Johnston, 1994; Stewart, 2001), repeated allegations of intimate partner violence, child maltreatment and poor parenting against the other parent, severe anger and distrust (Johnston, 1994; Kelly, 2006; Saini, 2007) and higher rates of mental health problems for both children and their parents (Amato & Keith, 1991; Burke, McIntosh, & Gridley, 2007).

Impact of Child Custody Disputes

Parental conflict has been found to be a significant predictor of children’s maladjustment post separation (Amato & Keith, 1991; Saini, 2012). Children exposed to interparental conflict can struggle with their continued loyalty bonds towards each parent while trying to navigate their parents’ feelings of anger, animosity and contempt for the other parent (Burke et al., 2007). Parents place their children at risk of suffering emotional harm by exposing them to: degrading comments made by one or both parents about the other parent; questioning children about the personal life of the other parent; using children as messengers; exposing children to inappropriate content of adult disputes, and interfering with a child’s right to access the other parent (Saini & Birnbaum, 2007). Transitions between their parents’ homes can further expose children to the conflict, as these exchanges provide another opportunity for their parents to dispute issues regarding access, routines, homework,

and the wrongs of the past that contributed to the demise of the adult relationship (Saini, Black, Fallon, & Marshall, 2013). Attempts to consider the best interest of the children can be hampered by the interparental conflict that can divert the parents' attention away from the needs of their children (Saini, 2007).

Despite the documented cases of children exposed to inter-parental conflict and its aftermath (Burke, McIntosh, & Gridley, 2007; Kelly, 2006), children are able to cope through the challenges of being caught in their parents' conflict and find ways to be resilient and adjust to their parents' separation over time (Hetherington & Kelly, 2002). When professionals involved can focus on helping children develop coping mechanisms to deal with the feelings of being caught between their parents, children are better able to create healthier interactions necessary to address more contested issues (Greenberg, Gould, Gould-Saltman, & Stahl, 2003).

Child Custody Disputes within the Context of Child Protection Services

The link between high-conflict separation and divorce and prolonged child custody disputes (Bala et al., 2010) present unique challenges to child protection workers as they struggle to differentiate child maltreatment allegations from concerns related to the child custody dispute. Parents in conflict may make referrals to child protection services regarding the care of the child in the other parent's home. Child protection services may receive a referral from community professionals, such as doctors and teachers, because of a disclosure made by a parent and/or child. Referrals can also be made by local police services following incidents of conflict between the parties over child access. Referrals may also come from custody evaluators, mediators, parenting coordinators, and lawyers in the course of their duties when handling separation or divorce issues because of concerns observed during their work with the ex-partners.

Allegations within the context of child custody disputes can pose challenges to child protection services given that there remains a lack of training and understanding of how to best work with this population (Saini, Black, Lwin, Marshall, Fallon, & Goodman, 2012). Child protection workers may minimize parental allegations with the perception that such allegations within the context of child custody disputes are malicious claims made by disputing parents based on exaggerations fueled by the anger of the parents (Brown, 2003). Child protection workers can also dismiss the connection between conflict and maltreatment as a temporary phenomenon influenced by the acute stress related to the parental separation (Brown, Frederico, Hewitt, & Sheehan, 2001; Johnston, Lee, Olesen, & Walters, 2005). While there is growing attention of the unique factors related to child custody disputes (Brown, 2003; Jaffe, Johnston, Crooks, & Bala, 2008; Saini et al., 2012), there remains little evidence how these factors that contribute to the unique nature of these investigations within child protection services.

In Canada in 2003, 12% of child maltreatment investigations involved a child custody dispute (Saini et al., 2013). Investigations that involved child custody disputes were three times more likely to be opened and more likely to be considered malicious by child protection workers, compared to investigations without a noted custody dispute.

Investigations involving child custody disputes were not more likely to be substantiated; however, the ones that were unfounded were more likely to be malicious if they involved a child custody dispute. These findings highlight child protection workers' challenge of discerning the credibility and trustworthiness of allegations made within the context of a child custody dispute. Such investigations are often reported by the disputing parents (i.e. custodial or non-custodial parents), which may question the motives of the caller and influence the worker's judgment in discerning the eligibility of the case for child protection services. In child maltreatment investigations without a child custody dispute, referrals are typically reported by professionals (i.e. doctors, police, and school staff), and so the credibility and motives for the referral may not come into question (Saini et al., 2013).

Twenty percent of investigations involving child custody disputes had the primary maltreatment type noted as children's exposure to intimate partner violence (Saini et al., 2013), supporting previous research that has linked separation with intimate partner violence (Amato & Keith, 1991; Humphreys, 2007; Wilson & Daly, 1992), as separation and divorce itself does not guarantee that the abuse will end simply because the parents no longer live in the same home. The remaining number of investigations involving a child custody dispute were for physical abuse, emotional maltreatment, or neglect. Children involved in investigations with noted custody disputes were reported to have higher proportion of emotional harm and more functioning issues compared to children of investigations without child custody disputes. Parental alcohol abuse was also significantly higher in investigations with child custody disputes (Saini et al., 2013). Given the connection between child custody disputes and higher rates of parental conflict (Hetherington & Kelly, 2002), the findings in this study support the growing body of evidence that considers parental conflict as a significant predictor of children's maladjustment after separation and divorce (Saini, 2012).

Legislation in Canada

In Canada, each province and territory has its own child welfare legislation. None explicitly state child custody dispute as part of the definition of a child in need of protection (see Table 1); however, two allude to it. In Canada's largest province (Ontario), child protection workers use the Ontario Child Welfare Eligibility Spectrum (2006) to assess the referral for eligibility for service and code such cases that involve child custody disputes as 3-3-I (which requires a child protection investigation). Section 3 of the spectrum states that a child has been emotionally harmed or is at risk of emotional harm as a result of specific behaviours of caregiver neglect or due to the caregiver failing to adequately address the child's emotional condition. Under this section is scale 3, which defines partner violence as violence occurring between parents or between a parent/caregiver and his/her partner (i.e., physical or emotional violence). It is under this scale (i) that significant conflict over custody is rated as moderately severe for children's risk of mental/emotional harm or developmental conditions.

Study Objectives

The secondary analysis of the 2008 Canadian Incidence Study of Reported Child Abuse and Neglect (CIS-2008; Trocmé et al., 2010) sets out to explore the characteristics of child

Table 1. Provincial and Territorial Child Welfare Legislation (adapted from Black, 2009)

Province/ Territory	Name of Legislation	Definition of a child in need of protection
British Columbia	Child, Family and Community Services Act (2014)	Does not explicitly mention children's exposure to IPV or custody issues.
Alberta	<i>Child, Youth and Family's Enhancement Act</i> (2014)	(3) For the purposes of this Act, (a) a child is emotionally injured (i) if there is impairment of the child's mental or emotional functioning or development, and (ii) if there are reasonable and probable grounds to believe that the emotional injury is the result of (c) exposure to domestic violence or severe domestic disharmony.
Saskatchewan	<i>Child and Family Services Act</i> (2014)	(11) A child is in need of protection where (a) as a result of action or omission by the child's parent, (vi) the child has been exposed to domestic violence or severe domestic disharmony that is likely to result in physical or emotional harm to the child.
Manitoba	<i>The Child and Family Services Act</i> (2015)	Does not explicitly mention children's exposure to IPV or custody issues but section 17(2) states that a child is in need of protection where the child (e) is likely to suffer harm or injury due to the behaviour, condition, domestic environment or associations of the child or of a person having care, custody, control or charge of the child.
Ontario	<i>The Child and Family Services Act</i> (2011)	Does not explicitly mention children's exposure to IPV or custody issues.
Quebec	<i>Youth Protection Act</i> (2014)	(38) For the purposes of this Act, the security or development of a child is considered to be in danger if the child is subjected to psychological ill-treatment. In this Act, (c) "psychological ill-treatment" refers to a situation in which a child is seriously or repeatedly subjected to behaviour on the part of the child's parents or another person that could cause harm to the child, and the child's parents fail to take the necessary steps to put an end to the situation. Such behaviour includes in particular indifference, denigration, emotional rejection, isolation, threats, exploitation, particularly if the child is forced to do work disproportionate to the child's capacity, and exposure to conjugal or domestic violence.
Newfoundland and Labrador	<i>Children and Youth Care and Protection Act</i> (2014)	Does not explicitly mention children's exposure to IPV or custody issues but section 10 states that a child is in need of protective intervention where the child (l) is living in a situation where there is violence or is living in a situation where there is a risk of violence.
Nova Scotia	<i>Children and Family Services Act</i> (2008)	22(2) A child is in need of protective services where (i) the child has suffered physical or emotional harm caused by being exposed to repeated domestic violence by or towards a parent or guardian of the child, and the child's parent or guardian fails or refuses to obtain services or treatment to remedy or alleviate the violence.
New Brunswick	<i>Family Services Act</i> (2013)	31(1) The security or development of a child may be in danger when (f) the child is living in a situation where there is domestic violence.
Prince Edward Island	<i>Child Protection Act</i> (2013)	(9) A child is in need of protection where (m) the child has suffered physical or emotional harm caused by being exposed to domestic violence by or towards a parent; (n) the child is at substantial risk of suffering physical or emotional harm caused by being exposed to domestic violence by or towards a parent.
Nunavut	<i>Child and Family Services Act</i> (2010)	Does not explicitly mention children's exposure to IPV or custody issues.
Northwest Territories	<i>Child and Family Services Act</i> (2013)	(3) A child needs protection where (p) the child is repeatedly exposed to family violence and the child's parent is unwilling or unable to stop such exposure.
Yukon	<i>Children's Law Act</i> (2014)	Does not explicitly mention children's exposure to IPV or custody issues.

Table 2: Investigations involving child custody disputes in Canada in 2008

	Frequency	Percent
No	201 448	85.4
Yes	29 218	12.4
Unknown	5 089	2.2
Total	235 755	100.0
Missing	-	.0
Total	235 841	100.0

custody disputes within the context of child protection investigations and to determine the ways in which child maltreatment investigations involving child custody disputes differ from those investigations that do not involve such disputes. CIS-2008 is the third nation-wide study to examine the incidence of reported child maltreatment and the characteristics of the children and families investigated by child welfare across Canada. The CIS is the only study in Canada to collect information about the national state of child maltreatment investigations.

Methodology

The CIS-2008 sampling strategy consisted of a three-stage stratified cluster sampling design (Trocmé et al., 2010). First, out of 412 child welfare sites across Canada, a representative sample of 112 were selected. Within each site, information was collected about reports investigated over a three-month period, from October 1, 2008 to December 31, 2008. In the end, a sample of 15,980 child maltreatment investigations that met the study inclusion criteria were selected for analysis.

Information from these selected child maltreatment investigations was collected based on the following variables: type of investigated abuse and/or neglect, substantiation level, maltreatment duration, physical and emotional harm, functioning concerns related to the children and their caregiver(s), source of income, child custody dispute, housing, and decisions made by the child protection workers concerning the investigation. The CIS-2008 study only includes reports that have been investigated by child welfare agencies; it does not include reports that were screened out, those only investigated by police, and those that were never reported. The data represent child welfare workers' assessments, which are not independently verified.

The Dataset

Estimates of child maltreatment investigations were calculated by: a) weighing the sample annually in order to estimate the number of investigations in 2008, and b) weighing the sample regionally in order to estimate the incidence of child maltreatment in Canada based on Census 2006 child population statistics (see Chapter 2 of the CIS-2008 Final Report; Trocmé et al., 2010).

Table 3: Study variables and their operational definitions

Child custody dispute	There is an ongoing child custody/access dispute at the time of the child maltreatment investigation (court application has been made or pending).
Source of referral	Workers were asked to indicate all sources of referral, persons who contacted the child welfare site. There were 19 options: custodial parent, non-custodial parent, child, relative, neighbor/friend, social assistance worker, crisis service/shelter, hospital, public health nurse, physician, school, community/recreation center, mental health professional/agency, other child welfare service, daycare center, police, community agency, anonymous, unknown, other.
Risk of future maltreatment	A specific incident of maltreatment has not yet occurred, but circumstances indicate that there is a significant risk that maltreatment could occur. 3 response categories: risk of future maltreatment, no risk of future maltreatment, and unknown risk of future maltreatment.
Case characteristics	Case characteristic variables included whether the family had a previous opening with child welfare and whether they planned to keep the case open to allow for ongoing child welfare services.
Child functioning issues	Workers were asked to rate issues relating to the child's level of functioning. Twenty-two items were of child functioning included physical, emotional, cognitive, and behavioral.
Child welfare court, and mediation	the status of child welfare court (no application considered, application considered, application made); and whether a referral was made to mediation/alternative response.
Primary investigation type	
Physical abuse	The child was physically harmed or could have suffered physical harm as a result of the behaviour of the persons looking after the child.
Sexual abuse	The child has been sexually molested or sexually exploited. This includes oral, vaginal or anal sexual activity; attempted sexual activity; sexual touching or fondling; exposure; voyeurism; involvement in prostitution or pornography; and verbal sexual harassment.
Neglect	The child has suffered harm or the child's safety or development has been endangered as a result of a failure to provide for or protect the child.
Emotional maltreatment	The child has suffered, or is at substantial risk of suffering, emotional harm at the hands of the person looking after the child.
Exposure to intimate partner violence	The child is a direct or indirect witness to physical or emotional violence between intimate partners or between a caregiver and another person who is not the spouse/partner of the caregiver.
Risk Investigation	If the child was investigated because of risk of maltreatment only. Include only situations in which no allegation of maltreatment was made, and no specific incident of maltreatment was suspected at any point during the investigation (e.g., include referrals for parent-teen conflict; child behavior problems; parent behavior such as substance abuse, where there is risk of future maltreatment but no concurrent allegations of maltreatment).
Substantiation level for primary maltreatment	
Substantiated	Evidence indicates that abuse or neglect has occurred.
Suspected	There is not enough evidence to substantiate maltreatment, but it is also not certain that maltreatment can be ruled out.
Unfounded	Evidence indicates that abuse or neglect has not occurred. It does not mean that a referral was inappropriate or malicious; it simply indicates that the worker determined that the child had not been maltreated.
Malicious referral	If unfounded, was the case intentionally reported while knowing the allegation is unfounded.
Primary caregiving characteristics	
Cooperative	The caregiver is being overall cooperative with the child welfare investigation.
Alcohol abuse	Caregiver abuses alcohol.
Drug/solvent abuse	Abuse of prescription drugs, illegal drugs or solvents.
Mental health issues	Any mental health diagnosis or problem.
Female victim of domestic violence	During the past six months, the caregiver was a victim of domestic violence, including physical, sexual or verbal assault.
Child welfare placement	
No placement required	No placement of the child is required following the investigation.
Placement considered	At this point of the investigation, an out-of-home placement of the child is still being considered.
Informal kinship care	An informal placement of the child has been arranged within the family support network (kinship care, extended family, traditional care); the child welfare authority does not have temporary custody.
Kinship foster care	A formal placement of the child has been arranged within the family support network (kinship care, extended family, customary care); the child welfare authority has temporary or full custody and is paying for the placement.
Other family foster care	Non-kinship care of the child; includes any family-based care, including foster homes, specialized treatment foster homes and assessment homes.
Group home	Out-of-home placement of the child required in a structured group living setting.
Residential/secure treatment	Placement of the child is required in a therapeutic residential treatment centre to address the needs of the child.

The result was an estimated 235,842 child maltreatment investigations (an incidence of 38.33 per 1,000 children) in Canada in 2008 (see Chapter 3 of the CIS-2008; Trocmé et al., 2010). There was an estimated 29,218 investigations that involved child custody dispute cases (12.4%) and 201,448 (85.4%) that did not. For 5,089 maltreatment investigations (2.2%), child protection workers were unsure of whether or not a child custody dispute was involved.

The following variables (Table 3) and their operational definitions are taken from Appendix G of the CIS-2008 Guidebook (Trocmé et al., 2010).

Data Analysis

When weighted, the CIS-2008 dataset used child maltreatment investigations as the unit of analysis. The child was not used as the unit of analysis because children reported and investigated more than once a year may be reflected in the annulization weight. The CIS-2008 dataset is nested, containing variables that are measured at five levels (child, family, worker, agency, and province). The analyses include the child and family clusters, as they do not pose a threat to the independence of observations assumption (Williams, 2002). However, due to nesting, the analyses does not include worker, agency, and province clusters as they risk violating the assumption of independence of observations.

Due to the categorical nature of most CIS-2008 variables, chi-square bivariate analyses were used to examine the association between case characteristics. In addition, a logistic regression was performed predicting out of home placements and keeping investigations open for ongoing child welfare service. Using the Bonferroni approach, a more strict p-value was employed and $p < .001$ was considered significant.

Results

Table 4 shows investigations involving a child custody dispute compared to investigations without a child custody dispute and investigations where workers were unsure of whether there was a child custody dispute or not. These investigations are presented by type of investigated maltreatment ($X^2 = 74.59$). A risk investigation was the most common investigation involving a child custody dispute (25.8%; an estimated 7,532 investigations). Approximately 23% of child custody dispute investigations involved allegations of neglect (an estimated 6,621 investigations), 20.3% involved exposure to domestic violence, 16.7% of investigations involved an allegation of physical abuse (an estimated 4,875 investigations), 9.7% involved emotional maltreatment, and 5.3% involved an allegation of sexual abuse. The most common form of maltreatment for investigations without a child custody dispute was neglect (26.9%; an estimated 54,256 investigations).

Table 5 depicts the substantiation decision by the child protection worker for the alleged maltreatment. Approximately 25% of investigations involving a child custody dispute involved a malicious referral (an estimated 2,160 investigations) compared to 12% of investigations without a child custody dispute ($X^2 = 212.13$). Forty-four percent of investigations involving a child custody dispute were unfounded (compared to 73% of investigations without a child custody dispute).

Table 6 provides the estimated child maltreatment investigations by characteristics of

Table 4: Estimated child maltreatment investigations involving a child custody dispute by primary maltreatment type in Canada, 2008

		Child Custody Dispute			Total	X ²
		No	Yes	Unknown		
Physical abuse	Estimate %	39 383 19.5%	4 875 16.7%	784 15.4%	45 042 19.1%	74.59***
Sexual abuse	Estimate %	8 270 4.1%	1 536 5.3%	367 7.2%	10 173 4.3%	
Neglect	Estimate %	54 256 26.9%	6 621 22.7%	1 484 29.1%	62 361 26.5%	
Emotional maltreatment	Estimate %	12 608 6.3%	2 735 9.7%	284 5.6%	15 627 6.6%	
Exposure to domestic violence	Estimate %	34 560 17.2%	5 919 20.3%	689 13.5%	41 168 17.5%	
Risk Investigation	Estimate %	52 372 26.0%	7 532 25.8%	1 483 29.1%	61 387 26.0%	
Total	Estimate %	201 449 100%	29 218 100%	5 091 100%	235 758 100%	

*** p<0.001

Table 5: Estimated unfounded child maltreatment investigations involving a child custody dispute by malicious referral in Canada, 2008

		Child Custody Dispute			Total	X ²
		No	Yes	Unknown		
Unsubstantiated no malicious referral	Estimate %	41 794 73.0%	3 748 43.9%	889 58.4%	46 431 69.0%	212.13***
Unsubstantiated malicious referral	Estimate %	7 036 12.3%	2 160 25.3%	158 10.4%	9 354 13.9%	
Unsubstantiated unknown intent	Estimate %	8 456 14.8%	2 621 30.7%	475 31.2%	11 554 17.2%	
Total	Estimate %	57 288 100%	8 529 100%	1 522 100%	67 339 100.0%	

*** p<0.001

the primary caregiver. Approximately the same percentage of investigations with custody disputes involved cooperative caregivers (compared to investigations without custody disputes). The chi square statistic is significant, likely due to the investigations with unknown child custody disputes (X² = 227.79).

Table 6: Estimated child maltreatment investigations involving a child custody dispute by primary caregiver characteristics in Canada, 2008

		Child Custody Dispute			Total	X ²
		No	Yes	Unknown		
Cooperative	Estimate %	185 511 92.5%	26 882 92.4%	4 122 81.0	216 515 92.2%	227.79***
Not cooperative	Estimate %	13 295 6.6%	1 974 6.8%	502 9.9	15 771 6.7%	
Not contacted	Estimate %	1 847 0.9%	233 0.8%	466 9.2	2 546 1.1%	
Total	Estimate %	200 653 100.0%	29 089 100.0%	5 090 100.0%	234 832 100.0%	
Alcohol abuse	Estimate %	31 466 15.6%	4 282 14.6%	1 224 24.1%	36 972 15.6%	19.95***
Drug/solvent abuse	Estimate %	25 696 12.8%	4 907 16.8%	793 15.6%	31 396 13.3%	25.67***
Mental health issues	Estimate %	40 416 20.1%	7 805 26.7%	611 12.0%	48 832 20.8%	63.14***
Victim of domestic violence	Estimate %	57 666 28.6%	11 902 40.7%	1 341 26.4%	70 909 30.1%	122.68***

*** p<0.001

Table 7: Estimated child maltreatment investigations involving a child custody dispute by child welfare placement in Canada, 2008

		Child Custody Dispute			Total	X ²
		No	Yes	Unknown		
No placement required	Estimate %	183 577 91.3%	27 575 94.4%	4 646 91.3%	215 798 91.7%	31.62***
Informal kinship care	Estimate %	7 715 3.8%	893 3.1%	1.9%	8 707 3.7%	
Foster care (kinship or formal)	Estimate %	8 512 4.2%	630 2.2%	312 6.1%	9 454 4.0%	
Group home/ residential/ secure treatment	Estimate %	1 300 0.6%	0.3%	0.6%	1 432 0.6%	
Total	Estimate %	201 104 100.0%	29 198 100.0%	5 089 100.0%	235 391 100.0%	

*** p<0.001

Table 8: Logistic regression predicting child welfare placement for substantiated cases in Canada in 2008

	S.E.	Sig.	Exp(B)
age	.012	.001	.959
any child functioning issue	.122	.002	1.461
sexual abuse	.307	.672	.878
neglect	.131	.002	1.495
emotional matreatment	.163	.168	.799
exposure to IPV	.193	.000	.290
emotional harm	.116	.000	2.375
previous reports	.112	.000	1.485
unknown previous reports	.344	.011	2.405
unsafe housing	.134	.000	1.828
unknown safety	.195	.018	1.582
child custody dispute	.190	.004	.577
female victim of IPV	.105	.002	1.378
part-time	.157	.607	1.084
benefits/unemployed	.116	.001	1.477
social assistance	.184	.000	1.992
other	.377	.107	1.839
referral source is the custodial or non-custodial parent	.137	.001	1.610

When controlling for child, family, and household characteristics in the logistic regressions (see Table 8 and 9), investigations involving custody disputes were significantly less likely to result in out of home placements (odds ratio = .577, $p=.004$) or to stay open for ongoing child welfare services (odds ratio = .757, $p = .004$).

Discussion

Findings suggest that 12.4 percent (or 29,218 investigations) of children involved in child protection services are also involved in child custody disputes, slightly higher than reported in the 2003 data (12 percent and estimated 25,101 child maltreatment investigations as reported in Saini et al., 2012). In two percent of child maltreatment investigations, workers were not sure whether or not there was a legal child custody dispute, which is 2 percent lower than reported in Saini, et al., (2012) suggesting that workers are becoming better able to detect child custody disputes during the investigative stages.

Risk investigation was the most common investigation involving a child custody dispute (25.8%), which was not captured in Saini, et al., 2012. Approximately 22.7 percent of child

Forty percent of investigations with child custody disputes, involved victims of domestic violence (compared to 29% of investigations without child custody disputes, $X^2 = 122.68$). Mental health issues accounted for 26.7% of investigations involving child custody disputes, compared to 20.1% without a child custody dispute ($X^2=63.14$). Alcohol abuse was noted for 15% of investigations involving a child custody dispute compared to 16% without a child custody dispute; the significant chi-square is likely due to the investigations with unknown child custody disputes ($X^2 = 19.95$).

According to Table 7, Approximately 3% of investigations involving a child custody dispute involved informal kinship care, 2.2% involved kinship or other family foster care, and 0.3% involved group home or residential or secure treatment. Approximately 4% of investigations without child custody disputes involved informal kinship care, 4.2% involved kinship or other family foster care, and 0.6% involved group home or residential or secure treatment ($X^2 = 31.62$).

Table 9: Logistic regression predicting case opening for ongoing services for substantiated cases in Canada in 2008

	S.E.	Sig.	Exp(B)
age	.007	.000	.951
any child functioning	.070	.000	1.806
sexual abuse	.201	.137	.742
neglect	.086	.000	2.062
emotional maltreatment	.099	.000	1.618
exposure to IPV	.094	.275	.902
emotional harm	.082	.000	2.249
previous reports	.063	.000	1.662
unknown previous reports	.271	.000	2.991
unsafe housing	.109	.000	1.579
unknown safety	.137	.184	.834
child custody dispute	.098	.004	.757
female victim of IPV	.069	.000	1.737
part-time	.094	.027	1.230
benefits/unemployed	.074	.000	1.582
social assistance	.130	.533	.922
other	.294	.372	1.300
referral source is the custodial or non-custodial parent	.098	.189	1.137

to have been investigated for emotional maltreatment (9% vs 6%), involve a malicious referral (25% vs. 12%), involve a caregiver with drug/solvent abuse (17% vs 13%) or mental health issues (27% vs 20%).

The overlap between custody disputes and intimate partner violence is worth noting. Investigations with custody disputes had a significant overlap with children's exposure to intimate partner violence. For example, investigations involving custody disputes are more likely (compared to investigations without noted child custody disputes) to have been investigated for children's exposure to intimate partner violence (20% vs 17%) or involve a caregiver who is a victim of domestic violence (41% vs 29%). In Ontario, Canada as of 2006, there is a distinction in the province's screening tool distinguishing children's exposure to intimate partner violence from child custody disputes; referrals solely concerning custody disputes also require an investigation by child protection services if the child is at risk of emotional harm. Our findings from a national representative study (CIS-2008), demonstrate

custody dispute investigations involved allegations of neglect, which is almost unchanged from Saini, et al., (2012) where they found 23 percent of allegations were due to neglect. A marked decrease in allegations of physical abuse was found (16.7% in the present study compared to 32% in Saini et al., 2012). Allegations of exposure to domestic violence was almost unchanged (20.3% in this current study compared to 20% in Saini et al., 2012). Only 9.7 percent of allegations involved emotional maltreatment compared to 20 in Saini et al., 2012). Lastly, the percentage of allegations of sexual abuse remained almost unchanged (5.3% in this current study compared to 5% in Saini et al., 2012).

Approximately twenty-five percent of unfounded investigations involving a child custody dispute were malicious, which is a decrease from the 37% of unfounded investigations noted as malicious using CIS-2003 data (Saini et al, 2012).

Results from this current study suggest that investigations involving custody disputes are significantly different from investigations without custody disputes. For example, investigations involving custody disputes were more likely

a complex overlap between IPV and custody disputes. With a focus on child safety, child protection workers should be vigilant for the presence of domestic violence in separated families, especially those caught in child custody disputes (Saini, et al., 2012). Simply because the parents may no longer live in the same home does not guarantee that the violence will end, as each transition between the homes can place children and parents at further risk of harm (Saini, et al., 2012).

Child Custody and Resilience

Previous research has found that children tend to show resiliency despite being caught in their parents' dispute (Hetherington & Kelly, 2002). Several factors have been linked to childhood resiliency, including the parents ability to form positive and democratic parenting relationships among family members, particularly between the parent and child (Covell & Howe, 2008; Kelly, 2007). High-quality parenting and positive relationships between parents and children may be challenging to maintain post separation and divorce (Saini, 2012). Parents involved in both child custody disputes and child protection services should be provided with education and training services so that they can best heal from the emotional commotion related to the family breakdown while ensuring that they are best able to be sensitive to the needs of their children.

Recent attention has focused on empowering children to have a stronger voice and input in decisions that affect them (Covell & Howe, 2006; Kelly, 2007; Birnbaum & Saini, 2012). Risks to childhood development within the context of child custody disputes can be exacerbated by the lack of voice the child regarding the restricting of the family post separation and divorce. The reluctance to include children's input into these decisions has been influenced by the suggestion that children's participation in child custody decisions can be more traumatic than resilient building; particularly if the child is asked to choose between parents (Covell & Howe, 2006; Kelly, 2007). Covell and Howe (2006) have argued that children should be involved in how the family will be re-organized after the parental divorce and that this participation should be age appropriate and work towards: (1) increasing understanding for the child as to why these large transitions had to happen, and (2) lessen any fears or uncertainties regarding the future of the family and the relationships they currently hold. Child protective services' involvement in child custody dispute cases provides children with a unique opportunity to share their concerns and fears about their parental separation and to provide a platform for children's voices to be heard; this may be difficult for the child protection worker, so could involve referrals outside of child protection.

Limitations

The Canadian Incidence Study of Reported Child Abuse and Neglect has certain limitations that should be noted. The study examined only reported child maltreatment in Canada and excluded situations in which children were not reported (e.g., by the victim out of fear that child protection will remove her children), reports that were screened out prior to investigation, reports that were investigated by the police only and never referred to child protection services, and new reports of on already opened cases. The results of the present

study are limited to the investigation period (approximately 30 days); therefore, the data do not include placements of children beyond the investigation. The judgments provided by the investigating worker could not be independently confirmed. Finally, the data is collected from the perspective of the workers who are potentially biased or may be operating with limited information. Thus the perspective of clients has not been secured and this perspective is vital to a full understanding of the impact of child welfare processes on families experiencing in high conflict situations.

Implications

When controlling for child, family, and household characteristics, investigations involving custody disputes were significantly less likely to result in out of home placements or to stay open for ongoing child welfare services. At the same time, child custody disputes were more likely to be reopened more than three times. These findings suggest that child protection services may be prematurely closing these cases without adequately addressing the needs of the children and families involved. With the paramount focus of child protection services on children's overall safety and wellbeing, special consideration should be made in these child custody cases to carefully assess for the presence of interparental conflict and presence of risk of maltreatment or harm, address protection needs and to also focus on how best assist families so that each member of the family can gain the requirement coping skills to be more resilience and adaptable despite the presence of conflict.

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