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Part B: Protecting Children from being Weaponized in the Context of High-Conflict Family Court Disputes

Canadian Child Advocacy Centres

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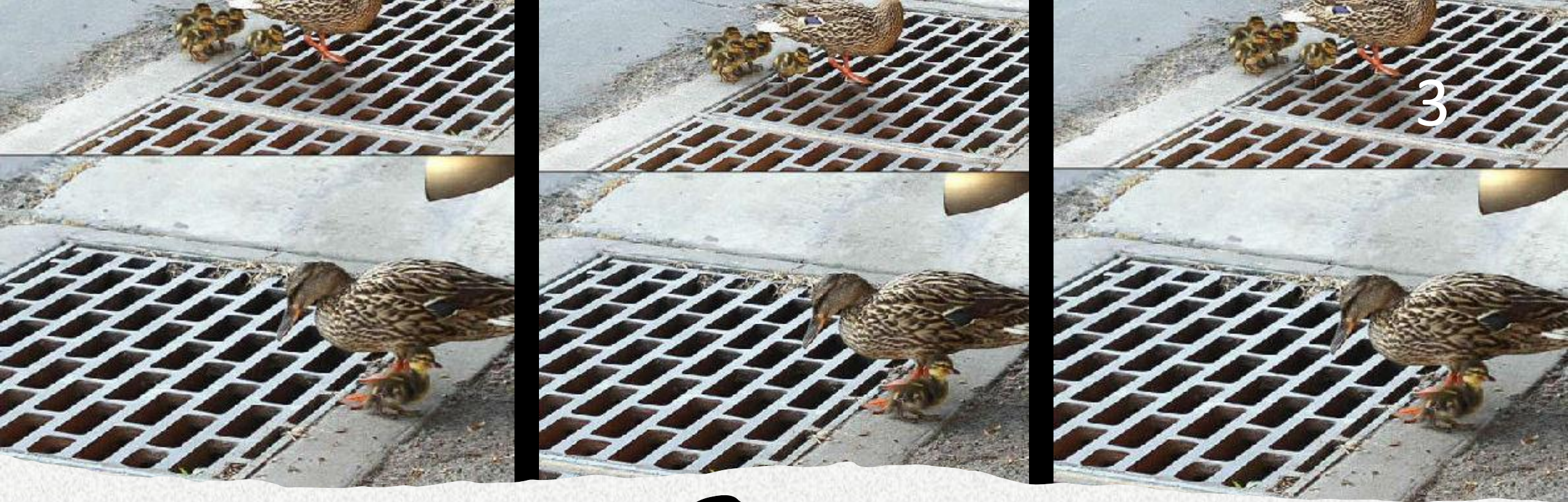
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Impact on Children

- When parents are consumed with their own conflict, they find it difficult to give their children the attention they need for healthy development





“Diminished Capacity to Parent”

- Use of ducks to illustrate the effects of interparental
- conflict was first presented by Marsha Pruett in 2007
- At AFCC in Washington

Ducks go down the drain

Thursday, June 16, 2005 **AT JUST A** week old, it's not as if the ducklings didn't have enough to put up with avoiding hungry foxes, prowling cats and fast cars. And then their mother carelessly loses them down a drain. While she was big enough to cross the slatted cover, her following babies were not so lucky and plunged one by one into the sewer below. And so began a four-hour rescue to save the family of eight siblings. An RSPCA rescue team raced to the scene after passers-by heard the ducklings cheeping and spotted their mother frantically poking her beak through the slits in the drain. Crowds watched anxiously as officers and council workers in Shrewsbury removed the drain cover and tried to coax the frightened ducklings to the surface. Eventually, six of them were plucked to safety by the steady hand of animal collection officer Elaine Williams, who placed them in a cardboard box to keep them warm and safe. 'There was still some quacking, though, and we realised that some more of them had become trapped in the next drain along,' she explained. 'A council worker managed to prise the lid open with a jack hammer and we managed to pluck the remainder of the ducklings to safety. **All of them were unharmed** but after their four-hour rescue they were more than a little bedraggled. **All eight were taken to a nearby patch of grass and reunited with their mother** before waddling off again. It is one of the most unusual cases I've dealt with but I'm glad there was a happy ending.'

http://www.metro.co.uk/weird/article.html?in_article_id=8004&in_page_id=2

Consequences of High Conflict

The
consequences
vary,
depending on:

children's ages,

family characteristics,

level of family conflict,

parent-child relationships,

socio-economic level,

mental well-being of each parent,

maternal employment,

amount of social support/

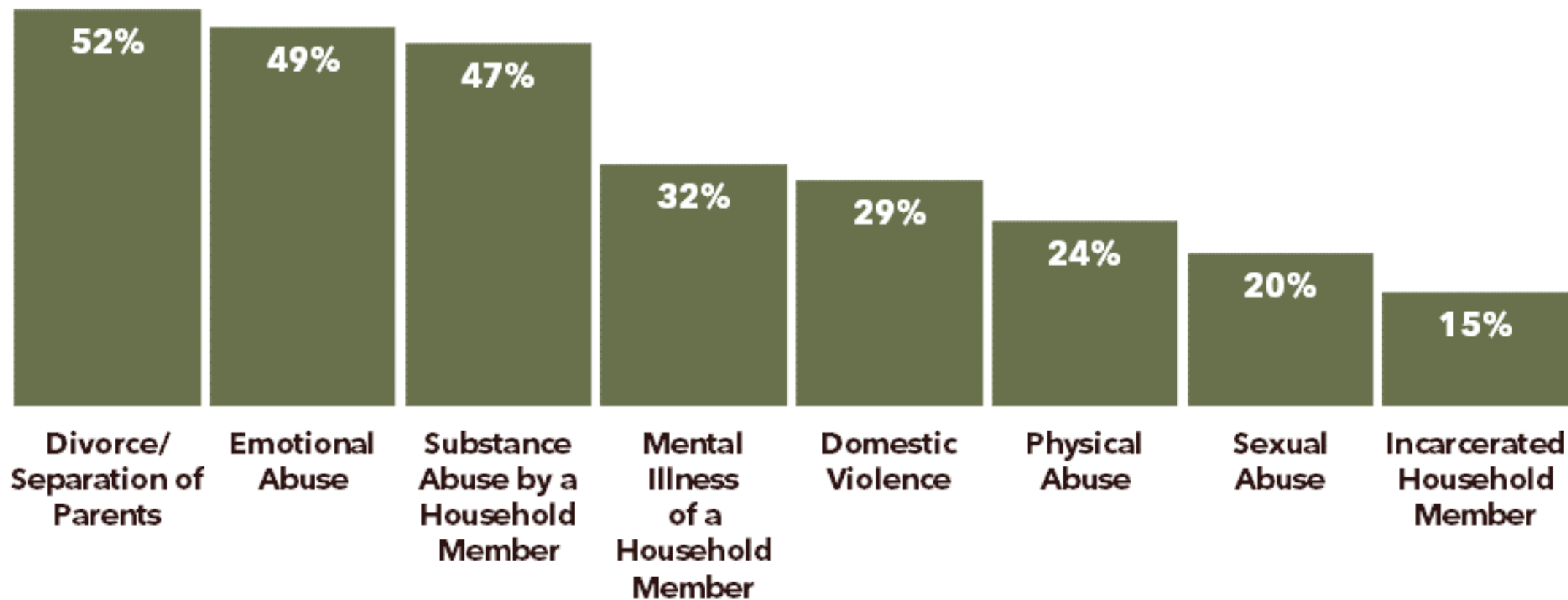
Consequences of High Conflict

- General conflict → ES= 0.19
- Covert expressions → ES= 0.28
- Hostile and aggressive expressions → ES= 0.35
- Resolved cooperatively with negotiation, reasoning, and active listening → ES= -0.30

Buehler et al., (1997)

The Most Common Adverse Childhood Experiences Among Tennessee Are Divorce/Separation and Emotional Abuse

Prevalence of Common Adverse Childhood Experiences Among TN Adults Reporting 1 or More ACE (2014-2017)



Source: The Sycamore Institute's analysis of 2014-2017 CDC BRFSS data provided by the TN Department of Health's Division of Policy, Planning and Assessment, Office of Health Statistics

SycamoreInstitute

Children are Harmed When Parents:

- Make their child choose between them.
- Question their child about the other parent's activities or relationships.
- Make promises that parents don't keep.
- Drop in and out of the child's life.
- Are inconsistent in using their parenting time.



Protecting Children from Conflict

Low levels of
interparental
conflict

Secure
attachment
styles

The quality of
on-going family
relationships

Positive
attention to
feelings

High levels of
emotional
clarity

The ability to
regulate
feelings

Importance of Children's Voices

- Within the family, children are the silent observers of the day-to-day family interactions and dynamics that take place in their home.
- Children possess important information regarding:
 - their parents' relationships
 - styles of conflict resolution
 - the quality of the parent-child relationships both before and after the parental separation
 - the person(s) with whom the child has his or her primary relationship(s).



Children Want Their Voices Heard

- Heightened awareness that children's views must be taken into consideration when decisions regarding their living arrangements are being made (Birnbaum & Saini, 2012).
- Children express a desire to be part of creating options, regardless of age (Cashmore & Parkinson, 2008).



Voice vs Choice



Voice vs Choice

Children should have a say but not the final say

The right to a voice in the UNCRC is qualified

- Children capable of forming own views
- Views given weight in accordance with age and maturity

Potential Positive Effects of Children's Voice


- May help child accept ultimate decisions and adjust better to plan because 'part owner' of outcome
- Involvement in goal setting/planning may facilitate cooperation
- May result in more workable arrangements
- May facilitate children positive adjustment and problem solving abilities
- May improve children's safety

Potential Negative Effects of Children's Voices

May create further strain on the parent-child relationship.



May be negatively impacted by having to endure multiple interviews during the separation process.



Litigation usually exacerbates any conflict.

Methods for Including Children's Voices

Consultative:

- Expression of child's wishes inform overall picture of what is in child's best interest.

Contributory:

- Child assents with any decision made.

Independent value:

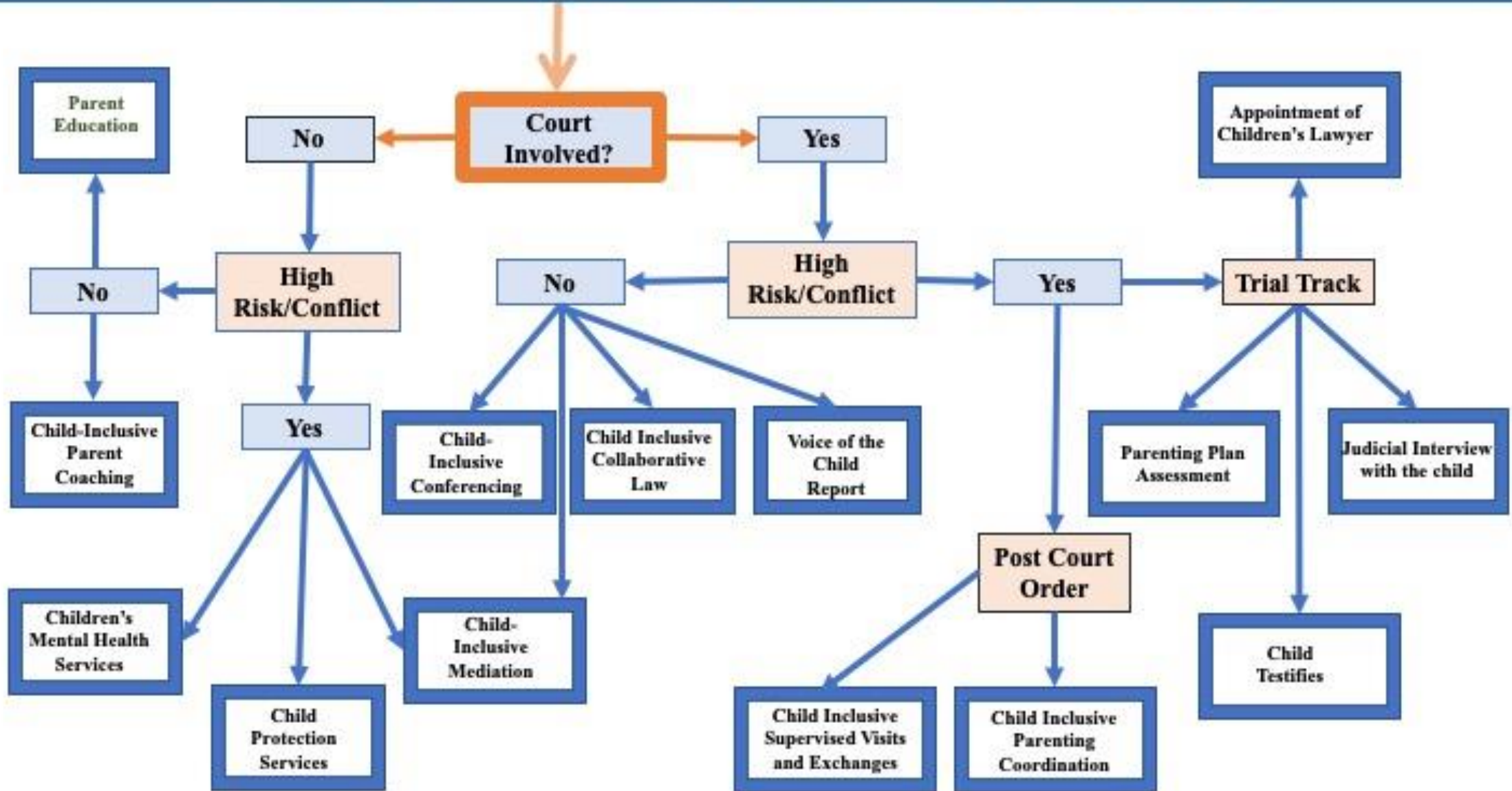
- Child's voice is viewed as a distinct source of information.

Methods for Including Children's Voices

Several methods have been developed for integrating the children's voices (judicial interviews, Voice of the Child Reports, child-inclusive mediation, etc.)

Little guidance exists to choosing the method most suitable to the specific needs of the child, context of the dispute.

Decision for Including Children's Voices in Family Justice Services

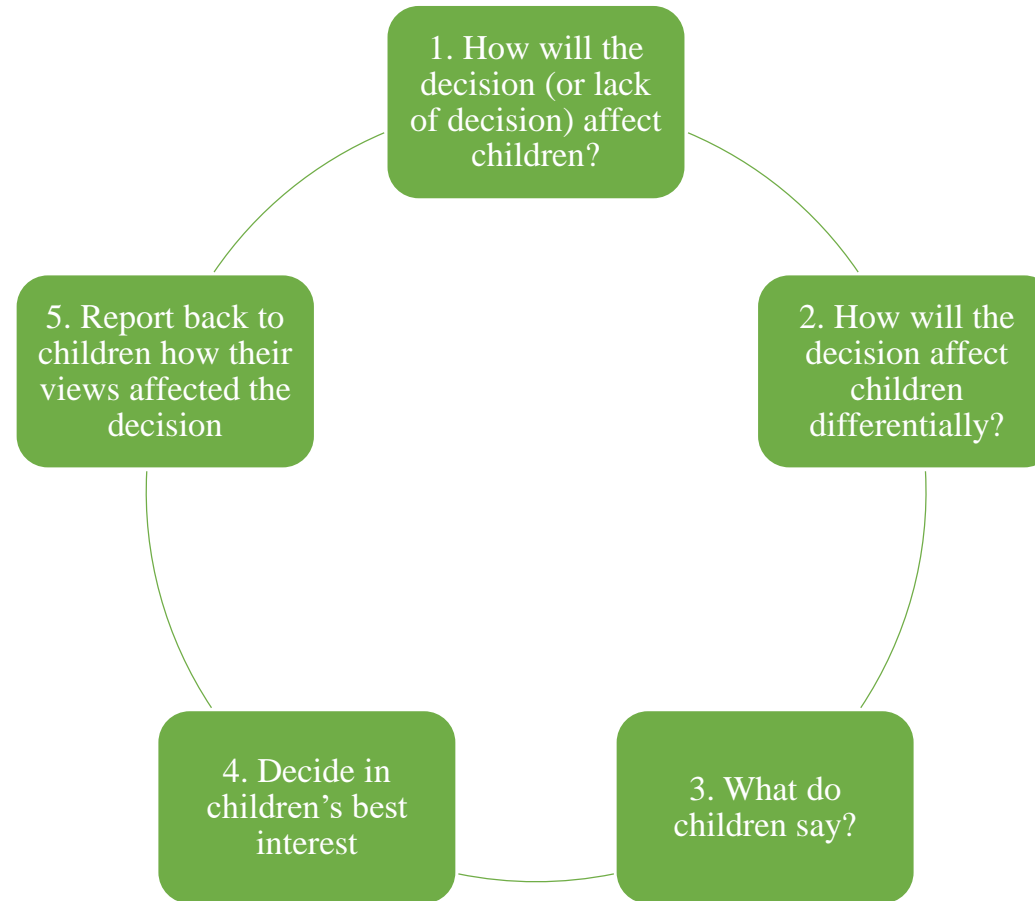


Child-Centered Decision Making

- Explore what children say they need
- Reduce traumatic effects on children
- Communicate with children is key / child inclusive
- Develop a Child-Centered Plan



Child-Centered Decision-Making Process



Child-Centered Decision Making

- Clarify your role, what you are deciding
- Maintain a neutral but supportive stance
- Allow child to “get it out”
- Ask child if they will help you understand
- Assess child’s flexibility
 - “What if”
 - “How about”
 - “I wonder”



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Children's Competence to Remember



- The process of remembering and reporting events involves the execution of a complex set of operations that develops as the child ages.

Remember that not all children remember the same!

What Impacts Memory

- Attention: child may be watching different aspects of the same event
 - the ice cream vendor at a basketball game, not the game
- Prior knowledge: used to make sense of (or fit with prior experience)..can distort or reduce accuracy.
- Stress...can distort memory
- Exposure to suggestive or misleading influences
- Repeated interviews



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Do
Children
Lie?



Children Lie!!

- To avoid punishment
 - In the context of a game
 - To avoid embarrassment
 - To protect adult loved one
 - To protect an initial story
-
- But in the absence of suggestive influences, even preschool children can provide accurate and detailed accounts of personal experience.



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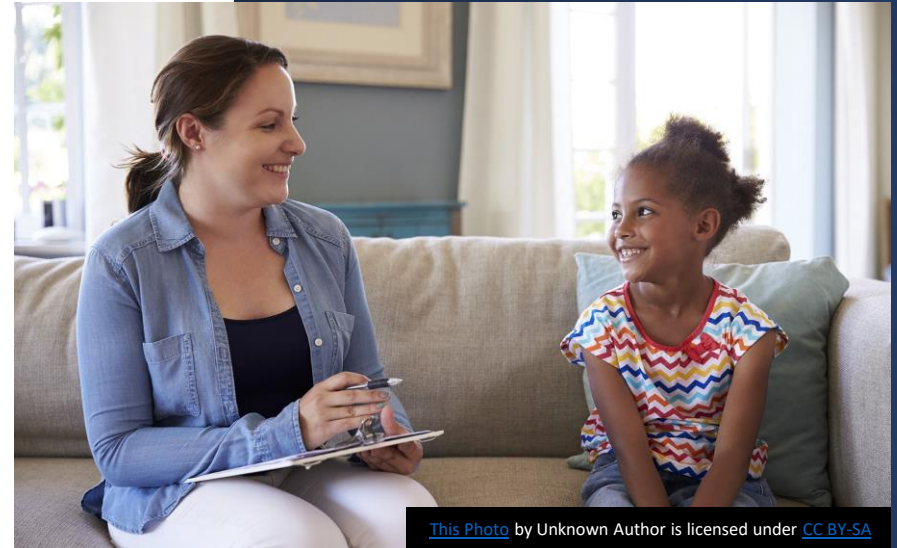
Engaging in Children's Narratives

- Four most important elements for interviewing children:
- Rapport – put the child at ease
- Clear understanding of role, purpose of questions – limits/extent of confidentiality
- Interview with the child is to test hypothesis not to confirm what the interviewer already thinks or knows
- Use the child's language based on developmental stages



Avoiding Pitfalls

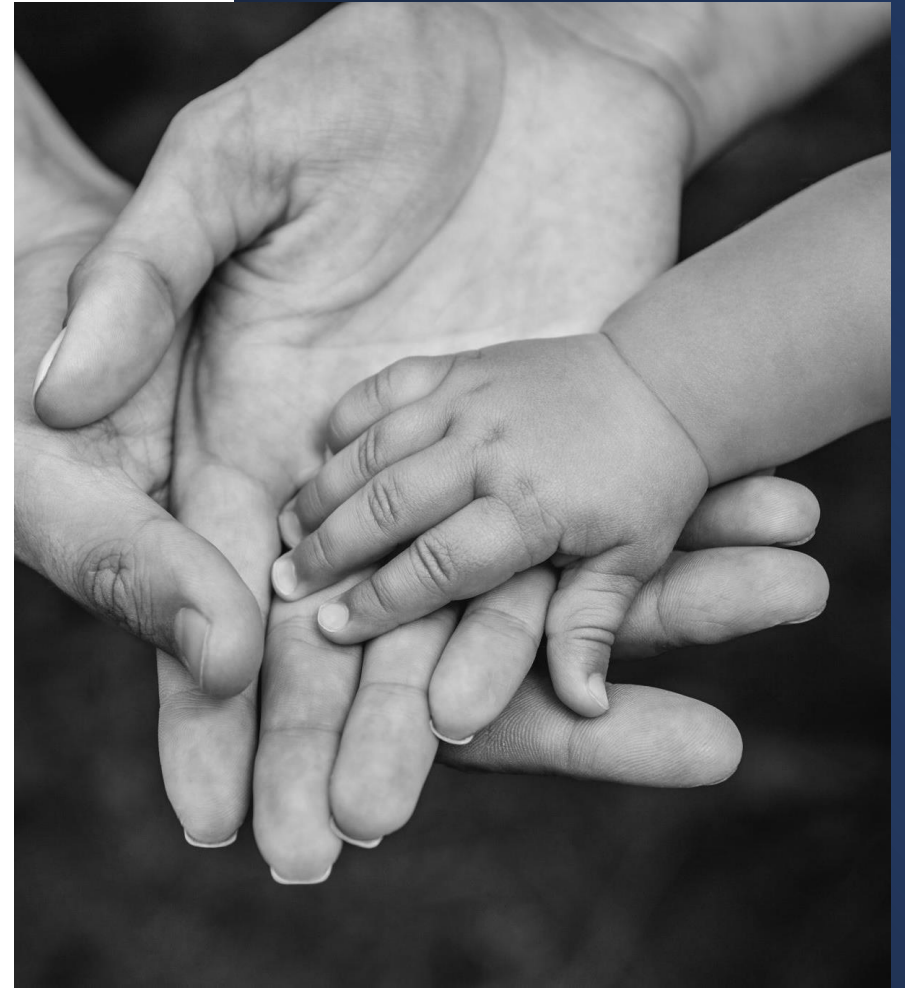
- Solid understanding about the dynamics of high conflict, intimate partner violence, alienation.
- Aware of one's own biases about child protection vs. child's rights to participate
- Aware of biases of strained parent-child relationship
- Peer debrief, consultation, supervision



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Avoiding Harm

- Children demonstrate better adjustment to family changes (e.g., parental separation) when they have good communications with parents and supportive relationships with peers.
- Interview should be structured so to balance the need to gather accurate information while protecting the children's relationships with their support systems and long-term adjustment.



Avoid Placing Too Much Weight

- In the interest of due process, eliciting a child's direct experience is necessary—and sometimes the only— means of investigating allegations of abuse and neglect, requests for termination of parental rights (TPR) and reunification, custody determinations, criminal matters, and allegations of alienation (Garber, 2007).
- But this can put undue strain on the child.
- Need to triangulate with other data.



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Be Aware of the Rhetoric

- Although sometimes articulated as “right of child” to a relationship with both parents this is problematic as it suggests to alienating parent that the child also has the right “not to have a relationship”.





- Warshak (2003) contends that:
 - ‘most procedures for soliciting children’s preferences do not reliably elicit information on their best interests and do not give children a meaningful voice in decision making.’ Instead, “most procedures provide children with forums in which to take sides in their parents’ disputes” (p. 373).

Be Aware of Hidden Agendas

Assess for Level of Independence

- Children may directly be provided with negative information by one parent about the other, exposed to parents' conflicts through overhearing telephone conversations, observe parental distress during custody transitions, or be subjected to anxious questioning by one parent about what occurs at the other parent's home.
- All of these situations may affect children's perceptions and reports about the events in their lives.



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How To Listen To Children Even When They Lack Independence?

- Children benefit when they know that their views have been considered
- Children appreciate the difference between “a voice and a choice.”
- Very few want to be placed in the position of having to choose between their parents
- Child’s views should be ascertained in a sensitive and age-appropriate fashion.

“Do I Have To Go?”

- Listening to the child means:
 - No assumptions
 - Hearing the music, not just the lyrics
 - Genuinely trying to understand their perspective
 - Trying to understand their views on the “in” and “out” parents
 - Accepting the idea of realistic estrangement vs. it’s best to have two loving parents

Mitnick, 2021



“You Can’t Make Me Go”

- Remember:
 - Everyone brings something to the problem
 - There are no good guys and bad guys
 - The child’s stance may be an adaptive strategy
 - Arguing won’t work
 - Empathy can be a challenge

Mitnick, 2021



Be Aware of Silent Evidence

- Interviews with children provide important information about children's views of the dispute.
- Ignoring this important source of data may not fully appreciate:
 - the fit between parent and child
 - other important factors in a child's life
 - the child's developmental abilities
 - the child's best interest



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**A child's voice,
however honest
and true, is meaningless to
those who've
forgotten how to listen.**

– Professor Albus Dumbledore

