CONVENIENT AND INCONVENIENT TRUTHS IN FAMILY LAW:
PREVENTING SCHOLAR-ADVOCACY BIAS IN THE USE OF SOCIAL
SCIENCE RESEARCH FOR PUBLIC POLICY

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This is the second of two articles on the risks of advocacy bias in the reporting of research findings when boundaries are blurred between social science research and advocacy in the pursuit of public policy. In the first article we identify common ways in which social science researchers and reviewers of research—wittingly or unwittingly—can become advocates for ideological positions and social policies at the expense of being balanced reporters of research evidence. The first article discusses the difference between truth in social science and truth in law and identifies a range of scholar-advocacy strategies that bias research evidence, illustrated by recent debates about overnight parenting of infants and toddlers. In this second article we show how biased research evidence by scholar advocates results in increased confusion and controversy that diminishes the credibility of all parties and stalemates progress in the field, using a case illustration of intimate partner violence in family court. We also show how adherence to scientific methods prevents the misuse of research and suggest a number of collaborative, integrative measures that can help transcend the adversarial stalemate. In a look to the future we consider some unbiased, standardized ways of assessing the strength and generalizability of research evidence.

Key Points for the Family Court Community:

- Scholar-advocacy bias, the intentional or unintentional use of social science research to legitimize advocacy claims, is a problem that practitioners and policy makers must recognize and guard against in family law.
- Because of different methods of pursuing and establishing truth in science and the law, ironically, the less rhetorically convincing argument often represents science most faithfully.
- Practitioners—and scientists—must guard against using various rhetorical tactics that bend research evidence, for example, the rules of science dictate that we must prove our hypotheses; others need not disprove them.

Keywords: Advocacy Research; Scholar-Advocacy Bias; and Social Science Research.

WHAT MAKES RESEARCH VULNERABLE TO SCHOLAR-ADVOCACY BIAS

The press to distort and misuse social science data in the service of advocacy goals derives, in part, from the highly political and personally salient nature of the substantive issues raised in the field. Family law matters constitute an emotional and ideological cauldron where the most private and personal conflicts within marriage and family are seething, and where public and political struggles take place over access to children and disposition of family resources after parental separation, fueling the gender wars and pitting parent against parent. They also shape policy agendas of powerful interest groups who are mobilizing resources toward competing goals. Despite efforts to make contemporary family courts more collaborative, family law matters remain situated in legal institutions that are historically and traditionally adversarial.

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In this highly political, adversarial context, advocacy for particular viewpoints is the norm. It should be no surprise that when social science knowledge is brought into the family law arena to shed light on what to do about a problem, there is steadfast pressure to tailor research findings into more “convenient truths” favorable to one or another stakeholder and to find a way of avoiding or discrediting those that are “inconvenient truths.” When this happens, confusion and controversy prevail as to the state of the research evidence, and the credibility of all parties, including researchers, is cast into doubt. Consequently, family courts are inconsistent or confused about how to decide troubling matters, injecting more uncertainty into litigated outcomes. To varying extents, this has been the fate of public discourse that has taken place within family courts and policy-making forums over issues such as intimate partner violence (IPV) and child abuse, shared parenting and overnight access schedules for young children, parental alienation and the rights of children, parental abduction and relocation, father involvement and child support enforcement, to name a few.

A number of authors have drawn attention to the misuse of evidence for advocacy purposes, and reciprocal accusations of misuse have been leveled (Baker, 2013; Cashmore & Parkinson, 2014; Gelles, 1980, 2007; Johnston, 2007; Kelly & Ramsey, 2007, 2009; McIntosh, 2015; Neilsen, 2014; Pruett, 2007; Ramsey & Kelly, 2004, 2006; Warshak, 2014). To date, opinion varies as to what constitutes scholar-advocacy bias. How to identify it and the conditions that promote its use are also largely unspecified. We have defined “scholar-advocacy bias” as “the intentional or unintentional use of the language, methods and approaches of social science research and scholarship, in addition to one’s status as a researcher, scholar, or academic within the broader community, with the outcome of legitimizing advocacy claims at the cost of misrepresenting research findings” (Emery et al., 2016).

**LIMITED EMPIRICAL EVIDENCE AND THE RISE OF SCHOLAR-ADVOCACY**

The role of research has gained increasing traction in influencing policy. Widespread demands for demonstrable outcomes across all fields of public policy have grown into the “evidence-based practice” (EBP) movement with the aim of bringing clinical wisdom and science closer together in a mutually beneficial way. The overarching approach of EBP is appealing on a number of different levels, not the least of which is the anticipated benefits to children and families. However, a major limitation on the use of research to shape policy and practice in the family law field is the paucity of research evidence that is sufficiently replicated and based on valid methodology to have clear and unambiguous implications for practice and policy on many critical questions facing the field.

Social policies have always been the business of the collective community, albeit differentially influenced by those with power and status, and are products of history, cultures, community values, as well as political, ideological, and religious persuasions. As science has achieved a more authoritative status, influencing how society thinks about and tries to solve some of its thorniest social dilemmas, the social scientists’ voice in policy debates has been given increasing weight as producers and explainers of the evidence. Advocates on both sides of an issue value researchers as potential allies, who are perceived to provide them with more objective evidence in support of their cause. Reciprocally, researchers understand that advocates have experience in shaping policy, and may be an effective force for translating findings from their research into action. Successful advocacy involves multiple factors beyond the translation of empirical research findings into action, including attending to the morality, ethics, related laws and legal procedures, civil rights, social values and mores, feasibility, and economic costs of action proposals - all in comparison with that of existing or competing social policies. Good public policy derives from the input of all stakeholder interests.

The basic goals and methods of researchers and advocates are, however, at odds with one another. Insofar as possible, social science reviews of the evidence are expected to be comprehensive and relevant; research reports should be systematic, transparent, and accurate, and evaluation of the evidence, objective, self-critical and balanced. By contrast, in the interests of the party they represent, the advocates’ goal is to mobilize resources towards some end in the most strategic, efficient and effective
manner possible, constrained only by the logistics and legality of the means of doing so. Scholar-advocacy bias occurs when researchers or reviewers of research allow the goal of supporting an advocacy agenda to take precedence over the goals of scientific inquiry. In our first article, we identified five major strategies and ten tactics that can be used in the service of advocacy goals that bias or compromise the integrity and credibility of the evidence in predictable ways, and that in turn, degrade its ability to inform policy and practice. These strategies and tactics are summarized in Table 1.

Scholar-advocacy bias flourishes in the absence of sufficient good quality empirical evidence to guide policy on important issues. In the void, theoretical and ideological perspectives derived from different literatures, powerful anecdotes, personal experiences, along with selected empirical evidence of varying quality, may be promoted as established truth. We argue that these conditions—

Table 1
Summary of Scholar-Advocacy Biasing Strategies and Tactics

<table>
<thead>
<tr>
<th>STRATEGY/Tactic</th>
<th>PURPOSE AND DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>SETTING UP A POLICY AGENDA</strong></td>
<td>TO SHIFT THE OBJECTIVE OF THE STUDY FROM A RESEARCH TO POLICY AGENDA</td>
</tr>
<tr>
<td>a) Shifting the burden of proof</td>
<td>a) Imply that researchers, not advocates, have the burden of proving that advocates’ policies are/are not harmful, unfeasible, too costly, ineffective</td>
</tr>
<tr>
<td>b) Claiming the null hypothesis</td>
<td>b) Interpret lack of significant findings as supportive of preferred policy position; or switch outcome variable to a social value (e.g. no evidence of benefits of policy = no harmful outcomes), therefore policy is supported</td>
</tr>
<tr>
<td><strong>SELECTIVE USE OF RESEARCH</strong></td>
<td>TO STRATEGICALLY COLLECT EVIDENCE FOR ITS SALIENCE TO ADVOCACY AGENDA</td>
</tr>
<tr>
<td>a) Cherry picking</td>
<td>a) Sort through and pick useful research findings in favor of policy position; cite limitations of studies selectively, ignore or use bogus criteria to exclude or suppress contrary evidence</td>
</tr>
<tr>
<td>b) Stacking the deck</td>
<td>b) Accumulate a large body of evidence that will be perceived as “irrefutable” in favor of policy</td>
</tr>
<tr>
<td>c) Widening the net</td>
<td>c) Apply irrelevant research to broaden application of policy to new domains and populations</td>
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<tr>
<td><strong>SPINNING RESEARCH FINDINGS</strong></td>
<td>TO COMMUNICATE CLEAR, CERTAIN, COMPELLING MESSAGES IN SUPPORT OF ADVOCACY AGENDA</td>
</tr>
<tr>
<td>a) Over-simplify/Over-reach</td>
<td>a) Research evidence reported is overgeneralized; polarized, extremist statements made with undue certainty; summary lacks limitations; unconditional conclusions; evidence applied beyond scope of study</td>
</tr>
<tr>
<td>b) Differential evaluation</td>
<td>b) Studies with “inconvenient data” are critically appraised by different, more stringent criteria than those with data construed as favorable to preferred policy</td>
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<tr>
<td>c) “Strawman” arguments</td>
<td>c) Findings and their interpretation are inaccurately reported, misrepresented, or distorted by specious reasoning</td>
</tr>
<tr>
<td><strong>AD HOMINEM ARGUMENTS</strong></td>
<td>TO ELICIT LEGITIMACY, STATUS AND COMMITMENT TO ADVOCACY VIEWS; AND DEGREGATE THAT OF OPPOSITION,</td>
</tr>
<tr>
<td>a) Appeal to leading authority</td>
<td>a) By referencing names and endorsement of leading authorities and venerable, elite institutions</td>
</tr>
<tr>
<td>b) Character assassination</td>
<td>b) By insinuating incompetence, bad faith and practice of researchers with findings that are unfavorable to their policies</td>
</tr>
<tr>
<td><strong>SCHOLARLY RUMORS AND MYTHS</strong></td>
<td>TO WIDELY DISSEMINATE INFLUENTIAL VIEWPOINTS THAT ARE COMPILICK WITH ADVOCACY AGENDA,</td>
</tr>
<tr>
<td>a) Appeal to leading authority</td>
<td>a) By citing secondary sources, failing to check original sources of evidence</td>
</tr>
<tr>
<td>b) Character assassination</td>
<td>b) By relying upon network of colleagues for reports and interpretation of evidence</td>
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premature, incomplete and naïve policy initiatives, emanating in part from scholar-advocacy bias—generate a cycle of escalating use and misuse of research evidence in each side’s attempt to set the record straight. We refer to this as the “cycle of scholar-advocacy bias.”

INSIDE THE CYCLE OF SCHOLAR-ADVOCACY BIAS

Being drawn into the vortex of an ongoing political battle between passionate and powerful interest groups can be a challenging experience for most participants. It is not uncommon for research findings to be cherry picked for their salience to different agendas, over-simplified and turned into sound bites by the media, cited out of context, misquoted, and reinterpreted by stakeholders within different constituencies. Researchers, as well, may be lauded by proponents and attacked by opponents for their interpretations and (perceived) policy recommendations.

As support for the dominant advocacy agenda grows, researchers with findings that can be “spun”—construed as more supportive of that agenda - are afforded greater opportunity than others with “inconvenient truths” to disseminate their research findings. They are invited to present at professional forums, testify on behalf of legislative initiatives, and publish updates on their work and rejoinders to their critics. Simplified sound bite answers to complex questions are compelling to those seeking support for their values or beliefs.

Most often policy recommendations from research studies languish unattended, but on highly political issues a single study or review of studies may be used as the rationale for important policy decisions, some of which are premature or misdirected.6 In response, advocates for opposing policy positions become alarmed if they perceive that the legitimate interests and civil rights of their constituencies are threatened. In their zeal to communicate their concerns broadly and effectively, scholar-advocates for other positions are likely to engage in some of the same advocacy biasing practices they railed against when their opponents used them, sometimes at an escalating rate. In this adversarial environment, advocates for opposing policies become more polarized; professional communities are fragmented as their members align loyalties; hostility and avoidance are generated between supporters of different sides; and progress in improving policy and practice becomes stalemated.

ENSURING A MORE PRODUCTIVE PROCESS IN DEVELOPING FAMILY LAW POLICY

Given the complexities and limitations of research and the powerful competing advocacy claims, how can we prevent or intervene in cycles of scholar-advocacy bias? We propose three approaches to this question. One approach involves preventive steps that individuals can take to avoid becoming involved in the scholar-advocacy cycle of bias. A second approach involves how the family law community can intervene to turn cycles of scholar-advocacy bias into a more productive process in which research plays a constructive role in the development and continuous improvement of policy and practice. The third approach involves adopting some structural or institutional mechanisms from other fields that have specifically been developed to ensure more unbiased scientific evidence is available for applied purposes (see Figure 1).

PREVENTION

What can individuals do, in their capacities as researchers, teachers, judges, counselors, expert witnesses, or consultants, to prevent research findings from being caught up in cycles of scholar-advocacy bias? As an important starting point, anyone involved in the conduct or reporting of research can guard against scholar-advocacy bias by being more aware and self-critical about their own potential biases, ensuring that their theoretical or ideological viewpoint is explicit as they conduct, report on, or refer to research studies.

Researchers have specific responsibilities that will help others trying to make sense of their work. They should acknowledge and seek out alternative ways to frame their questions and to fairly
consider the perspectives of different advocacy groups. They can ensure that they minimize scientific bias in the conduct of their research and reports of findings by rigorous adherence to scientific principles. This includes considering effect sizes and pointing to both statistically significant as well as insignificant findings that support or do not support their hypotheses. In addition, limitations of evidence from research studies need to be prominently presented. All research has strengths and weaknesses. It is the responsibility of the researcher (and any subsequent reporter) to fully describe what these are within the report and to discuss how the design of the research (in sampling, measurement, and data analysis) is likely to affect the validity of general conclusions drawn from the research and their generalizability to other populations. Although many journals require authors to list study limitations, not all require this and not all peer reviewers request it in their feedback. Moreover, many authors present incomplete, rote limitations. Finally, researchers can clearly signal their transition from talking about research findings to considering policy implications, for example by section headings in the manuscript, so that these two very different enterprises are not confounded. They can also clarify when they move to speculation rather than direct interpretation of results.

Figure 1 Individual and community actions to counteract scholar-advocacy bias. Actions to counteract scholar-advocacy bias.

Preventive Measures by Individuals
- Self-critical as to policy biases
- Adhere to rigorous scientific principles in conducting and reviewing research
- Present limitations of evidence and limitations on applications
- Disclose possible conflicts of interest when testifying, consulting

Institutional Mechanisms to Control Bias
- Common standards for scientific reviews of research for policy purposes
- Meta-analysis
- Expert panel for reviews and summaries of research evidence
- Assessments tools for risk/sources of bias in studies and reviews
- Algorithms to evaluate strength of the evidence

Intervention by Family Law Community
- Include a diverse set of stakeholders in developing and reporting on research and policy
- Convene researchers, advocates and diverse stakeholders to consider areas of consensus and ways forward when controversy mounts and policy impasse is reached
- Develop mechanisms for systematic review of the evidence

Impact on Policy and Practice
- Recognition of evidence as distinct from scholar-advocacy bias
- Accommodation of the advocacy agenda to new evidence
- Accommodation of research agenda to new policy issues
- Policy implications of the evidence considered by all stakeholders
- Ongoing incorporation of new research evidence to inform and improve policy and practice
Although research findings may have implications for policy and practice, it is very rare for single studies to be definitive. Rather, they most often contribute to a broader body of evidence, some of which may support a similar recommendation and some of which may support a contrary recommendation. Researchers are experts on the evidence they have developed, but they are often not experts on the risks, unintended consequences, and benefits of any policy to various stakeholder groups. Researchers should recognize that policy is best addressed collaboratively with key members of the family law community of professionals, including those identified with various interest groups.

There are a number of precautions that can be taken before research findings are released publicly to prevent their subsequent misuse, especially if they pertain to a controversial issue. Foremost, all research reports should be passed through a thorough, critical peer review with a reputable journal or other credible source. It also makes sense to inform key stakeholders about the findings beforehand if possible, lest they feel ambushed or unduly defensive with insufficient time to respond. Researchers, together with key collaborators, can then take the initiative to find and use a well-respected news correspondent to help prepare press releases and conduct interviews with the media afterwards. Furthermore, having trusted experienced colleagues available for consultation to help vet potential bias and trouble-shoot throughout the process is most valuable.

Finally, ethical standards for research reports and expert testimony should require scholar-advocates to disclose the investment and interests they might have in maintaining their views when they undertake to publicly present, testify, or consult on research findings. It is not unusual for some scholar-advocates to have devoted their life’s work to the constructs that they support. Their professional reputations are built upon their stance. In addition, researchers publish their findings in journals and books, but they apply those findings in other roles across the family law system. For example, they may regularly testify as expert witnesses in court or act as consultants on the subject of their research. Others make their livelihood as disseminators of their scholarship; they maintain extensive networks through social media, such as through personal websites that are major sources for dissemination of their views to parents, public, and press. Financial disclosure about how the dissemination of research benefits the researcher is required in academic circles, and we maintain that it should be required by all practitioners seeking to elicit public support for their ideas and writings.

We do not believe that researchers should shy away from studying policy-related issues. Quite the contrary, we think they should be assertive in presenting their evidence. However, to avoid becoming perceived as married to any policy recommendations that their research implicates, they should remain open to reporting on evidence that is not supportive of the policy that they favor, and if they find themselves hesitant to do so they should consider whether they have moved too far into the advocacy role. A researcher has moved too far into an advocacy role if the reader can correctly guess the findings and the recommendations from any new study the researcher publishes just by knowing the identity of the author.

INTERVENTION

When conflict and confusion prevail about the nature of research evidence on a highly controversial issue, there are multiple strategies that the community of family law professionals can take to guard against the field becoming mired in competing scholar-advocacy bias claims. The end goal of these strategies is to integrate new research evidence into the policy and practice discussion in a way that acknowledges its contributions and limitations and that carefully considers its implications. Optimally, this is an ongoing process through which new research evidence is identified and continually brought to bear to improve existing policy and practice issues in addition to new issues that need new policy responses. There are multiple strategies that the family law community can use to promote this productive process of evidence informing policy and practice.

One useful strategy is to engage in a planned process of bringing together researchers, key policymakers, and family law practitioners from various perspectives with the goal of reaching consensus about the state of the evidence, its limitations, policy implications, and hoped-for directions for future
research. This strategy was evident in family law through the Association of Family and Conciliation Court (AFCC)–organized Think Tank on Shared Parenting (Pruett & DiFonzo, 2014) and, as illustrated in this article, by the Wingspread conference on domestic violence in family court (Ver Steegh & Dalton, 2008). These efforts brought disparate voices together from our multidisciplinary community and resulted in consensus statements that were appropriately constrained by the guiding objective of identifying areas of agreement, delineating differences that need further work, and acknowledging voices of dissent, all without overreaching conclusions. A conservative approach that can be frustrating to those involved, these efforts ultimately provide an internal system of moderation and careful consideration of complex issues.

Another strategy involves expanding the players who are involved in policy-related research. The planning, conduct, and dissemination of research can actively engage those with diverse expertise and viewpoints (e.g., advocates for key interest groups, mental health practitioners, judges, lawyers and others involved in family law matters) in all aspects of the research enterprise. Doing so can help to ensure that relevant questions are being studied and evidence is interpreted from different perspectives. Such collaboration should also result in more informed interdisciplinary understanding of the research results and their limitations.

INSTITUTIONAL MECHANISMS THAT CONTROL BIAS

A third approach to resist being caught up in cycles of scholar-advocacy bias involves adopting processes developed largely in other fields by which research evidence is reviewed, summarized and vetted for bias. Faced with scientific research studies with competing results, it can be difficult to know which, if any, study should be given more weight when applying the evidence to family law practice or policy. Historically, the solution has been for experts in the field to conduct literature reviews on selected topics to summarize the findings and to draw conclusions about the state of the evidence. Expertise in family law issues, however, does not necessarily safeguard against biased and unreliable summaries of the evidence. Experts who do not apply scientific principles for searching, retrieving, screening and analyzing evidence from primary studies may consciously or otherwise influence conclusions drawn from unscientific literature reviews by including primary studies unrepresentative of the target issue and by making false determinations of the weight of the included studies to support preconceived theories and/or political agendas (see Petticrew & Roberts, 2006).

As social science evidence begins to accumulate in the family law field, there is a growing need to move away from unscientific reviews. As a result of more emphasis on transparency, accountability, and the reduction of bias, systematic reviews have emerged to address criticisms of the traditional literature review by providing a method for answering questions such as: the rationale for including some studies but not others; the strengths and quality each study brings to the overall review; the types of measures used to reach conclusions; the overall effect sizes for various constructs across studies; and a balanced consideration of how studies included in the review (versus those excluded) impact the findings and conclusions of the review.

Outside of the family court arena, several organizations have created common standards for scientific reviews of research findings. Both the Campbell (http://www.campbellcollaboration.org) and Cochrane (http://www.cochrane.org) Collaborations, for example, are nonprofit international organizations dedicated to the promotion, maintenance, and dissemination of high quality unbiased systematic reviews. With mounting social science evidence in some areas of family law (e.g., parent education, shared parenting, exposure to IPV), there should be a shift away from reliance on traditional literature reviews in favor of methodologically sophisticated meta-analytic procedures conducted to aggregate findings across primary studies.

Important to note is that simply including words like “systematic” or “meta-analysis” in a paper title will not guarantee, to the reader, that the review is of high quality. Similar to the importance of critical appraisal of primary studies, there are now several guidelines for assessing the quality of reviews (see Clarke, 2000). Typically, these guidelines assess the inclusion and exclusion criteria for
studies included in the review; the sensitivity and specificity of the information retrieval strategy; the methods for assessing the quality of the primary studies; the heterogeneity of the studies and subsequent findings; and whether the conclusions are supported by the results of the included studies. As the field continues to mature, we expect a growing demand for systematic review products to inform decision making, with much less emphasis on simple literature reviews that are fraught with the potential for biases.

There have also been recent calls for developing standard assessment procedures for critically appraising scientific evidence. There are now several “risk of bias” assessment tools to assess the quality of studies using a common metric of quality. The benefit of using a systematic rating system across studies is that it helps minimize bias in assessing the strength and limitations of each study and provides a standard approach for making both clinical and policy decisions based upon the quality of the best available evidence.

There is also a growing emphasis on guidelines for assessing the quality of various research designs (e.g., systematic reviews, random control trials, observational studies, qualitative studies, etc.) as an aid to assess the strength of recommendations made about the findings that emerge from these various designs (Saini & Shlonsky, 2012). In the case of quantitative research designs, researchers are urged to consider newer and more sophisticated statistical procedures for analyzing the complexity of related factors (e.g., assessing mediating or moderating variables, using representative samples, time-series analyses, accounting for subject attrition, dealing with missing data, developing predictors, and meaningful outcome measures).

Another model for quality control is that developed by the Institute of Medicine (http://iom.nationalacademies.org/Reports.aspx). It does authoritative reviews using an elaborate process, which includes convening a diverse group of experts to conduct consensus studies on issues of concern to the nation’s health, including the health of children, youth and families. Issues of concern to family courts have major implications for the health and well-being of children, and merit this level of careful and authoritative review. The field of family law has much to learn from these initiatives. A similar process of developing consensus studies would be very useful for moving beyond scholar advocacy to providing the field with definitive summaries of the state of social science evidence on issues of concern and identifying their implications for family courts.

THE ROLE OF SCHOLARLY RUMORS ABOUT IPV IN FAMILY COURT CASES: A CASE ILLUSTRATION

Here we describe one particular cycle of scholar-advocacy bias in debates about differentiation of intimate partner violence (IPV) in family court cases. This issue has all the elements that make a study vulnerable to scholar-advocacy bias as described in our first article (Emery et al., 2016) and summarized in Table 1—the study is new or one of few, limited studies in family law that can be perceived as directly relevant to highly salient policy issues for advocacy groups that are organized to attain competing goals. The purpose of this case example is to illustrate how stalemates in policy and practice can occur when research findings are selected and shaped for advocacy purposes. The spotlight is then turned upon practices that de-escalate the negative cycle of advocacy bias and help restore more productive cycles of evidence-informed and evidence-based improvements in policy and practice.

The disposition of family court cases where there has been IPV has been an ongoing contentious policy issue for several decades as the family law field has grappled to come to terms with its responsibility for the protection of victims and children as well as preventive deterrence of offenders. In part, the controversy over IPV has been fueled and driven by the collision of powerful competing ideologies, interests, and agendas. Both women’s and men’s advocacy groups have accused family courts of being biased in favor of the other gender. On the one hand, for decades, advocates for IPV victims (mostly but not all women) have railed against family courts for pressuring women into
mediation where they were seen as disadvantaged in power generally and revictimized by abusive male partners in particular. Furthermore, family courts are perceived by them to empower men’s involvement in parenting regardless of histories of abuse. Advocates for IPV victims often contend that even when IPV is identified, family courts do not fully consider (or understand) the impact of the violence on parenting, children, and the victim (Bemiller, 2008; Girdner, 1990; Hart, 1990; Johnston & Ver Steegh, 2013; Lerman, 1984; Morrill, Dai, Dunn, Sung, & Smith, 2005). On the other hand, advocates for fathers’ rights (mostly but not all men) have long protested that they get the short end of the stick, in that women are favored as primary child caretakers, and men are burdened with support orders but afforded insufficient time to parent their children. In reply to allegations of IPV, some advocates argue that, more often than not, the IPV was mutual, initiated by the woman, or exaggerated in order to gain an advantage in custody litigation and to interfere with men’s access to their children. Caught in the cross fire, family courts have sought to ensure procedural fairness and to safeguard civil rights and gender equality. Ideologically, family courts are committed to family self-determination in the quest to establish the “best interests of the child” in the processing of child custody matters, albeit they will to make decisions for parents using more traditional adversarial procedures that offer better protections, if needed.

STATE OF THE RESEARCH EVIDENCE

Initially limited and strongly influenced by advocate agendas, social science research on IPV has become a burgeoning literature in quality and quantity. Before the 1990s, in the absence of research specifically from family court populations, opposing groups in policy debates cited separate literatures based upon entirely different philosophical presumptions, examined samples drawn from different populations, and used different definitions and methods of inquiry.10

TARGET STUDY AND THE IPV CONTROVERSY11

In 1993 a study was published on IPV using data collected during the previous decade from two samples of court-referred, high-conflict and violent, custody-litigating families ($N = 60$; $N = 80$). It reported that not all IPV fits the male batterer-battered wife archetypes described in the domestic violence literature at that time. Some IPV was bi-lateral couple violence, some was single event separation trauma, some initiated solely by women, and a small fraction seemed primarily related to a mental disorder and/or substance abuse problem. The study also reported data showing that, overall, violence was mostly perpetrated by males, the majority of male violence was more severe and injurious to women than was female violence, and the more serious violent incidents by men had been denied or minimized. In an upfront disclaimer, it was stated that it was not possible to estimate the incidence of domestic violence, or its subtypes, in the family court population of custody disputing families due to the limitations of the studies (e.g., small convenience samples of unknown representativeness, exploratory and descriptive methodology). Despite this, several implications for differential diagnosis and treatment of the different types of violence were proposed at the end of the first article.

This “typology of violence” seemed well received by most family court practitioners—judges, custody mediators, and evaluators—because it seemed to reflect their experience with clients better than that of victim advocates who emphasized only the power and control perspective. Although the researchers had concern about the preliminary nature of the research evidence, they did not openly address the premature use of their small descriptive study for policy purposes. Instead, together with a growing number of other family court educators, they continued disseminating the basic findings and policy implications within their curriculum of professional seminars without sufficiently addressing the intervention study’s limitations. In particular, in the absence of input from the victim advocate community, the original researchers were not sufficiently aware of potential difficulties and unintended negative consequences of applying conceptions of IPV within a family court (a public
legal setting) that had been derived in another context (private confidential counseling setting). In these respects the dissemination of findings were biased by their advocacy stance.

ESCALATING SCHOLAR-ADVOCACY IN RESPONSE

For almost a decade the victim-advocate community seemed unresponsive to these preliminary data until they were cited more frequently in family court litigation and explicitly proposed for use within one jurisdiction as the basis for differential interventions with cases involving allegations of violence. At a time when victims’ advocates were struggling to get whole communities, law enforcement, health professionals, courts, and legislatures to acknowledge the prevalence and seriousness of IPV, the concept of differentiation into types could be perceived as a threat to the clarity and integrity of their purpose. Several prominent scholars within the domestic violence community responded to the challenge posed by the original study with critical reviews of it and the authors’ related work. Clinical observations of the dynamics of high conflict and violent family relationships described in the researchers’ published books were derided and dismissed using several advocacy-biasing strategies. These included:

1. Selecting concepts that were anathema to the advocate community (like mutual provocation or mental status of the victim), often out of context, and weaving them into straw man arguments and overly simplistic summaries of the researchers’ thesis.
2. Revising case illustrations of violent scenarios by introducing fictitious content to suggest more sinister intent and dangerous dynamics that the clinical researchers had overlooked.
3. Claiming incorrectly that the researchers believe that as many as one in eight women are magnifying violence as a ploy in custody disputes. This factoid was requoted or referenced repeatedly in scholarly publications during the next several years, citing each other as leading authorities.
4. Widely disseminating scholarly rumors that the researchers’ work fails to recognize the overwhelming role of gender inequality, power imbalance and social injustice, seriously underestimates the number of abusive relationships, and minimizes the severity or consequences of violence. In actual fact no data using common measures on known samples had been compared, rather the leading authority of “domestic violence specialists” were cited as evidence for this conclusion.
5. Subsequently the lead author was the target of ad homonym arguments and public protest.

What had begun as a critique of a study had, in the form of scholarly rumors, grown to accommodate a much larger condemnation and repudiation by the victim advocate community of research findings that were perceived to epitomize the family courts’ inadequate response to intimate partner abuse. This in turn likely contributed further to the long history of contentiousness—if not overt controversy—between some family court professionals and IPV advocates over policy direction at the national level.

FROM CYCLES OF SCHOLAR-ADVOCACY BIAS TO PRODUCTIVE COLLABORATION

During the next 5 years or so, there were an increasing number of new empirical studies and reviews published that supported the differentiation of IPV into types that were distributed differently within populations previously sampled. Such findings helped reconcile differences in reported rates of incidence cited by scholar-advocates for different positions (Johnston & VerSteegh, 2013; Salem & Dunford-Jackson, 2008; Babcock, Costa, Green, & Eckhardt, 2004; Beck, Walsh, & Weston 2009; Graham-Kevan & Archer, 2003; Holtzworth-Munroe & Stuart, 1994; Holtzworth-Munroe,
In December 2007, a joint initiative was launched to break the deadlock after 2 years of negotiation and planning by the AFCC in partnership with the Family Violence Department of the National Council of Juvenile and Family Court Judges (NCJFCJ); the joint initiative is hereafter known as the Wingspread Conference. (These two organizations were perceived to represent somewhat opposing views at the source of controversy.) About forty delegates, one third each from AFCC, NCJFCJ, and the victim advocacy community, were carefully chosen to include researchers, judges, and other leading law practitioners, family court administrators, national leaders from the advocate communities, and funding representatives. The focus of the 3-day conference was on differentiating IPV. Led by two experienced facilitators (one selected by each organization), the discussion was initially tense and distrustful but sufficient to disclose many of the concerns of both groups and to establish some procedural goals.

A panoply of different voices representing different interests were expressed as “gripes” the participants had of one another such as: (a) victim women whose fear and disclosure of humiliating incidents of IPV in court were often actively discouraged, discounted, or dismissed as a ploy in the custody dispute; (b) fathers who felt unjustly stigmatized as “batterers” and excluded from regular access to their offspring; (c) children who grieved the absence of beloved fathers and those who were fearful, angry or terrified of visits—even supervised access; and (d) family court judges who struggled to uncover truths, protect victims and children, and ensure procedural justice with unrepresented clients. Although victim advocates stopped short of endorsing the concept of a typology of IPV, they were open to considering the context of violent incidents, the difficulty identifying IPV, and the negative impact of its disclosure in family court. The task of reporting on issues that posed stumbling blocks to collaboration (e.g., terminology, screening for IPV, referrals for alternative dispute resolution and other services, parenting plan options for IPV cases) was assigned to small teams of delegates, each made up of representatives of family court and victim advocate communities. More definitive progress towards collaboration and less divisiveness became evident during and after publication of these joint reports and coauthored papers in a special issue of *Family Court Review*, Volume 46 in 2008.

Since that time, more ongoing partnerships between groups have been forged wherein national leaders from three organizations (AFCC, NCJFCJ, and the Battered Women’s Justice Project [BWJP]) jointly present at each other’s conferences and training seminars, and family court representatives consult on advocates’ research projects, and vice versa. Currently the most significant sign of progress is the appointment of an AFCC task force (in collaboration with NCJFCJ and consultation with BWJP) specifically to develop Guidelines that supplement its Model Standards of Practice on Child Custody Evaluation to identify and account for IPV. The product, if ratified and implemented with fidelity, has the potential for extensive impact on the way IPV cases are processed. Advocates for victims of IPV are valued members of many other family law projects and task forces, some convened for special purposes like the one on the shared parenting debate (Emery et al., 2016). Joint projects like these have been most effective in rebuilding mutual respect that had for too long been eroded by vitriolic debate, misinformation, and avoidance of one another. The development of more productive collaboration around integration of research into practices concerning IPV is an encouraging example of a more general positive cycle to promote the development and application of research evidence to promote effective policies and practices in family law.

**CONCLUSION**

The responsibility to ensure that social science is conducted and communicated in a way that minimizes the worst aspects of advocacy bias begins with researchers themselves aided by the guardians of scientific integrity—editors, peer reviewers, and educators—who critique and disseminate research evidence. But it cannot stop there. The growing and changing body of scientific evidence is a community commodity at the disposal of all of its consumers. Like the water we drink, it is in the
interests of all to keep it clean. At the very least, we need more informed consumers who can identify contamination when it occurs. As professionals and practitioners in family law, peacemakers and news correspondents, stakeholders and concerned citizens, who gather, use, and pass on research evidence, we need to draw upon our collective wisdom to ensure this business of policy making is consistently conducted in a more effective and seemly way. Researchers have the responsibility to ensure that the evidence they contribute to the community is based on sound methodology, and that limitations are transparently identified. Moreover, it is the responsibility of all of us to resolve our differences with professional decorum, including speaking out against fringe elements that threaten, demonize and seek to besmirch the reputation of those who espouse alternative views. Although working partnerships between those with disparate views are not easy ones, they are ultimately more productive for the purposes of sound policy development.

In this article we have argued that social science research findings at risk for advocacy bias are those relevant to issues that have high salience for public policy, particularly where competing interests groups are already organized in pursuit of a cause. We have shown that scientific protocols for the conduct, review, and dissemination of unbiased research evidence, by and large, already exist but these authoritative mechanisms that guard against the risk of scholar-advocacy bias are less likely to be applied when there is an inadequate body of social science evidence and insufficient numbers of qualified researchers available to address the issues. Consequently, controversy prevails and questions remain unanswered in family courts pertaining to the welfare and longer-term outcomes for children and parents. The paucity of relevant research evidence is not due to the intrinsic difficulties in understanding the problems presented in the family courts. Rather, it is mostly because funding for research and more general investment in civil matters adjudicated by family courts has historically been, and remains, a relatively low priority for public policy makers.\footnote{16}

Undoubtedly, making support for relevant research in family court matters a priority would be the most significant step to creating useful, unbiased knowledge for family court issues. We need: (1) more evidence producers who follow standard scientific protocols for conducting high quality research with an emphasis on clearly indicating limits of the results; (2) evidence gatherers who systematically retrieve the relevant research and rate the strengths and limits of evidence based on a common metric for assessing the quality of studies; (3) evidence disseminators who review strengths and limitations of the evidence and help make decisions on how best to disseminate the evidence; (4) evidence consumers, including practitioners and policy personnel, who consider the applicability of the evidence to practice and policy; and (5) evidence planners who identify future research needs to fill gaps (see the Coalition for Evidence-Based Education 2012 position statement at http://cebenetwork.org/sites/cebenetwork.org/files/CEBEPositionPaper_f_0.pdf).

NOTES

1. Coauthors listed in reverse alphabetized order: Irwin Sandler, Michael Saini, Marsha Kline Pnnott, JoAnne L. Pedro-Carroll, Janet R. Johnston, Amy Holtzworth-Munroe, and Robert E. Emery. The authors constitute the AFCC-appointed Researchers’ Roundtable whose discussions have to date led to two articles on scholar-advocacy bias in family law. The hope is that they can serve as a starting point for AFCC sponsored best-practice guidelines for ethical conduct in the reporting and dissemination of social science research findings for purposes of advocacy, policy development, and professional education in family law matters.

2. en.wikipedia.org/wiki/An_Inconvenient_Truth is a 2006 documentary film directed by Davis Guggenheim about former U.S. Vice President Al Gore’s campaign to educate the public about the science in support of global warming theory that was being refuted by advocates for powerful interests.

3. There are two kinds of research bias—one is commonly known as “methodological bias” and is well recognized in the research literature. Less discussed as bias are the researcher’s prior assumptions, personal beliefs, values, or philosophical perspectives that can influence the research questions asked but are not falsifiable. Scholar-advocacy bias belongs to the second category. The more easily recognized advocacy-biasing strategies are “cherry-picking” (selective reporting) and “woozles” (the dissemination of factually inaccurate knowledge claims as established truths). (Gelles, 2007; Neilsen, 2014).

4. The most common definition of the Evidence-Based Practice (EBP) movement is the conscientious, explicit, transparent and systematic use of current best evidence in making decisions about the care of the individual client (Sackett, Rosenberg,
Gray, & Richardson, 1996). In making clinical decisions for an individual case, EBP suggests consideration of three areas: (1) scientific research or empirical data on the effects of the intervention; (2) patient values, preferences, and culture; and (3) clinical judgment or expertise. There is debate, however, with regard to how to weight these three variables (e.g., Norcross, Beutler, & Levant, 2006). Many scientists value the primacy of the first factor, science and empirical data, over the other two, as for example, clinical judgment often has been shown to be subject to cognitive biases (e.g. Lilienfeld, Ritschel, Lynn, Cautin, & Lutzman, 2014). Central to the EBP process, transparency about the weigh given to each of these three factors should be explicit to satisfy the client’s informed consent prior to initiating the intervention. EBP is increasingly being emphasized in contemporary approaches to many public policy matters (e.g., health, crime control, education and environmental protection).

5. The state of the evidence to address a specific research question about policy or practice can generally be grouped into three broad categories: (1) “Evidence-based” is when a research question has been systematically evaluated using high quality methods (like meta-analysis), and the evidence supports a given practice or policy. Decision making should be based on this kind of robust evidence. (2) “Evidence-informed” is in the absence of systematic evaluations for a specific question but where accumulated research findings or other related evidence can inform decision making. (3) “Evidence-hopeful” is where there is only weak or suggestive evidence concerning a question, but it is believed that this approach will eventually produce research supporting the policy or practice. Scholar-advocacy bias occurs when “evidence-hopefuls” are espoused as “evidence-based”.

6. For example, the findings from a single study of one jurisdiction were cited to justify an avalanche of reforms across the U.S. that favored “mandatory” arrest policies for misdemeanor offences of domestic violence (Sherman & Berk, 1984). Subsequent research indicated that these policies did not consistently deter perpetration of IPV, particularly in jurisdictions without strong backup prosecutorial policies and victim services. Instead, mandatory arrest sometimes deterred victims from reporting abuse and further endangered their lives, especially in impoverished communities of color where unemployed men had little to lose by arrest (Buzawa & Buzawa, 1996). Another example in criminal justice was the influence of one review paper about recidivism rates for treatment programs for criminal offenders. It was perceived to conclude that “nothing works” (Martinson, 1974), justifying a major shift in policy trajectory that resulted in a 20-year imprisonment binge in the United States where the goal was to warehouse offenders rather than rehabilitate them (Walker, 2011).

7. Biases in the reporting of research can originate from the authors of reports or subsequent readers and reviewers. In the best-case scenario, published reports will have been subjected to rigorous peer review. Peer reviewed articles are the most trustworthy venue for publication. Books are less reliable sources because they are often not subjected to the same rigorous review process or to any at all. Information gained from other sources, newspaper and magazine articles, Internet, television, and personal communication also vary greatly in reliability. Non–peer-reviewed reports should not be accorded equal status as those that are peer reviewed. The essence of science is that it is public and that we enforce our standards of evidence through the peer review process. Peer review is not any guarantee of valid findings—but it is an important process towards minimizing the influence of bias.

8. See GRADE (Atkins et al., 2004) as one of several guidelines for systematically retrieving, screening, appraising and reporting the results of various methodologies. See also the Cochrane Collaboration Handbook’s chapter 10 on addressing reporting bias (Higgins & Green, 2011, retrieved online at http://handbook.cochrane.org).

9. The purpose of this paper is not to engage in the debate on the issues themselves, nor to impute blame. For these reasons, in this case illustration, individual authors are not identified by name in the text and citations to all participants in the published literature on the debates are grouped together in footnotes.

10. Advocates for victims, many of who espouse a feminist perspective, explain domestic violence in terms of men’s unilateral enactment of power and coercive control over women in multiple domains, as illustrated in the Power and Control Wheel (Pence & Paymar, 1993; Yllo, 2005). Women’s responses were viewed in terms of trauma theory or self-defense. Definitions of battering and descriptive profiles of perpetrators and victims of IPV were initially obtained from studies of victims’ experiences in convenience or clinical samples drawn from shelters, police reports, hospital emergency admissions and criminal courts where women are disproportionately victims of severe male violence and sexual assault (e.g., Browne, 1987; Dobash & Dobash, 1979; Walker, 1984; Yllo & Bograd, 1988). Family court counselors and custody evaluators with backgrounds in mental health, psychopathology, child development, substance abuse, and family system dynamics, held that it was important to take into account multiple, often reciprocally influencing factors, in addition to gender-based cultural differences in power and control and trauma, when assessing and processing IPV cases (Johnston & Campbell, 1988; Johnston & Roseby, 1997).

Meanwhile men’s advocates cited the family conflict and violence literature, a parallel and separate body of research surveys of large community conflicts of intact families measuring incidence of more normative conflict tactics between spouses, parents and children, and amongst siblings (Dutton, 2005; Loseke, Gelles, & Cavanaugh, 2005; Straus, Gelles & Steinmetz, 1981). These studies in general reported that husbands and wives perpetrated violence at about the same rates. There were few studies on divorcing families in family courts at that time, although California was beginning to report descriptive statistics (Depner, Cannata, & Simon, 1992).

11. The original research that was the target of controversy involved Johnston and Campbell (1993a, 1993b) and was reproduced in Johnston and Roseby (1997). Critical reviews, commentary, and rejoinders in published form emerged almost a decade later and included the following: Bancroft and Silverman (2002), Dalton (1999), Jaffe and Gefner (1998), Jaffe, Lemon, and Poisson (2003), Johnston (1999), and Lemon (2001). Theoretical integration and reformulations were later provided by Jaffe, Johnston, Crooks, and Bala (2008), Johnston, Roseby, and Kuehne (2009), and Kelly and Johnson (2008).

12. The researchers’ findings about IPV had been derived by experienced counselors who encouraged victims and perpetrators to disclose personal details of violent and abusive incidents within extended (1–2 year), confidential counseling
relationships. Both parents and children from each family were all seen separately from one another and entirely isolated from the court. Their accounts were protected from court subpoena. The logistical and legal barriers to collecting similar, relevant and valid information about IPV within family courts in order to make differential assessments were not considered and may be insurmountable. Furthermore, without a reliable screening or assessment tool, misdiagnosis can have deadly consequences for some high-risk victims of IPV and violate the civil rights of others wrongly classified. Other negative consequences of this kind of public disclosure (or admission) of abuse in public documents or court testimony include family members being subjected to cross-examination by litigating attorneys disputing the classification of IPV, and the risks to victims of personal vendetta by abusers.

13. Victim advocates had been preoccupied with first establishing safe houses and shelters for victims and their children, then with reforming the criminal justice and court response to IPV and then with reforming the dependency courts’ processing of IPV cases. They did not turn their full attention to reforming the response of family courts until the mid 1990s, at which time they described the effect as “hitting a brick wall” (Pence, personal communication, 2013).

14. There followed a period during which boycotts and public protests were organized against the lead researcher’s presentations (even some on unrelated topics). Several keynote addresses were canceled. More extremist advocates resorted to character assassination: they circulated hate mail and the researcher’s name was “blacklisted,” linked on an Internet blog with other thoroughly discredited researchers “who had confused the field with bad data.”


16. In its ideological conception, family courts were viewed as forums for resolution of private, civil matters, like divorce, that need minimal state intervention. Their essential mission differed from dependency, juvenile and criminal courts that require state intervention to ensure public safety, protection of victims and children, and accountability of offenders. Unfortunately this ideological presupposition no longer holds true, but funding of family courts has remained a relatively low priority for public policy makers. As community services have disappeared across the country due to shrinking state and local budgets, family courts have found that, in the process of assuming their core responsibilities for adjudicating the contractual reorganization of vast numbers of family relationships, they are increasingly forced to become first responders to troubled families by making difficult decisions about a range of salient issues that have the potential to profoundly affect the welfare and future of children and their parents. This means family courts have to make these decisions in the relative absence of relevant, unbiased research evidence. Moreover family courts are a vast, underutilized window of opportunity for research and development of preventive and early-intervention efforts to curb the most serious manifestations of family breakdown that other courts and community services are trying to redress—neglect and abuse, IPV, school failure and dropout, delinquency, substance abuse, gang involvement, and adult crime.

REFERENCES


at the University of Toronto. For the past 15 years, he has been conducting custody evaluations and assisting children's counsel for the Office of the Children's Lawyer, Ministry of the Attorney General in Ontario.

Marsha Kline Pruett is the Maconda Brown O'Connor Professor at Smith College School for Social Work. She has been in practice for 20 years, specializing in couples counseling and co-parenting consultation, as well as intervention design and evaluation. She has published numerous articles, books, and curricula on topics pertaining to couple relationships before and after divorce, father involvement, young children and overnights, and child outcomes. Her books include Your Divorce Advisor: A Psychologist and Attorney Lead You Through the Legal and Emotional Landscape of Divorce (Fireside) and Partnership Parenting (Perseus). She consults nationally and internationally on various family law issues. She is currently the president-elect of AFCC.

JoAnne Pedro-Carroll is a clinical psychologist, researcher, and consultant with over 30 years of experience. She is the author of over 100 publications, including her award-winning book, Putting Children First: Proven Parenting Strategies for Helping Children Thrive Through Divorce (Avery, 2010). She serves as an international consultant on the mental health and wellness of children and families. An advisor to Sesame Street, she helped to develop materials to foster children’s resilience and understanding of divorce-related family changes. She is the founder of the Children of Divorce Intervention Program, an award-winning series of prevention programs for kindergarten through eighth-grade children in the United States and internationally. She developed and co-founded A.C.T.—For the Children (Assisting Children through Transition), a parent education program that serves as a model throughout New York state and nationally. Her programs have earned widespread acclaim, including a Program Excellence Award from the U.S. Department of Health and Human Services, the Lela Rowland Award from the National Mental Health Association, and citation as an exemplary program for children from several national and international organizations. As a senior researcher at the Children’s Institute and a professor of psychology at the University of Rochester, her areas of research included the effects of marital adjustment on children and the development, implementation, and evaluation of preventive interventions for children and families experiencing stressful life transitions. She is the recipient of the American Psychological Association’s 2001 Award for Distinguished Contributions to Public Service and the Association of Family and Conciliation Courts award for Outstanding Research.

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Amy Holtzworth-Munroe (1988 Ph.D., clinical psychology) is a professor in Indiana University’s (IU) Department of Psychological and Brain Sciences. She has researched intimate partner violence (IPV) for over 30 years, including examining the social skills deficits of violent husbands and identifying subtypes of male batterers. More recently, she has conducted research on family law, including developing and testing the best methods of IPV screening in family mediation and conducting randomized controlled trials testing the effectiveness of family law interventions (e.g., different mediation approaches, online parent programs). Her research is currently conducted in the IU Law School Mediation Center, courts around Indiana, and the Washington, DC Superior Court Multi-Door Dispute Resolution Center. She is a principal investigator on a National Institute of Justice-funded research project comparing outcomes of shuttle mediation, videoconferencing mediation, and return to court (without mediation) for parties with a history of high levels of IPV.

Robert Emery, Ph.D., is a professor of psychology and director of the Center for Children, Families, and the Law at the University of Virginia. He has authored over 150 scientific publications and several books, including the forthcoming Two Homes, One Childhood: A Parenting Plan to Last a Lifetime (Avery, August 2016).