

The Resource Center Newsletter

Words Create Worlds: Opportunities to Foster a Better Understanding of DV in Custody Processes

My name is Jay Otto, and I am a researcher for the Center for Health and Safety Culture. Domestic violence and custody are not my areas of expertise. My research focuses on how culture (shared values and beliefs) impacts behaviors that affect health and safety. I have been learning about this complex topic of establishing custody in families experiencing domestic violence in support of NCJFCJ's Resource Center on Domestic Violence: Child Protection and Custody (www.rcdvcpc.org). In this project, I was able to interview many experts from across the U.S. working on custody in the context of domestic violence (DV).

The Centers for Disease Control and Prevention reports that 6.6% of women and 6.4% of men in the U.S. experienced sexual violence, physical violence, and/or stalking in the past 12 months by an intimate partner in 2010-12. More than twice as many experienced psychological aggression in the past 12 months (14.1% of women and 18.2% of men).¹ The impacts of this violence are far reaching and significantly complicate establishing custody agreements for children in families experiencing DV.

DV often co-occurs with (and may contribute to) mental health disorders and substance use disorders. Many families involved in family court may not have resources to engage attorneys or other professionals to guide the process. Issues of racism, sexism, poverty, and over-loaded or broken systems complicate matters even more. I think anyone who has looked into the challenges of addressing custody in families experiencing DV would agree that it is a complex problem.

Explicitly noting this as a complex problem is important. Complex problems (also called "adaptive challenges" or "wicked problems" in various research domains) require different approaches. Complex problems require critical thinking and ongoing learning, and they benefit from a deeper understanding. Nonetheless, we often try to use basic problem-solving skills with complex problems. We take the complex problem and divide it into smaller, isolated problems; we generate solutions for each problem (such as referrals to various programs), identify barriers, and seek to

¹ Smith, S.G., Chen, J., Basile, K.C., Gilbert, L.K., Merrick, M.T., Patel, N., Walling, M., & Jain, A. (2017). *The National Intimate Partner and Sexual Violence Survey (NISVS): 2010-2012 State Report*. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention.

address them. This divide and solve approach rejects the reality that the problems may be strongly interconnected and impacted by systemic issues (like racism and sexism) as well as the challenges of DV.

More and more leaders are recognizing that conversations (with ourselves and with others) are a core tool to address complex problems. Developing a deeper understanding requires us to engage in (sometimes very difficult) conversations about our current assumptions. These conversations foster changing our beliefs. It is my belief that conversations are at the core of behavior change strategies (including training, intervention, etc.).

However, challenging our current assumptions is hard and often occurs incrementally or in stages. It is far easier for me to defend my current beliefs than develop new beliefs. Challenging my assumptions may challenge my identity, perceived self-worth, and perceived self-efficacy (all of which is scary!). Trust in the source of new information can foster reflection (and lack of trust can inhibit reflection).

Language is at the root of conversation. Our language can foster a better understanding of how DV impacts custody processes. Our language can also trigger reactions in people that will make belief change less likely to occur. So as agents of change (which you are if you are reading this blog), we need to learn how to engage in conversations that are more likely to foster changes in beliefs and less likely to trigger reactions that inhibit changes in beliefs. Toward this end, I ask the following questions:

1. Does our language about DV foster a clear understanding that DV is not an incident but rather an ongoing experience?

If people perceive DV as an incident (or series of incidents), it may lead them to believe that after the incident is “resolved,” it is over. But DV has ongoing effects and understanding DV’s ongoing effects is critical to navigating custody processes. So, our words matter. For example, do we say “DV and coercive control” or “DV including coercive control” (and do we explain the difference)? The former implies that DV and coercive control are two different things whereas the latter clearly states that the coercive control is how DV may appear. Do we talk about an “incident of DV” or a “violent incident in a family experiencing DV”? Do we use language that makes it clear that families experiencing DV will behave differently and how these differences may appear in court-related settings? These differences occur for both those experiencing violence (who may not share important information because of threats

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to their wellbeing or the wellbeing of their children or who may take what appear to be irrational steps to protect their children) and those using violence (who may be very practiced in saying all the right things and hiding any DV history).

2. Does our language about DV unintentionally threaten beliefs about the rule of law?

The rule of law is a core value of our judicial system. The rule of law means that the law applies to everyone; laws are not secret or arbitrary; laws are enforced fairly; and the justice system is fair. The rule of law is an ideal – not a reality. The data are very clear that our system is not fair, and we have much work to do. However, we must hold the rule of law as an aspiration, or our system will truly collapse.

Language that threatens a sense of fairness may be perceived as threatening the rule of law and therefore may not be trusted and inhibit engagement by key stakeholders in examining their own assumptions. I believe (and I know this will challenge many readers) that we need to ask ourselves hard questions. How do labels such as “survivor” and “perpetrator” potentially threaten perceptions of fairness in a civil proceeding? I am not saying that DV should not be identified or discussed; it must be. However, such labels may inhibit some stakeholders from examining their assumptions about DV if they perceive that such labels threaten a sense of fairness.

How does gendered language potentially threaten perceptions of fairness? We know that women experience much more DV violence (and the severity of this violence is worse), and men are much more likely to use violence. We also know that gender biases and misogyny contribute to DV and the failure of key stakeholders to acknowledge and address DV. Nonetheless, we may need to approach these topics in stages in order to foster greater engagement. Perhaps issues of biases and misogyny are addressed in subsequent stages of change – after a basic understanding of DV is initiated.

I have intentionally used questions as a tool to explore this complex topic. Questions are a powerful tool for change and are one of our most powerful tools for complex problems. We often prefer answers (or solutions) to problems, but answers are too limiting on complex issues. Furthermore, questions can reduce psychological reactance among stakeholders (psychological reactance is when people feel their freedom is threatened and may do the opposite of what someone is asking). Questions allow for a space for people to explore a new idea at their own level of readiness.

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Changing beliefs takes time. For me, this is only the start of a conversation; there is more to come. But being patient is not my strength, and I know that I need to align my expectations that change takes time. And I know that we must begin these conversations NOW. What powerful questions can we ask?

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