

## The Intersection Between Mental Health and Domestic Violence in the Courts

Kristen Grabowski

University at Buffalo Law School  
Women, Children and Social Justice  
Clinic: 3<sup>rd</sup> Year Law Student  
University of Pennsylvania  
M.S. in Criminology

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## Research Question

- What findings surface when the courts consider mental health and domestic violence issues within the same case?
  - Which area is of priority?
  - How much do the two responses intersect?
  - What trends appear to develop?
  - Interesting/"unexpected" findings?

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## Method of Review

- Selected key search words to locate cases on legal electronic data base.
- Read cases and decided which to include
  - Generally:
    - Included all cases where the court made decisions based on mental health and domestic violence
    - OR cases where the court discussed both factors

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### Case Information

- Venues:
  - Family Court
    - Termination of Parental Rights
    - Visitation & Custody
    - Abuse & Neglect
    - Orders of Protection
  - Criminal Court
  - Civil Court

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### General Findings

- The majority of relevant cases discovered were termination of parental rights cases
- Case outcomes:
  - 16 of 44 cases reviewed were negative to victims
  - 9 of 44 were negative to both victim and offender
  - 9 of 44 were negative to offenders
    - HOWEVER, there are significant limitations to this information

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### General Findings, Continued

- Domestic violence and mental health combined (without other factors) can be enough for changes in family court status for victims and perpetrators
- Increased risks:
  - Missing visits or not finishing programs
  - Staying with offender or exhibiting behaviors contrary to treatment
  - New partners that have mental health and domestic violence concerns
- Acknowledgement of problems, for both victims and offenders, is important, but, with a caveat

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## General Findings, Continued

- Mental health seems to garner more attention from the court than domestic violence
- Mental health *treatment* and domestic violence often co-occur in cases with both victims and offenders
  - Victims: Connected in appropriate proportion to actual concerns OR assigned to all?
  - Offenders: Response to domestic violence?
- BUT, despite the co-occurrence of mental health and domestic violence
  - The court RARELY discusses the intersection
    - Exceptions: children and domestic violence and continuing violence

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## Individual Findings of Interest

- **Wissink v. Wissink:**
  - When there is domestic violence between parents and the child desires to live with the abusive parent and denies the proven abuse, the court required a psychological evaluation of the child due to the psychological injuries domestic violence can cause
- **In Jenna KK:**
  - In termination of parental rights based on mental illness, domestic violence was considered a manifestation of anti-social personality disorder as an example of disregarding the safety and welfare of others
- **Mehaffy v. Mehaffy:**
  - A parent's new partner with a history of mental health and domestic violence (without actions) weighed heavily into the decision to grant custody of the one of the parties three children to the father

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## Individual Findings of Interest

- **Marie W:**
  - 1) In one of the only cases that discusses the relationship between mental health and domestic violence, the court notes that Marie W's mother probably needed mental health assistance due to her background, including domestic violence. HOWEVER,
  - 2) Mother not attending recommended support groups for domestic violence even though domestic violence program was successfully completed is considered against mother when the domestic violence still continues and when mother is not making all of her mental health meetings
- **Zachary CC:**
  - Suspended judgment was granted rather than termination of parental rights in a petition based on domestic violence when mother was utilizing services and further domestic violence or substance abuse had not been a problem. The judgment was contingent on mother continuing to adhere to four requirements.

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## Conclusion

- Mental health and domestic violence intersect often in the cases in both the victims and offenders
  - BUT, the relationship is unclear
  - Despite the obvious intersection and likely causal relationship at times, the court does not explore the relationship other than in children OR
  - If the abuse is still continuing and mother is with abusive partner
- The serious affect on cases due to both mental health and domestic violence is worth more attention
  - Double hit on victims?
- However, victims actions can still make a positive difference:
  - If the victims access help, even from a DV provider, courts take that into account
  - Programming and application of the programming matters

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## Limitations

- The search terms affect the cases reviewed
- Not a full review of the topic
- Difficult to obtain a clear picture of the relationship between mental health and domestic violence
  - Court gives limited information
  - Best interest standard lends to many co-occurring issues including alcohol and drug use (among others) that make it difficult to assess the affect of the mental health or domestic violence issues in isolation
- Highlighted points are through the lens of the author

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## Limitations, Continued

- These are published cases on appeal, generally (often for issues other than this), therefore, they may not be representative of the majority
  - Only DV/MH cases where there is an intersection; so, they are not representative of the treatment of MH or DV separately
- Not representative of the system as a whole
  - Family Court cases are the significant majority

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## Future Implications

- Exploration of the procedure of assigning mental health treatment for victims of domestic violence
- Exploration on the focus of mental health over domestic violence
- Exploration on the lack of discussion on the intersection between mental health and domestic violence
  - Should victims be given more leniency due to the intersection of the two?
  - Should there at least be discussion on the relationship or, possibly, more responsibility to offender?

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