

Tri-County Batterer Intervention Provider Network Meeting Minutes September 12, 2017

Present: Chris Huffine (Allies in Change), Matt Johnston (Domestic Violence Safe Dialogue), Kate Sackett (Portland State University), Phil Broyles (Teras Interventions), Linda Castaneda (Castaneda Counseling), Sheri Eckert (Innervision/Better Men), Karla Upton (Multnomah County Department of Community Justice), Amy Simpson (Eastside Concern), Jacquie Pancoast (Eastside Concern), Irina Polozova (Russian Interpreter), Svetlana Sanfirova (Russian Non-Governmental Agency “Kindred People”), Tatiana Lioshchinina (Russian psychologist), Tatyana Bondarchuk (Crime Victim Advocacy)

Minutes by Kate Sackett, edited by Chris Huffine

Discussion Topic: The pros and cons of the criminalization of domestic violence

The discussion began with a conversation with some visitors from a Russian expert exchange program on everyone’s experiences working in violence intervention. Two of the visitors work primarily with domestic violence survivors as a psychologist and social worker and they were particularly interested in providers’ experiences working with abusive men. This initial conversation was particularly relevant to the planned discussion, as criminal and administrative laws in Russia and the United States regarding domestic violence are very different. For example, there was a recent change in Russia to make a first-time domestic violence charge of physical violence be an administrative rather than criminal law. Although this may seem like a step backwards to providers or others in the United States, the visitors explained that this actually has made it easier in some ways for survivors to report such kinds of domestic violence, as previously the fear of sanctions (e.g., large stigma, losing government jobs) against anyone with a criminal history made some survivors reluctant to report.

Internationally, domestic violence has not been considered a crime throughout most of history. Countries have begun passing laws against domestic violence in the past 50 years or so, but these laws are enforced to a different extent in different places. Here in the United States, we have had laws against domestic violence since the 1970’s, but they did not really begin to be strongly enforced until the early 1990’s, after the OJ Simpson case. Australia had a history of working with almost entirely voluntary men for addressing abuse through hotlines and for as long as we have worked in the United States, because there were not many criminal laws against domestic violence there. After a recent high-profile domestic violence case there though they have been passing very aggressive laws against domestic violence, and now almost all the men they work with are court-mandated. Around the world, the majority of men who are worked with for abuse are all voluntary, except for the United States, Australia, and parts of the UK. Though in “voluntary” cases abusive partners are usually getting pressure from somewhere to go to those programs (e.g., partners), that pressure does not come from the courts, laws, or criminal justice system more generally.

In the United States, rates of DV have declined by roughly two thirds since the 1990's. Although that is promising, it really reflects only decreased rates of physical violence (i.e., the abuse that has been specifically outlawed), which leaves cases of little to no physical violence without many obvious options. In an effort to address this, England has recently made "coercive control" illegal to expand the scope of laws against domestic violence beyond physical abuse alone.

Someone at the meeting who worked with Liberian refugees in Côte d'Ivoire found that countries in Africa generally do not have any laws against domestic violence, making the stakes different for working with voluntary men there versus mandated men here in the United States (who face jail time, fines, and penalties). Community-based programs in Africa, where people come in for years, have worked very well for people not facing criminal penalties but who were more compassionately rehabilitated. It took time, but families were salvaged, while still addressing the harms of violence so that children learned about that growing up. There was always a period of separation from the family there because of the abuse, but usually reconciliation ultimately.

The problem with criminalizing abuse is that it does not recognize the inter-connectedness with the abused partners and family members (e.g., penalties do not only affect abusive partners but abused partners as well, when communities are not willing to take on the cost of providing these services themselves). The criminal aspect of this topic can address the punishment of someone for assaulting another human being because the laws are there to protect human life, but it is not always capable or good at recognizing the context that this violence is taking place within families and within intimate relationships. The consequences are also different for general assault versus domestic violence assault, knowing that physical violence does not happen in a vacuum but goes along with emotional, financial, sexual, and other abuse.

Punishment does not change behavior, it suppresses behavior. Discipline helps support change. However, moving to a place of support from a place of discipline can be very challenging. There can be shaming impacts from having criminal laws against domestic violence, but there is also a need to support abusive partners through the stages of change to get to disciplined, different behavior.

On the other hand, the external motivation from criminal laws and punishments can be a very important first step to find and recognize cases where domestic violence is happening, put external pressure on abusive partners to get them to start coming to BIPs, and then give providers and abusive partners an opportunity to work together. This can be a way of using the shame of the justice system to get them to move from shame, to guilt, to vulnerability and finally move from an external to an internal motivation to change.

There is also a tension in balancing micro and macro changes regarding domestic violence. Societal change is left out of the equation of criminal laws against domestic violence, which means other work is needed to get at the root of what needs to change (e.g., social constructs that

support and promote domestic violence). Educating society on gender socialization and toxic masculinity is an important first step for young and old. If the reduced rates of domestic violence are only from decreasing reports of physical violence alone, a lot more macro change is needed to address the root of the problem. We are seeing cultural shifts more broadly too though, in terms of how children speak about gender and relationships, through education and awareness that challenges the culture that supports abuse.

Part of the issue in addressing the root causes of domestic violence is that it has taken a long time to even understand and fully define the problem of domestic violence itself. Is it about physical abuse? Verbal abuse? Coercive control? Eventually we have begun to converge on an understanding that domestic violence is based on a belief system or worldview in which violence is only a *symptom* of the problem (i.e., the worldview very common in traditional masculinity). This understanding of the nature of domestic violence is converging across independent conversations and countries to focus on this belief system that takes distress and externalizes it.

One of the dangers of criminalization is that it often reduces a larger issue to a few “bad individuals,” which can make us think that arresting those few people will solve the problem, reinforcing the micro-perspective and ignoring macro issues. However, criminalizing domestic violence also helps send a cultural message that violence is not acceptable, such as the work in Oregon to upgrade misdemeanor domestic violence charges to felony charges when children are exposed to the violence.

On the other hand, decriminalizing drugs has been done for the opposite goal: to remove stigma and barriers to help. Criminalization creates a stigma and also prevents people from identifying their own behavior as needing to change. Keeping options like anger management can be another avenue for increasing access to people who need help but who are not recognized by the criminal justice system or would recognize their own behavior. Although anger management is not enough in itself to create long-lasting behavior change for cases of domestic violence, they can be an initial opportunity to identify and work with people who may then be able to be referred to BIPs or other needed programs. Those who began in an ambivalent state about BIPs or addressing their behavior who go through the criminal justice system and have changed can also then speak to others in the community (e.g., other men going through these programs) to talk about their process of change.

Framing domestic violence as a public health issue could be one avenue to increase public support and funding to address it. Domestic violence is in a weaker position in terms of funding, where it is not taken as seriously as a crime as sex offending, while also not being taken as seriously outside the criminal justice system as issues like drug abuse. There is also still an undertone of victim-blaming in domestic violence cases, where the solution is simply for abused partners to leave.

Another issue in criminalizing domestic violence is that the law only goes so far in recognizing it. For example, there may be no basis for making an arrest even when a police officer recognizes signs of abuse. It is not the only way to intervene, just as the criminal justice coordinated community response (very tied to the criminal justice system) is not the only way for communities as a whole to respond to domestic violence. The criminal justice system also prioritizes juveniles over adults (e.g., invests more in juveniles), although the adult parole and probation has made huge shifts over the past twenty years to be more flexible, less punitive, and develop more relationships, rapport, and teach skills to clients. Even so, at times a containment approach is still needed in domestic violence cases.

There is also a difference between accountability work (e.g., regular monitoring, conversations with parole officers to check that he is going to the BIP group every week) versus punishment to make people suffer (e.g., by sending them to jail, getting them fired). There are people within the system, including BIP providers, that confuse the two, and think that holding people accountable entails giving people lots of requirements, demeaning people, and making them suffer. The decision to make the response punitive is itself abusive. We also need to recognize that many of the men coming into these programs have histories of trauma, especially in dual DV and substance abuse programs. Decisions around punishment and rehabilitation need to take that context into account. De-personalizing the issue, using person-first framing, can go a long way toward that.

The extent to which we should be passing strong laws against domestic violence is still not clear. Doing so makes a strong statement, creates more funding (i.e., by responding to felonies than to misdemeanors), and sounds good to effectively say there is “zero tolerance” for domestic violence. However, it also makes it less likely that someone will agree to the charge (e.g., if they will face losing their firearms for life) and creates more resistance to the process of change. It may also deter victims or abused partners from calling the police. We can see a parallel in our country’s stance on immigration, where a harsher, more punitive stance on immigration has dropped rates of domestic violence reporting because people are afraid of being deported if they seek help.