

How Gender Stereotypes and Stigma Associated with Mental Health & Substance Use Impact Survivors of Domestic Violence & Sexual Assault

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Gender stereotypes and stigma associated with mental health and substance often intersect in ways that impact the ability of survivors to access support and assistance through the legal system. This brief will address two prevalent misconceptions that frequently impact legal cases: that women with mental health conditions or substance use disorders (1) are not credible, and cannot be believed when they disclose abuse; and (2) are necessarily unfit parents or not as good parents as others without these conditions. These misconceptions have a significant impact on the ability of many survivors of domestic violence to access support and assistance through the legal system.

Stigma & Credibility

Many people erroneously believe that if a woman/survivor has a behavioral health diagnosis or treatment history, her perception of reality is not trustworthy or she may be lying or exaggerating. Women's perception of reality is often seen as less credible or less significant than men's perception of reality. Also, the credibility of survivors of violence is often doubted. Additionally, in our experience, we have observed that if a woman has a history of any mental health condition or substance use disorder, she has an even higher risk of facing discriminatory levels of scrutiny when reporting abuse, such as when seeking an order of protection or calling the police. She may be perceived as "hysterical," "crazy," "out of control," or an "addict" or "drunk." Her disclosures of abuse may be highly scrutinized, not taken seriously, or dismissed out of hand. Help may be refused if she is intoxicated or considered "difficult to work with," or she may be arrested or at risk of losing custody of her children.

For example, in one case, a survivor was denied assistance several times and told to call back later because she sounded highly intoxicated. In this case, it was discovered that she was not intoxicated but rather had a disability that impacted her manner of speech. In other cases, a survivor may be in fact be intoxicated and in urgent need of assistance, but not believed or taken seriously. Abusive partners are often aware of the high credibility obstacles faced by individuals who experience mental health or substance use-related conditions, and they knowingly use stigma to keep their partners from getting help. In a recent pair of surveys conducted by the National Domestic Violence Hotline, with

consultation from the National Center on Domestic Violence, Trauma & Mental Health, 50% of survivors of domestic violence reported that their partner or ex-partner had threatened to report to authorities that they were “crazy” in order to prevent them from getting something that they wanted or needed, such as custody of children, medication, or a protective order.¹ In a parallel survey, 37.5% of survivors reported that their partner or ex-partner had threatened to report their alcohol or drug use to authorities in order to prevent them from getting something that they wanted or needed, such as custody, a job, benefits, or a protective order.²

These statistics resonate profoundly with our experience and reports from the field. For example, in some cases, a survivor may call the police, only to have them leave without taking any action after their abusive partner “explains” that the survivor “has a mental illness.” In other cases, abusers have attempted to explain incidents of strangulation by claiming that their partners with a mental health diagnosis were “out of control” and “needed to be restrained.”

In the surveys described above, 24.4% of survivors reported that they had been afraid to call the police for help because their partner or ex-partner told them that they would not be believed because they were drinking or using, or that they would be arrested for being under the influence of alcohol or other drugs. No one should have to choose between enduring a violent attack and being arrested for a non-violent offense. The injustice of this dilemma is even further revealed when one considers that many survivors rely on substance use to cope with overwhelming experiences of trauma (26% of survivors in the survey said they did this), while additionally, many abusers force or coerce their partners to use alcohol or other drugs (27% of survivors in the survey said they experienced this) and then take steps to sabotage their recovery (60% of survivors who had sought help for substance use reported this). In these situations, substance use or addiction is induced by the psychological trauma or direct actions of the abuser, and then used to undermine the survivor’s credibility and ability to seek help.

In these cases, it is the interaction of both gender stereotypes (that women are not rational, not reliable, hysterical, or too emotional) and stigma related to mental health and substance use (that people with behavioral health conditions

¹ CAROLE WARSHAW; ELEANOR LYON; PATRICIA J. BLAND; HEATHER PHILLIPS; MIKISHA HOOPER, MENTAL HEALTH AND SUBSTANCE USE COERCION SURVEYS: REPORT FROM THE NATIONAL CENTER ON DOMESTIC VIOLENCE, TRAUMA & MENTAL HEALTH AND THE NATIONAL DOMESTIC VIOLENCE HOTLINE (2014); available at www.nationalcenterdvtraumamh.org.

² *Id.*

do not have an accurate perception or reality) that leads to particularly intense scrutiny of survivors' credibility in the legal system.

Stigma & Parenting

Firmly rooted in our culture is a stereotype that people with disabilities, or with any behavioral health diagnosis or history of psychiatric or substance use treatment, are necessarily bad parents, or not as good parents as those without a disability or behavioral health condition. Decisions made by family courts merely on the basis of a parent's diagnosis, history of treatment, or disability status may not be in the best interests of the children and, furthermore, may run afoul of federal and state disability rights laws. In fact, in 2012, the National Council on Disability, an independent federal agency, released an extensive report exposing rampant discrimination against parents with disabilities in child welfare and custody systems. Among their many recommendations, they called on the Department of Justice, in collaboration with the Department of Health and Human Services, to issue guidance to states, particularly child welfare agencies and dependency courts, on their legal obligations pursuant to the Americans with Disabilities Act.³

Thus, disability rights and mental health advocates are working to ensure protections for parents with disabilities and to promote accurate analysis of the best interests of the children when a parent's mental health or substance use is raised as an issue in a family law case. This work is highly significant for those working to end violence against women because stereotypes related to diagnoses or a history of treatment are routinely used against survivors in child welfare and custody cases.⁴

In our experience and our work with the field, we have heard innumerable examples of survivors facing loss of custody of their children to violent partners after their partners raised the issue of the survivors' mental health diagnosis or treatment records. We have also heard numerous reports from survivors and their advocates that survivors are often afraid to or do not leave a dangerous situation because abusers have threatened to win custody by introducing past mental health records or history of substance use treatment. This leaves survivors and their children at risk and without support.

³ NATIONAL COUNCIL ON DISABILITY, *ROCKING THE CRADLE: ENSURING THE RIGHTS OF PARENTS WITH DISABILITIES AND THEIR CHILDREN* (2012); available at <http://www.ncd.gov/publications/2012/Sep272012/>

⁴ See generally Wolf Markham, *supra* note 4.

As discussed above, in many of these cases, survivors' history of mental health and substance use is the direct result of the traumatic effects abuse as well as direct actions of the abuse to undermine their partner's sanity, increase their partner's substance use, or sabotage treatment and sobriety. This includes, for example, abusers doing or saying things to make their partners feel that they are crazy, including gaslighting; hiding or withholding their partner's psychiatric medications; forcing overdoses of medications; preventing survivors from attending treatment or 12-step meetings; or encouraging drinking or drug use while a survivor is in recovery.

Fear of losing custody is frequently given as a reason that many survivors stay with abusive partners. When a survivor has a mental health or substance use diagnosis or a treatment history, the risk of losing custody is very high. The best interest of the child standard that operates in every state mandates an individualized analysis in every case; however, in these cases, generalizations and stereotypes about mental health and addiction often control decision-making. Additionally, because women's sanity and reasonableness is often questioned, allegations by a male partner that their female partner is "crazy" may carry significant weight, even in the absence of a treatment history. In all of these cases, discrimination creates a highly significant obstacle to the safety of women and their children.

Conclusion

Stigma associated with mental health and substance as well as gender stereotypes contribute to two misconceptions that significantly impact the ability of survivors of domestic violence to access assistance through the legal system. These include the myths that women who experience mental health and substance use conditions (1) cannot be believed when they disclose abuse; and (2) are necessarily unfit parents or not as good parents as others without these conditions. Ultimately, these stereotypes create significant barriers to access for survivors of domestic violence and sexual assault who seek assistance through the legal system. The identification of these issues has significant implications for legal practice and policy, which this document has only begun to briefly outline. Additional work is needed to better determine these implications and create recommendations for the legal field.