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Mental Health/Substance Use Coercion and Intimate Partner Violence Survivors in Family Court

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This brief is based on the presentation of Dr. Carole Warshaw, Breena Murray, & Colleen Allan, "Substance Use Coercion and IPV Survivors in Family Court" held on February 8, 2023, hosted by RESOLVE Manitoba. The webinar can be retrieved from: https://www.youtube.com/watch?v=ANukaoWw26k

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Mental Health/Substance Use Coercion and Intimate Partner Violence Survivors in Family Court

Introduction

Intimate partner violence (IPV) is best understood as a pattern of behaviour that is used to gain or maintain power and control over an intimate partner (United Nations, n.d.). These behaviours can include physical violence, such as hitting or kicking; sexual violence, such as rape or sexual coercion; emotional or psychological violence, such as insults or humiliation; and coercive control, such as isolation from friends and family or the deprivation of basic needs (García-Moreno et al., 2012). The aforementioned forms of violence and abuse are widely recognized by those in the IPV sector. However, other underacknowledged forms of violence and abuse are also gaining recognition as important facets of IPV, such as mental health and substance use coercion. This form of abuse can have severe impacts on the wellbeing of survivors and impede their ability to access services and supports.

Mental health and substance use coercion refer to abusive tactics targeted towards a partner's mental health or substance use as part of a broader pattern of abuse and control (Warshaw & Tinnon, 2018). Specific examples include undermining a partner's sanity, controlling the use of mental health medications, and coercing or forcing a partner to use substances (Warshaw et al., 2014). These tactics can not only undermine the mental and physical health and wellbeing of survivors, but also impact their ability to engage in treatment and achieve their recovery goals (Warshaw & Tinnon, 2018). Experiencing mental health and substance use coercion can also affect participation in, and outcomes of, other formal services, such as the family court system. This can be particularly salient for mothers in the family court system, where allegations of substance use can jeopardize child custody.

About this Brief

This short brief explores the issue of mental health and substance use coercion amongst IPV survivors, and subsequent implications for those involved in the family court system. The information in this brief is based on the webinar: *Substance Use Coercion and Intimate Partner Violence Survivors in Family Court*, featuring Dr. Carole Warshaw (Director, National Center on Domestic Violence, Trauma, & Mental Health), Breena Murray (Family Lawyer, Patersons LLP), and Colleen Allan (Executive Director, St. Raphael Wellness Centre). The brief specifically provides information on the intersection of IPV, mental health, and substance use; ways to support survivors experiencing mental health and substance use coercion in the family court system; and challenges and barriers to treatment for survivors with addictions.

The Intersection of IPV, Mental Health, and Substance Use

(Information included within this section was gathered from Dr. Carole Warshaw's presentation)

IPV, mental health, and substance use are interconnected in many ways. Research has found that IPV victimization can increase the risk of experiencing mental health or substance use disorders, with IPV survivors being three times as likely to experience PTSD or major depressive disorder; four times as likely to attempt suicide; and six times as likely to experience substance use disorders (Beydoun et al., 2012; Bonomi et al., 2009; Fedovskiy et al., 2008; García-Moreno et al., 2005). Conversely, those who experience mental health or substance use disorders are also at a greater risk of being controlled by an intimate partner (Golinelli et al., 2008; Trevillion et al., 2012). However, less attention has been paid to the ways in which perpetrators of IPV engage in coercive and controlling behaviors toward their partner's mental health or substance use. These tactics, known as mental health and substance use coercion, can take many forms, including:

- Coercing or forcing a partner to use substances
- Undermining a partner's sanity or sobriety
- Controlling a partner's access to treatment
- Sabotaging a partner's recovery efforts
- Exploiting a partner's mental health or substance use for personal or financial gain
- Discrediting a partner with potential sources of protection or support, and jeopardizing custody

The National Center on Domestic Violence, Trauma, & Mental Health conducted the first large-scale study on mental health and substance use coercion, in partnership with the National Domestic Violence Hotline. The study surveyed adult female callers to the National Domestic Violence Hotline who had experienced IPV, were not in a state of crisis, had completed the service portion of their call, and agreed to participate in the survey (Warshaw et al., 2014). Over 2,500 participants took part in the mental health coercion portion of the survey, which found (Warshaw et al., 2014):

- 86% had been called "crazy" or were accused of being crazy
- 74% stated their partner had deliberately done things to make them feel like they were going "crazy" or losing their mind
- 53% sought help for feeling upset or depressed at some point
- 49% responded "yes" when asked if their partner or ex-partner tried to prevent or discourage them from getting help or taking prescribed medications for those feelings
- 50% stated their partner or ex-partner threatened to report to authorities that they were "crazy" to keep them from getting something they wanted or needed

The survey also underscored several themes relating to experiences of mental health coercion such as undermining sanity, including "diagnosing" partners, convincing them that they are

unstable or mentally ill, and gaslighting; treatment interference, including attempts to influence diagnosis and coercing partners to overdose; control of medications, including preventing partners from taking medications, forcing partners to take the wrong dose or overdose, and stealing or hiding medications; and threats to report or discredit, including reporting medications or treatment to influence custody and using mental health diagnoses to make false allegations (Warshaw et al., 2014).

Additionally, over 3,000 participants agreed to take part in the substance use coercion portion of the survey, which found (Warshaw et al., 2014):

- 26% had used substances to reduce the pain of IPV at some point
- 27% were pressured or forced to use alcohol or other drugs, or made to use more than wanted
- 15.2% tried to get help for substance abuse
- 60.1% of those who sought help had their partner or ex-partner try to prevent or discourage them from seeking help
- 37.5% had their partner or ex-partner threaten to report alcohol or drug use to the authorities to prevent them from getting something they wanted or needed
- 24.4% were afraid to call the police for help because their partner said they wouldn't be believed because of their substance use

The survey also underscored several themes relating to experiences of substance use coercion such as blaming abuse on the partner's substance use and benefitting from stigma and a lack of access to services; substance use-related sexual coercion, including coerced or forced substance use tied to coerced or forced sex; and threats to report or discredit, including reporting substance use to judges, police, probation and parole officers, child services, and employers (Warshaw et al., 2014). It is important to note that perpetrators often play a pivotal role in the escalation of substance use, with many pressuring or forcing their partners to use substances, or even "drugging" their partners. Once survivors become physiologically dependent on substances, abusive partners can utilize a range of tactics to keep them in the relationship. People who perpetrate IPV may also/often attempt to undermine their partner's relationship with their children, which can create additional risks for children's health and wellbeing.

It is particularly important to understand and address the issues of mental health and substance use coercion in light of the current opioid epidemic, as experiencing IPV can increase a person's risk for opioid use and opioid overdose (Phillips et al., 2020; Warshaw et al., 2020). Additionally, the COVID-19 pandemic increased both IPV and opioid use, creating ideal conditions for substance use coercion to increase (Ghose et al., 2022; McNeil et al., 2023).

Supporting Survivors in the American and Canadian Family Court Systems

(Information presented within this section was gathered from Dr. Carole Warshaw & Breena Murray's presentations)

Survivors experiencing mental health and substance use coercion can face additional challenges when involved in the family court system. This includes mental health and substance use-related stigma, difficulty keeping appointments, and the inability to comply with treatment requirements. However, there are several things that family courts can do to support the health and safety of survivors experiencing these issues, including the following (Warshaw & Tinnon, 2018):

1. Factor mental health and substance use coercion into assessments and dispositions.
    - Incorporating questions about mental health and substance use coercion into assessments and dispositions can help family law professionals assess the role that these issues may be playing in cases. Examples include:
        - Has your partner deliberately done things to make you feel like you are "going crazy" or "losing your mind"?
        - Has your partner ever forced you to use substances, overdose, or kept you from routines that are healthy for you?
        - Has your partner ever tried to control your medication or prevent you from accessing treatment? Have they deliberately done things to sabotage your recovery?
    - Professionals should be aware of how these issues present in assessments and dispositions. For example:
        - Survivors may be unable to comply with treatment requirements; face barriers due to stigma and inflexible expectations; relapse due to stress, trauma, threats, or coercion; be reluctant to seek assistance or contact police; and be coerced into engaging in illegal activities.
        - People who abuse their partners may try to manipulate perceptions or make false allegations; coerce their partner to use so they will screen positive; use mental health or substance use coercion to undermine their partner's credibility; put their partner into withdrawal so they will miss appointments; and coerce their partner into committing a crime and then call their probation or parole officer.
2. Obtain informed consent before drug testing pregnant individuals or infants.
    - Informed consent should be obtained before drug testing pregnant individuals or infants for illicit substances. This includes the medical indication for the test, information regarding the right to refusal (and any consequences associated with refusal), and the possible outcome of positive test results.
3. Refer to treatment programs that address barriers for IPV survivors.
    - Survivors should be referred to treatment programs where staff are knowledgeable of the intersection between IPV, mental health, substance use,

and trauma. This includes providing trauma-informed care for survivors such as safety protocols to ensure that they do not have to attend treatment in the same setting as abusive partners, flexible appointment times for survivors receiving medication assisted treatment, and safe ways to access treatment and medication including alternate forms of medication.

- Services that address barriers for survivors can also increase treatment engagement by providing transportation, childcare, and extended stays. Reducing unnecessary restrictions and requirements can also ensure that services are accessible to all.

4. Offer referral to comprehensive IPV-informed services and foster collaborative approaches.

- Referral to integrated services that simultaneously address mental health, substance use, and IPV can support survivors through their recovery journey and adapt to their changing needs.
- Additionally, coordination between systems, such as the IPV, family, and drug courts, as well as mental health, substance use, and IPV service providers, can foster a more holistic approach to survivor recovery and wellbeing (including referral, training, and consultation amongst these services and co-ordinated or co-located services).

5. Collaboratively strategize ways to safely access treatment and services.

- Survivors experiencing mental health and substance use coercion can have difficulty accessing treatment and services. Discussing safety during this time, including safe communication (telehealth safety, safe times or places to receive calls, texts, or emails), safety during appointments (stalking risks, flexible appointment schedules, and treatment alternatives), ways to stay connected if their abusive partner pressures them to leave treatment, strategies for maintaining control of their medications, and reviewing any legal documents that enable an abusive partner to have control over their benefits can help ensure the wellbeing of survivors during the treatment process.

Survivors with children experiencing mental health and substance use coercion can face particular challenges surrounding custody and access proceedings in family court. When determining custody and access, courts should consider whether mental health and substance use are a genuine concern. Specifically, they should consider whether the party raising the issue (the abusive partner) exacerbated the issue or interfered with treatment, and whether they indicated concern for children's safety prior to litigation. Changes to Canada's *Divorce Act*, which occurred in March of 2021, now require judges to take family violence into consideration when considering custody decisions, with section 16(4)(b) specifically stating that courts should take into consideration whether there is a pattern of coercive and controlling behaviour towards any family member. Therefore, lawyers should examine whether mental health and substance use coercion are present and take these factors into consideration.

Survivors with children may also be involved with child protection agencies. When abusive partners make allegations of substance abuse against survivors, agencies must conduct drug

tests. If these tests are positive and there are no reasonable safety plans, children are then apprehended and taken into care. Agency workers often do not have the resources to help survivors with IPV and substance use simultaneously due to a lack of integrated mental health, substance use, and IPV services. Additionally, treatment centres often do not have a detox centre attached to them, which can cause additional challenges. Throughout this process, child protection agencies are obligated to ensure that children are safe and may place them with family members or foster parents, which then can ultimately create further trauma for mothers.

Challenges and Barriers to Treatment for Women Survivors Experiencing Substance Use Disorders

(Information presented within this section was gathered from Colleen Allan's presentation)

There are several sex and gender-related differences in substance use which result in women using substances differently, responding to substances differently, and facing unique barriers to treatment (National Institute on Drug Abuse, 2020). These differences are the result of biological, environmental, and sociocultural factors that converge to make women more vulnerable to the effects of substance use and the development of addiction.

Biologically speaking, women are more vulnerable to the effects of substances like alcohol. This is because women produce smaller quantities of enzymes that serve to break down alcohol in the body (Harvard Health Publishing, 2013). Additionally, women's bodies contain less water and more fat than men's which exposes women's organs to higher concentrations of alcohol for longer periods of time (Harvard Health Publishing, 2013). Women are also likely to increase their rates of consumption for alcohol, cannabis, cocaine, and opioids more rapidly than men (Fonseca et al., 2021). This phenomenon, known as telescoping, can cause accelerated progression from initial substance use, to substance dependence and addiction, and entry into treatment for women (Fonseca et al., 2021).

Environmental or societal factors are also important to consider. This includes the fact that women are more likely to be exposed to trauma resulting from acts of IPV, which can lead to increased substance use as a coping mechanism (Fonseca et al., 2021; Nowotny & Graves, 2013). It is important to note that the emergence of the COVID-19 pandemic increased rates of IPV by 25 to 33 percent globally, as well as substance use and drug overdose-related deaths (Ali et al., 2021; Boserup et al., 2020; Imtiaz et al., 2021). These factors created unique circumstances that enabled mental health and substance use coercion to proliferate behind closed doors.

Women are also more likely to develop resulting short- and long-term physical health problems from substance use such as brain shrinkage; osteoporosis; liver, heart, or respiratory disease; and a range of cancers (Poole & Dell, 2005). Issues specific to reproductive health can also occur including infertility, early onset menopause, and complications related to pregnancy and breastfeeding (National Institute on Drug Abuse, 2020). Psychologically speaking, women are

also more likely to experience co-occurring substance use and mental health disorders, such as mood disorders, anxiety, depression, and PTSD (Lynskey-Lake, 2018).

In addition to the range of factors that can place women at greater risk for substance use and substance use disorders, women are also more likely to encounter barriers to seeking and completing treatment than men (Brady & Ashley, 2005). Sociocultural factors such as harmful stigma and stereotypes can play a large part in deterring women from seeking treatment, as research shows that women face greater stigmatization for substance use (Lee & Boeri, 2017). This stigmatization is even greater for mothers, who are often labelled as having moral failings if they use substances or experience addiction (Lee & Boeri, 2017).

Other barriers can prevent women from accessing treatment, such as financial or economic challenges. These barriers are even more pronounced for those experiencing financial abuse or those who are financially dependent on their abuser. Mothers can also face barriers related to childcare, including a lack of childcare or fears of losing custody of their children if they seek treatment. If a survivor leaves an abusive relationship to seek treatment, it can also require financial sacrifices that may impact their children's future. Additionally, in the family court system, abusers can use the survivor's past substance use or treatment against them in custody suits. Providing comprehensive services, which include transportation, housing, or income support can help reduce these barriers.

Effective service delivery can be particularly challenging in these situations, as there is little system integration between IPV and mental health or substance use treatment services, making it difficult to address the range of issues survivors are experiencing. Additionally, there is little gender-specific programming for substance use that comprehensively treats the unique needs of women. There is a need for a greater understanding of these co-occurring and complex issues, and the ways in which they are interconnected, in order to support substantial long-term healing and recovery. There is also a need for integrated services and supports to develop a more holistic approach to survivor wellbeing.

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