

# From evolving discourses to new practice approaches in domestic violence and child protective services

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## Abstract

This article examines the evolution of the discourse surrounding domestic violence (DV), explores how that discourse intersects with public child welfare (PCW), and makes some suggestions for improving the quality and consistency of services for families involved with these systems in both the United States and Canada. In particular, the discourse at the intersection of the two systems has focused on whether or not children's exposure to DV is maltreatment and, further, if it warrants placement in foster care. Within the PCW system itself, data seem to point to divisions in worker beliefs over what circumstances necessitate removal of children and what solutions should be pursued in order to achieve permanence. Legislation and courts have spoken to this complex issue. Given the tension and new developments in the field, this article proposes that harm reduction (HR), evidence-based practice (EBP), and differential response (DR) approaches can bring the two systems together in order to better serve families.

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## 1. Introduction

Both the child welfare (CW) and domestic violence (DV) systems assume a primary victim protection mandate: the former is charged with protecting children from further maltreatment at the hands of their caregivers (usually birth parents), the latter with preventing primarily women from further victimization at the hands of an abusive partner. Given that these sectors often serve the same clients and have a common mandate to promote the well being of families, one would presume the sectors would work closely and collaboratively. Yet a deeply entrenched history of "isolationist" and "protectionist" tendencies in each sector, and across two countries – the United States and Canada – has resulted in persistent tensions and conflicts between the two (Beeman, Hagemester, & Edleson, 1999).

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This insularity undoubtedly has contributed to services that are fragmented and may not meet the multiple and complex needs of families. This paper will show that the number of rigorous evaluation studies focusing on such services is fairly limited. Divisions within the public child welfare (PCW) sector<sup>3</sup> compound the divisions between the sectors. Given the tension and new developments in the field, this article proposes that harm reduction (HR), evidence-based practice (EBP), and differential response (DR) approaches can bring the two systems together in order to better serve families.

## 2. Discourse on the intersection of CPS and DV

The definition and framing of a problem largely determine how it will be subsequently addressed. In both the United States and Canada, the framing of domestic violence in the 1970s and early 1980s as a social phenomenon primarily impacting women spawned the creation of services geared exclusively toward female victims. It was not until the mid 1980s and mid 1990s that a body of evidence emerged in both countries suggesting that it was harmful for children to be exposed to DV (Carlson, 1996; Fantuzzo & Lindquist, 1989; Jaffe, Wolfe, & Wilson, 1990; Jaffe, Wolfe, Wilson, & Zak, 1986; O’Keefe, 1995). Prior to that time, children had not been factored into the DV equation as victims. Unfortunately, because of the lack of communication and coordination between the DV advocacy and PCW communities, as well as each sector’s narrow framing of their respective mandates, child welfare policies and practices around children’s exposure to domestic violence developed without adequate input from the DV sector. As a result, these child welfare policies have had devastating consequences for some women, often also clients of DV services, wherein they have been re-victimized and re-cast as potentially harmful to their offspring by the very system designed to protect their children (Alaggia, Jenney, Mazzucca, & Redmond, 2007; Edleson, 1998; Magen, 1999).

A clear illustration of the burden on women is the “failure to protect” concept traditionally used to justify CPS interventions in cases of DV. The failure-to-protect concept in both the United States and Canada stems from the premise that parents have an obligation to protect their children from avoidable harm (Hayes, Trocme, & Jenney, 2006). Because the PCW system is likely to be dealing with a single mother, this concept unfairly places the onus on a mother to remove herself and her children from an abusive situation. However, a woman may stay in a violent situation because she believes that leaving would place her and her children at increased risk of harm (Carter, Weithorn, & Behrman, 1999; Davies, 1998), and there is sound data to support such fears since the risk of femicide increases directly after separation (Campbell, 2007; Wilson & Daly, 1994). Others may not leave due to immigration concerns (prompting fears of losing one’s host country), losing one’s children, cultural or religious prohibitions against divorce, or a lack of family support to make such a transition (Alaggia & Maiter, 2006).

### 2.1. Framing the problem of children exposed to DV: the impact on DV and CPS services

Fundamental to understanding the frame is the explanation of the legislation that drives the system. The Adoptions and Safe Family Act of 1997 (ASFA) is now the US backbone of child welfare services and has generated considerable discourse. Its architects claim that it finally elevated the importance of children’s safety and well-being (including developmental considerations) when making decisions about removing children, terminating parental rights or reunifying with biological parents (Wulczyn et al., 2006). Most importantly, for families where DV is an issue, the new ASFA has shortened timeframes which push for permanence and accountability; this may have the unintended effect of increasing the entrenchment between the PCW and DV sectors (Mathews, 1999). Although ASFA does not have a counterpart in Canada, each province or territory is responsible for developing its own child protection policy (Nixon, Tully, Weaver-Dunlop, & Walsh, 2007). This paper will demonstrate that many of the recent developments in Canada have paralleled those in the United States.

Since families with DV often have multiple problems, the accelerated timeframes may not allow battered women to get the help they need in a realistic period. For example, battered mothers who need drug treatment services, job retraining or safe affordable housing often find that there are not enough services in their communities to accommodate them, and sometimes it takes longer than the available timeframe to demonstrate

<sup>3</sup> We use two terms to describe child welfare services, such as child protection services (CPS) and public child welfare (PCW). The former is the term we use when we refer narrowly to the public agency in every jurisdiction that receives, screens, investigates and services child maltreatment allegations and cases. The latter refers to the larger system of the public agency, its network of community service providers, as well as the Juvenile Courts.

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