

SPECIAL ISSUE: DOMESTIC VIOLENCE

INTRODUCTION OF SPECIAL ISSUE EDITORS

Kelly Browe Olson
Nancy Ver Steegh

It has been a pleasure and an honor for us to collaborate with the authors and student editors of this volume of the *Family Court Review*. When Professor Andy Schepard first asked us to work on this volume at the Association of Family and Conciliation Courts (AFCC) conference in Seattle in 2005, we were excited about the potential of a *Family Court Review* volume dedicated to the topic of domestic violence and family courts. We did not know at the time that the seeds of collaboration had already been planted by the leaders of the AFCC and the Family Violence Department of the National Council of Juvenile and Family Court Judges (FVD/NCJFCJ). In 2007, on a cold February weekend in Wisconsin, these two organizations brought together a diverse and multidisciplinary group of participants. These participants, whether through their advocacy, research, policy making, court practice, or direct representation, were all devoted to helping families impacted by domestic violence navigate through the family court system. The Wingspread Conference on Domestic Violence and Family Courts provided an important opportunity for the participants to share their perspectives, ideas, research, guidelines, and practical tips on the nature of familial violence and its impact on families, children, and court systems. The Wingspread participants made significant progress by listening to, educating, and working with one another to understand the different perspectives and contexts that each brought to the meeting. This volume reflects a rare collaborative effort by professionals who may have previously, in either theoretical or practical matters, come from different perspectives on important issues.

Peter Salem and Billie Lee Dunford-Jackson, leaders of the AFCC and the FVD/NCJFCJ, thus took the first essential steps to bring these professionals together and provide them a forum to discuss the issues. In their article, these coauthors describe the genesis of their collaboration and the journey to Wingspread. They explain that the work of domestic violence advocates and family court professionals has involved different approaches and ideologies and that this divergence has often resulted in alternative or contradictory conclusions. They are honest and open about conflicts that have arisen between professional communities and they emphasize, as advocates, leaders, and representatives of their respective organizations, the necessity of resolving these conflicts and working across disciplines to help families. Through their actions and writing they make a compelling call to expand collaborative endeavors and they invite others to join in the identification and discussion of fundamental issues that arise when domestic violence intersects with family courts.

In light of the challenging nature of domestic violence and the existence of deeply held contrasting perspectives, setting the stage for initial conversation was a significant step in an emerging collaborative process. Much work remains and, as important as it is, this work will not be easily or quickly accomplished. Honest and direct dialogue, such as that called

for by Peter Salem and Billie Lee Dunford-Jackson, will be more productive ultimately than a rush to false consensus. Consequently, the centerpiece of this volume is the Report from the Wingspread Conference on Domestic Violence and Family Courts. During the working conference Professors Nancy Ver Steegh and Clare Dalton listened carefully to the questions raised by participants and they identified five central tensions for further discussion and analysis. The report does not seek to finally resolve these five key tensions, rather it focuses on promoting constructive dialogue about them.

A first and fundamental tension concerns how to differentiate among families who experience domestic violence—such families have important similarities and differences that are sometimes not adequately taken into account by family courts. At Wingspread, the idea of differentiation (and more individualized treatment of families) was a central organizing theme linking otherwise wide-ranging discussions. Consequently, the Wingspread Report initially summarizes several potential ways that differentiation may be conceptualized, including consideration of context, identification of key characteristics and variables, and aggregation of characteristics into potential patterns.

Joan Kelly and Michael Johnson have crafted an article that expands on the discussion of differentiation and explores the benefits and dangers associated with differentiation, as well as the confusion and controversy caused by use of different terminology. They analyze empirical research on differentiation and the implications of this research for batterer intervention programs, use of mediation, and parenting arrangements. They specifically identify four patterns of intimate partner violence, suggest language for common usage, and explore the issue of gender.

A second tension involves effective screening of families who enter the court system and consideration of how to accomplish appropriate triage and assessment of cases involving or potentially involving domestic violence. A few of the questions discussed at Wingspread included who should screen, what should be screened for, how screening should be accomplished, and how quality control can be maintained. This discussion spawned several essays included in this volume.

Sujata Warrier draws attention to the need for professionals to exercise cultural competency when they work with families in the midst of or in recovery from domestic violence. For too long, Dr. Warrier suggests, families have been treated similarly, without regard to their personal history. Where there has been training on cultural issues, cultural stereotypes may have been taught without sufficient discussion of the need to examine the unique circumstances of each family. She argues that both cultural and distinct family characteristics should be considered in context when families enter the court system and she calls for additional and thoughtfully designed training for court professionals and service providers.

Loretta Frederick focuses on the need for ongoing screening and triage that includes consideration of context, intent of the perpetrator, impact on the victim and children, and risk of future harm. She raises fundamental questions about screening, including its purpose, methods to be employed, and the potential consequences of a positive screening result. Ms. Frederick also discusses the importance of referring families to viable and confidential resources.

Desmond Ellis writes on the importance of careful handling of domestic violence cases in family court. He proposes increased access to nonadversarial proceedings coupled with implementation of mandatory risk assessment and mandatory training programs for family court professionals, including lawyers and judges. He explains the empirically validated DOVE protocol which links prevention interventions with violence predictors, risk level, and types and levels of violence. He emphasizes that, unless screeners and other court personnel are adequately trained on domestic violence issues, screening may be ineffective and interventions may be used inappropriately.

A third tension identified in the Wingspread Report involves whether to include, modify, or exclude families who have experienced domestic violence from various court processes and social services. Participants explored ways to tailor interventions to meet the needs of specific families and discussed how families might be more appropriately matched with various services, when they are available.

A fourth tension concerns assuring appropriate outcomes for children, including fashioning parenting arrangements that appropriately balance safety and access at various stages of the proceedings. At Wingspread participants spent considerable time exploring the special handling of custody cases required when domestic violence has occurred or is alleged.

Addressing this topic, Peter Jaffe, Janet Johnston, Claire Crooks, and Nick Bala worked together to propose a framework adopting a differentiated approach to developing parenting plans. This framework involves consideration of the “potency,” “pattern,” and “primary perpetrator” of violence in order to “generate hypotheses about the type of and potential for future violence as well as parental functioning.” The authors suggest principles for resolving conflicting priorities and present a series of parenting plans (with criteria and guidelines) that are consistent with differential screening and assessment.

A final tension identified at Wingspread and explored in the Wingspread Report concerns the increasing demands made on the family court during a time of declining resources. Participants agreed emphatically on the critical need for additional family court resources and the dangers inherent in the present underfunded system.

By the final morning of the working conference, participants were both exhausted and exhilarated. Nevertheless, they took time to delineate areas of agreement and disagreement. The appendix to the Wingspread Report includes a listing of 13 major points of consensus as well as suggestions for implementation of the report, including creation of specific working groups.

The conclusion of the Wingspread Report states:

As its organizers had hoped and anticipated, the conference proved to be a fertile environment within which to explore how better to serve families affected by domestic violence. The participants were able to move beyond the roadblocks that had previously hampered multidisciplinary collaboration and work together in an atmosphere of open exploration and mutual respect.

We invite you to join in this multidisciplinary collaboration first by reading the thought-provoking articles in this volume and then by creating opportunities for dialogue in your community. As you will see, to a large extent this volume raises more issues than it resolves, and that is how it should be. Asking hard questions, after all, is a necessary first step on a longer journey toward answering them.

Kelly Browe Olson
Nancy Ver Steegh

Additional note from Kelly Browe Olson, co-editor: I would be remiss if I failed to point out the extraordinary efforts of my co-editor, Nancy Ver Steegh, and Clare Dalton, her fellow reporter for the Wingspread Report. Professors Ver Steegh and Dalton worked tirelessly to listen and interpret the many voices at the conference and come up with a thorough analysis of the conference discussions. They should be applauded for their hard work and commitment to helping the domestic violence and family court communities move toward more collaborative efforts in the future.