2013 JUDICIAL SYMPOSIUM ON Domestic Violence

REFERENCE MATERIAL

Hon. Judy Harris Kluger
Chief of Policy and Planning • New York State Courts

DECEMBER 5–6, 2013
New York Marriott at the Brooklyn Bridge
333 Adams Street, Brooklyn, NY

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Dorchen A. Leidholdt, Human Trafficking and Domestic Violence: A Primer for Judges, American Bar Association, Winter 2013 Judges' Journal, Vol. 52 No. 1

Statement of Michele Clark to House Committee on Government Reform Sub-committee on Human Rights and Wellness, "Trafficking in Persons in the United States: Unfinished Business"

U.S. Department of State, The Link Between Prostitution and Human Trafficking

U.S. Department of State, The Facts About Child Sex Tourism

U.S. Department of State, Non-Immigrant Rights Brochure

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2013 Judicial Symposium on Domestic Violence

New York Marriott at the Brooklyn Bridge

333 Adams Street, Brooklyn, NY

AGENDA

TIME – DECEMBER 5	DESCRIPTION
	Breakfast on Your Own
8:30 - 9:00 AM	**Registration**
9:00 - 9:15 AM	**Welcome and Opening Remarks** *Hon. Judy Harris Kluger, Chief of Policy and Planning for New York State Courts*
9:15 - 10:30 AM	**Witness Intimidation and Recantation in Civil & Criminal Domestic Violence Cases** *Sarah Buel, Clinical Professor of Law, Sandra Day O'Connor College of Law, Arizona State University*
10:30 - 10:45 AM	**Break**
10:45 AM - 12:00 PM	**Recognizing & Responding to Stalking in the 21st Century** *Michelle M. Garcia, Director, Stalking Resource Center, National Center for Victims of Crime*
12:00 - 1:15 PM	**Lunch on Your Own**
1:15 - 2:30 PM	**Intimate Partner Violence and Veterans** *Deborah D. Tucker, Executive Director, National Center on Domestic and Sexual Violence*
2:30 – 2:45 PM	**Break**
2:45 – 4:00 PM	**Understanding & Addressing Women's Use of Force** *Lisa Larance, Domestic Violence Intervention Services Coordinator, Catholic Social Services of Washtenaw County, Ann Arbor, Michigan*
4:00 - 5:00 PM	**Facilitated Breakout Sessions:** Judges: Firearms Resource Coordinators: Access to Justice Initiative
5:00 PM	**End of Day – Dinner on Your Own**

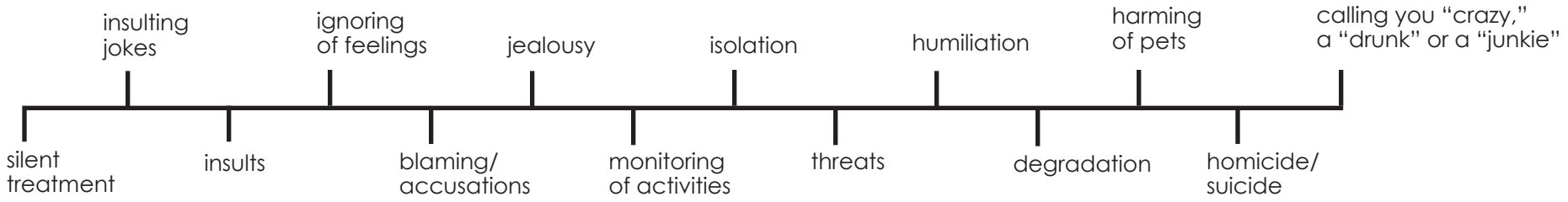
TIME – DECEMBER 6	DESCRIPTION
	Breakfast on Your Own
8:30 - 9:00 AM	**Registration**
9:00 - 9:15 AM	**Welcome and Opening Remarks** *Hon. Judy Harris Kluger, Chief of Policy and Planning for New York State Courts*
9:15 - 10:30 AM	**How Language Helps Shape Our Response to Violence Against Women** *Claudia J. Bayliff, Attorney, National Judicial Education Program-Legal Momentum*
10:30 - 10:45 AM	**Break**
10:45 - 12:00 PM	**Domestic Violence and Human Trafficking: The Interrelationship** *Dorchen A. Leidholdt, Director, Sanctuary for Families Battered Women's Legal Services*
12:00 - 12:15PM	**Closing Remarks** *Hon. Judy Harris Kluger, Chief of Policy and Planning for New York State Courts*
12:15 PM	**End of Symposium**

Manifestations of Violence

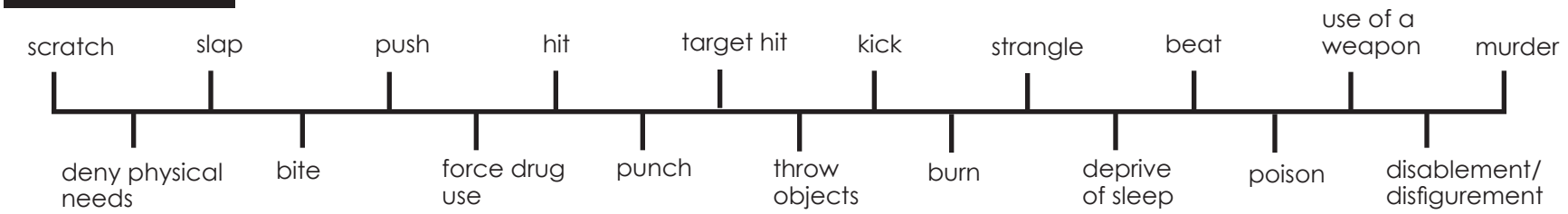
Abuse can occur in different forms. It can be physical, emotional, sexual, spiritual, social and/or economic. The diagrams below describe some of the abuse tactics batterers use as they attempt to gain or maintain power and control over their intimate partners. Abuse does not always progress in the steps shown here. Sometimes the abuse may advance from pushing or hitting directly to more severe physical violence such as the use of a weapon. Although each relationship is unique, any type of abuse must be considered a serious cause for concern. Despite different circumstances, it is important to remember that abuse can escalate (especially if there is no intervention). A coordinated community response holding batterers accountable for their abusive behaviors is *essential,* as is a response acknowledging and respecting the rights of victims of domestic violence.

***Exercise*:** It is helpful to be aware of the different manifestations of domestic violence. Circle the type(s) of abuse you are now experiencing (or that you have experienced). Notice if the violence is increasing in intensity, severity or frequency. Talk to a domestic violence advocate to develop or review your current safety plan or explore your options. *Remember, domestic violence is never your fault, even if you were drinking or using drugs.*

EMOTIONAL ABUSE



PHYSICAL ABUSE



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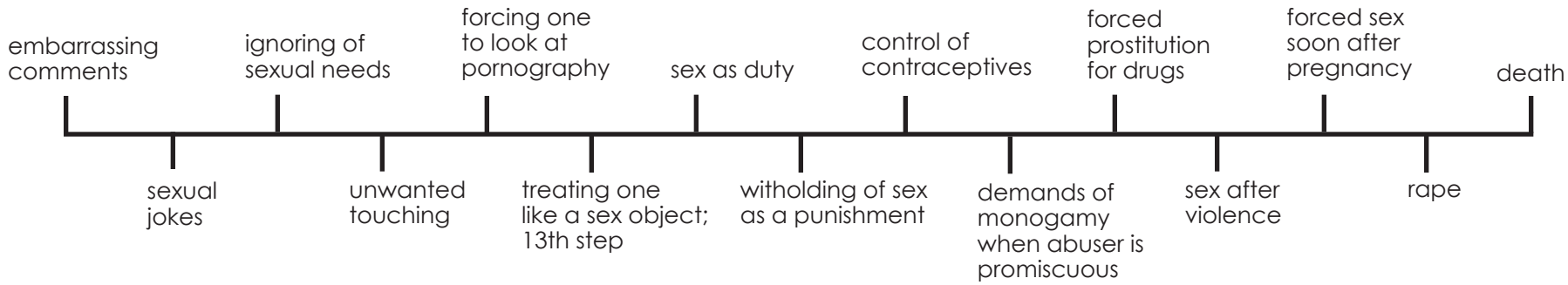
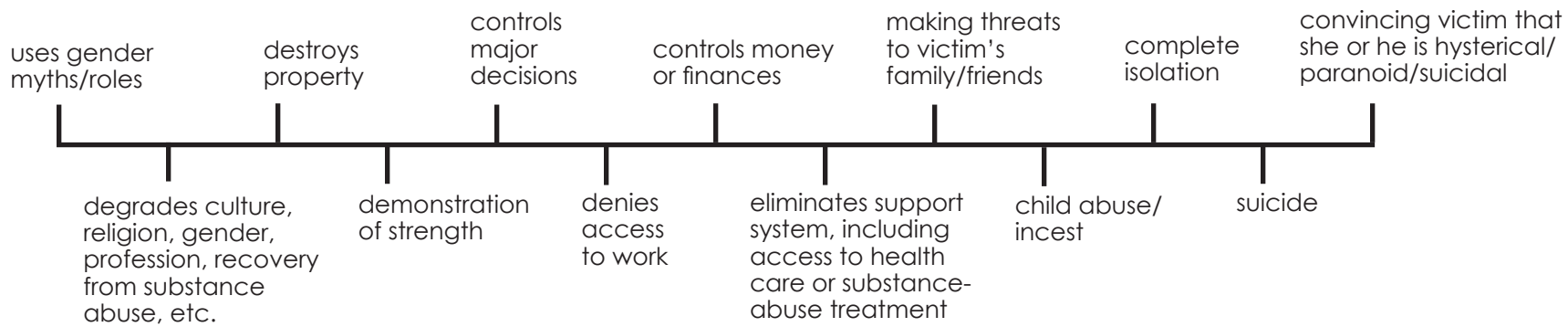
SEXUAL ABUSE



SOCIAL/ENVIRONMENTAL ABUSE



Credit: Patti Bland, New Beginnings for Battered Women and their Children, Seattle, WA, presented at the *National Conference on Crafting Individualized Services for Women: Responding to Multiple Challenges of Domestic Violence, Sexual Assault, Mental Health Concerns and Substance Abuse*, hosted by the National Training Center on Domestic and Sexual Violence, Austin, Texas, September 10-12, 2001.

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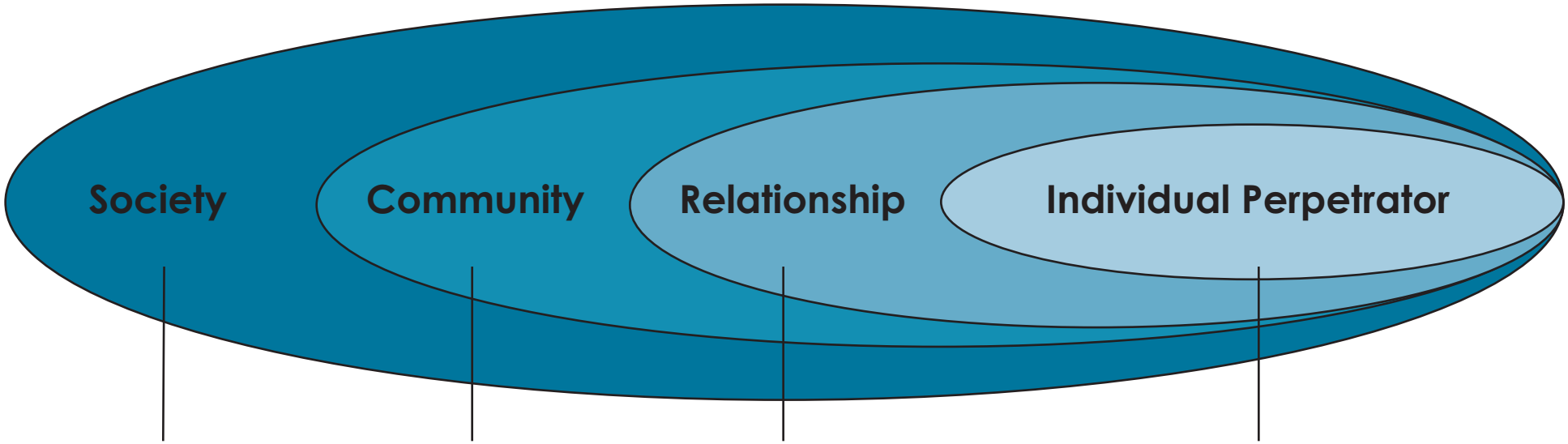
Factors Associated with Men Committing Rape



Society

- Norms granting men control over female behavior
- Acceptance of violence as a way to resolve conflict
- Notion of masculinity linked to dominance, honor, or aggression
- Norms supportive of sexual violence
- Norms supportive of male superiority and sexual entitlement
- Weak laws and policies related to sexual violence and gender equality
- High levels of crime and other forms of violence

Community

- Poverty, low socioeconomic status, unemployment
- Associating with sexually aggressive or delinquent peers
- Lack of institutional support from police and judicial system
- General tolerance of sexual assault within the community
- Weak community sanctions against perpetrators of sexual violence

Relationship

- Associates with sexually aggressive or delinquent peers
- Family environment is characterized by physical violence and few resources
- Strongly patriarchal relationship or family environment
- Emotionally unsupportive family environment
- Family honor considered more important than the health and safety of the victim

Individual Perpetrator

- Alcohol and drug use
- Coercive sexual fantasies; attitudes supportive of sexual violence
- Impulsive and antisocial tendencies
- Preference for impersonal sex
- Hostility towards women
- History of sexual abuse as a child
- Witnessed family violence as a child

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Adapted from *Guidelines for Medico-legal Care for Victims of Sexual Violence*: World Health Organization, 2003

Power and Control Wheel

Physical and sexual assaults, or threats to commit them, are the most apparent forms of domestic violence and are usually the actions that allow others to become aware of the problem. However, regular use of other abusive behaviors by the batterer, when reinforced by one or more acts of physical violence, make up a larger system of abuse. Although physical assaults may occur only once or occasionally, they instill threat of future violent attacks and allow the abuser to take control of the woman's life and circumstances.

The Power & Control diagram is a particularly helpful tool in understanding the overall pattern of abusive and violent behaviors, which are used by a batterer to establish and maintain control over his partner. Very often, one or more violent incidents are accompanied by an array of these other types of abuse. They are less easily identified, yet firmly establish a pattern of intimidation and control in the relationship.

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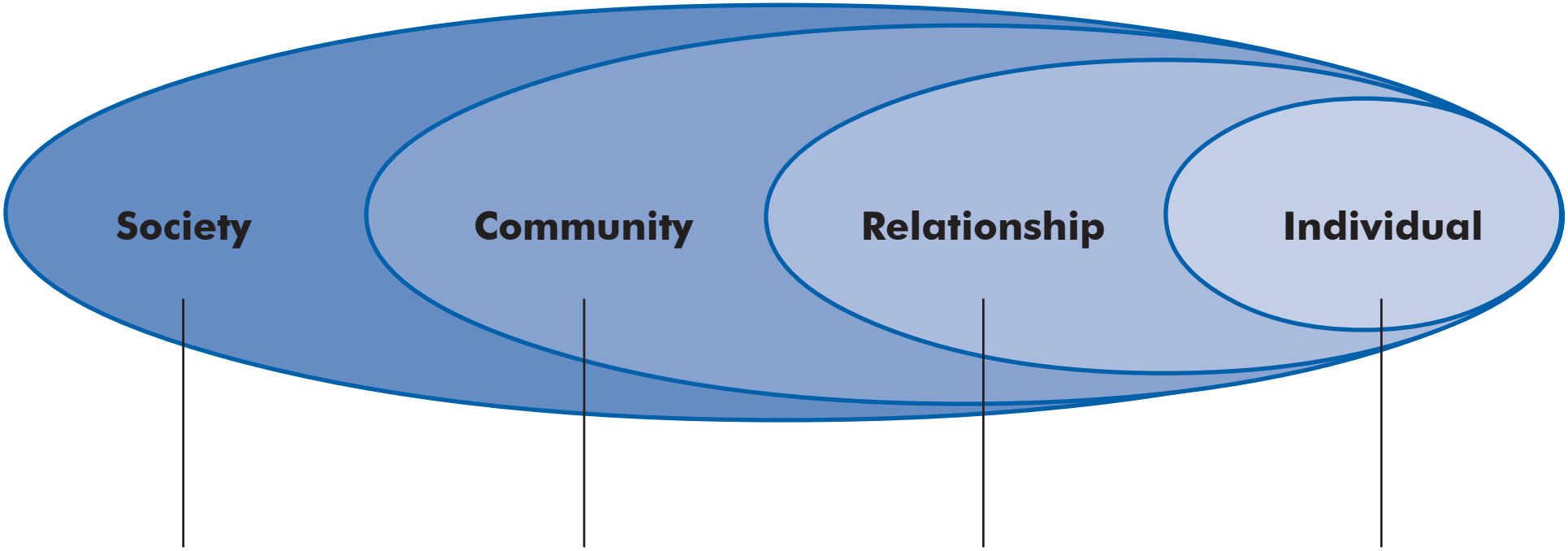
Factors Associated with a Man's Risk for Abusing His Partner



- Traditional gender norms
- Social norms supportive of violence

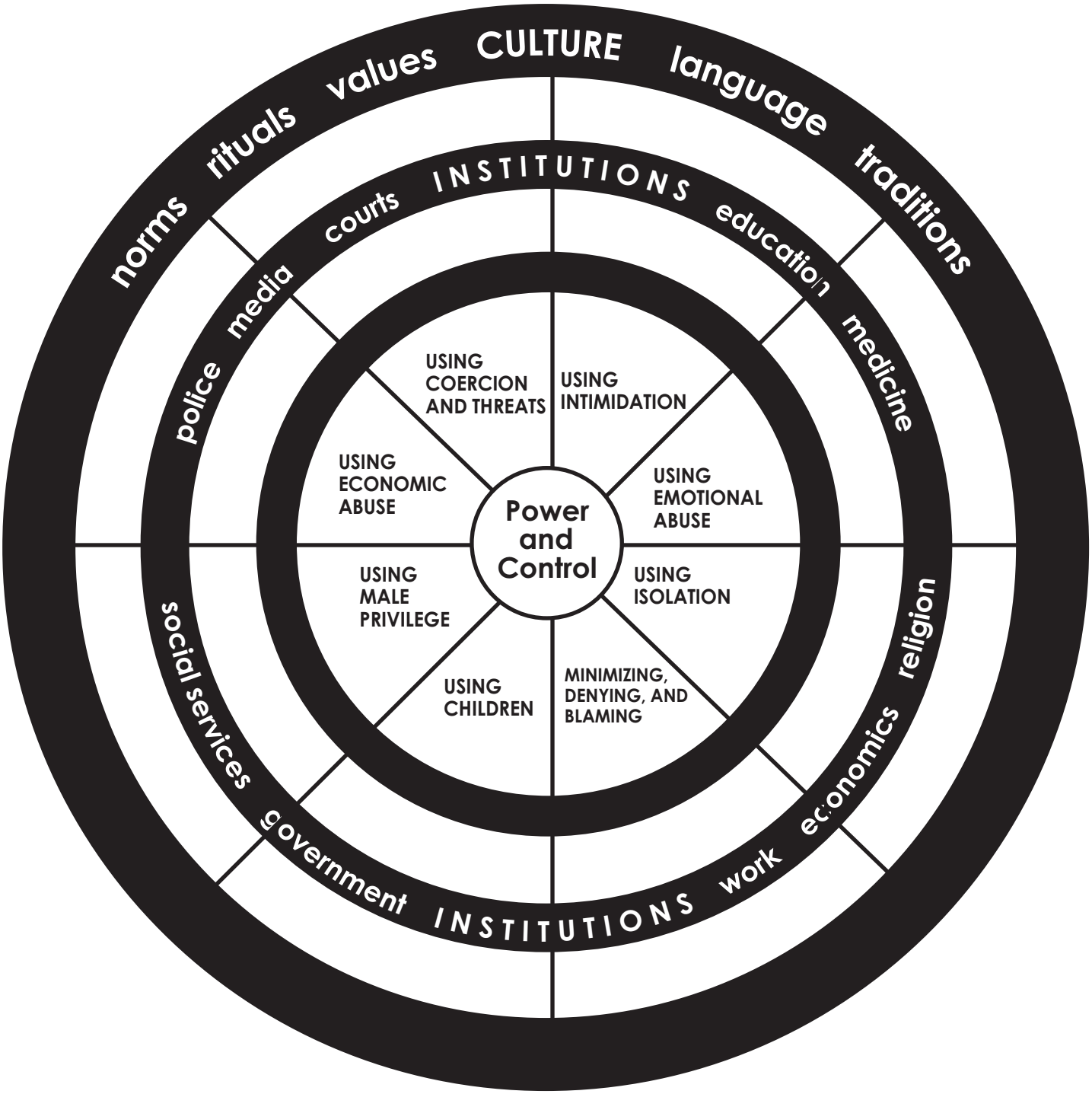
- Weak community sanctions against domestic violence
- Poverty
- Low social capital

- Marital conflict
- Marital instability
- Male dominance in the family
- Economic stress
- Poor family functioning

- Young age
- Heavy drinking
- Depression
- Personality disorders
- Low academic achievement
- Low income
- Witnessing or experiencing violence as a child

Adapted from the *World Report on Violence and Health* (World Health Organization, 2002)

Power and Control Wheel



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Military Power and Control Wheel

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Continuum of Caring: Community Resource Clusters

Coordinated Community Response Demonstration Project 2006
Fort Campbell Army Installation with Christian County, KY and Montgomery County, TN

Phases of Need and Resource Clusters

COMMUNITY DEVELOPMENT

•Planning Bodies

•Education

TRANSITIONAL RESOURCES AND LONG-TERM NEEDS

•Job Development

•Basic Needs

•Priority Planning for Homeless Services

•Job Training

•Human Services Councils

SUPPORT AND PROBLEM-SOLVING

•Counseling and Support Groups

•Subsidized Housing

CRISIS MANAGEMENT

•Hotlines

•Family Advocacy

•Children's Services

•Emergency Medical

EARLY ASSISTANCE

•Clergy

•Spouses of Commanders

•Primary Healthcare Providers

•Emergency Shelter for Families with Teenage Boys

•Attorneys and Legal Services

•Counseling and Support

BATTERED WOMEN

•Family Readiness Groups

•Schools

•Law Enforcement

•Task Forces

•Chain of Command

•Workplaces

•Family and Friends

•Criminal Justice

•Financial Aid and/or Medical Assistance

•Child Care

•Civil Justice

•Emergency Housing

•Housing for Male Victims

•Bridge Housing

• Transportation

•Legal Assistance

•Alcohol and Substance Abuse Treatment

•Mental Health Services

•CCR Demonstration Project

•_____

•_____

Developed for the Coordinated Community Response Demonstration Project from:

The Community Audit:
A Resource for Battered Women's Advocates,
Pennsylvania Coalition Against Domestic Violence (1997)

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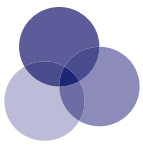

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Appropriate Sanctioning of Domestic Violence Crimes

What crime(s) occurred?*

21-3412a	Domestic battery
21-3412	Battery
21-3408	Assault
21-3401	Murder
21-3419	Criminal threat
21-3420	Kidnapping
21-3424	Criminal restraint
21-3426	Robbery
21-3438	Stalking
21-3502	Rape
21-3503	Indecent liberties
21-3505	Criminal Sodomy
21-3517	Sexual battery
21-3608	Endangering a child
21-3609	Abuse of a child
21-3701	Theft
21-3705	Criminal deprivation of property
21-3715	Burglary
21-3718	Arson
21-3719	Aggravated Arson
21-3720	Criminal damage to property
21-3721	Criminal trespass
21-3808	Obstructing legal process
21-3832	Intimidating a witness
21-3843	Violating a protection order
21-4101	Disorderly conduct
21-4113	Harassment by telephone
21-4201	Criminal use of weapons

* Crimes reported by Kansas law enforcement agencies that occurred in the context of domestic violence. A Report on Domestic Violence and Rape Statistics in Kansas As Reported by Law Enforcement Agencies (2003)

In what context did the crime occur?

- ✓ Victim safety
- ✓ History of violence and target(s) of violence
- ✓ Social history
- ✓ Dangerousness assessment (on-going)
- ✓ Substance use
- ✓ Mental Health
- ✓ Family and community supports
- ✓ Other

CONTEXT OF VIOLENCE

Power and control wheel developed by Domestic Abuse Intervention Project, Duluth, MN

KANSAS COALITION AGAINST SEXUAL AND DOMESTIC VIOLENCE
634 SW Harrison 785-232-9784 coalition@kcsdv.org
Topeka, KS 66603 fax 785-266-1874 www.kcsdv.org

ASSESSMENT

What type of perpetrator is this?

Batterer:

(It is CRITICAL to note that not all batterers are alike and screeners need to be well-trained to determine the best intervention strategies that also enhance the safety of the victim and community.)

- ✓ In addition to violence, a batterer uses tactics designed to intimidate and threaten the victim into compliance and increased vulnerability
- ✓ Battering is based on sense of entitlement to control victim
- ✓ Violence most often escalates in frequency and severity over time
- ✓ Violence is likely to increase significantly if victim attempts to leave

Self-Defense/Resistance:

- ✓ Victim is reacting to violence and intimidation used against her/him
- ✓ Violence may be purely self-defense (non-criminal)
- ✓ Violence may be retaliatory or designed to go "toe-to-toe" with abuser

One-time Assailant:

- ✓ Use of violence is highly atypical
- ✓ Other forms of power and control tactics are not being used
- ✓ Violence was not serious or lethal
- ✓ Violence was a response to ongoing abuse against the perpetrator of the one-time violence

Generally Violent Fighter:

- ✓ Use of violence is frequent
- ✓ Violence may or may not be serious or lethal
- ✓ General targets, is violent toward partner, acquaintances, and strangers

Severe Mental Illness:

- ✓ Perpetrator may also be one of the above types
- ✓ Violence accompanied by hallucinations and/or delusion
- ✓ Judgement & impulses significantly impaired by psychosis

Determination of Appropriate Disposition and Monitoring

What are appropriate Criminal Justice Responses?

- ✓ Prosecution that results in a diversion/probation/prison or jail +
- ✓ Batterers intervention program +
- ✓ Close oversight of accountability by court services +
- ✓ May also need substance abuse and mental health treatment

- ✓ If self-defense, no action
- ✓ If retaliatory, prosecution
- ✓ May also need substance abuse or mental health treatment

- ✓ Prosecution
- ✓ May also need substance abuse or mental health treatment
- ✓ May be a candidate for anger management

- ✓ Prosecution that results in a diversion/probation/prison or jail
- ✓ Close oversight of accountability by court services
- ✓ May also need substance abuse and mental health treatment
- ✓ Batterers intervention or anger mangement program as appropriate

- ✓ Mental health screening and treatment
- ✓ May also need to participate in batterers intervention program
- ✓ May also need to participate in substance abuse program

How do communities manage the offender?*

DV accountability management unit

- ✓ BIP attendance and participation
- ✓ Monitoring use of any physical or emotional abuse
- ✓ Monitor child support payments
- ✓ Monitor child visitation practices
- ✓ Monitor compliance with PFA/PFS
- ✓ Monitor attendance at work
- ✓ Monitor corollary services (MH, D&A, etc.)
- ✓ Monitor community behavior and citizenship
- ✓ Continuous dangerousness assessment
- ✓ Contact with court and corrections personnel
- ✓ Contact with victim service providers
- ✓ Contact with Child exchange and visitation services

Standard court service management

Standard court service management

Standard court service management

Standard court service management

Compliance may be impaired by mental health issues

* This is a highly trained and specialized team of monitors that provide very broad and intense oversight of domestic violence offenders. This service could be provided by court services or any other entity if they are resourced and trained.

How are communities involved?

Victim services

Batterers intervention programs

Sex offender treatment programs

Court services

Community corrections

Employers

Law enforcement

Bystanders

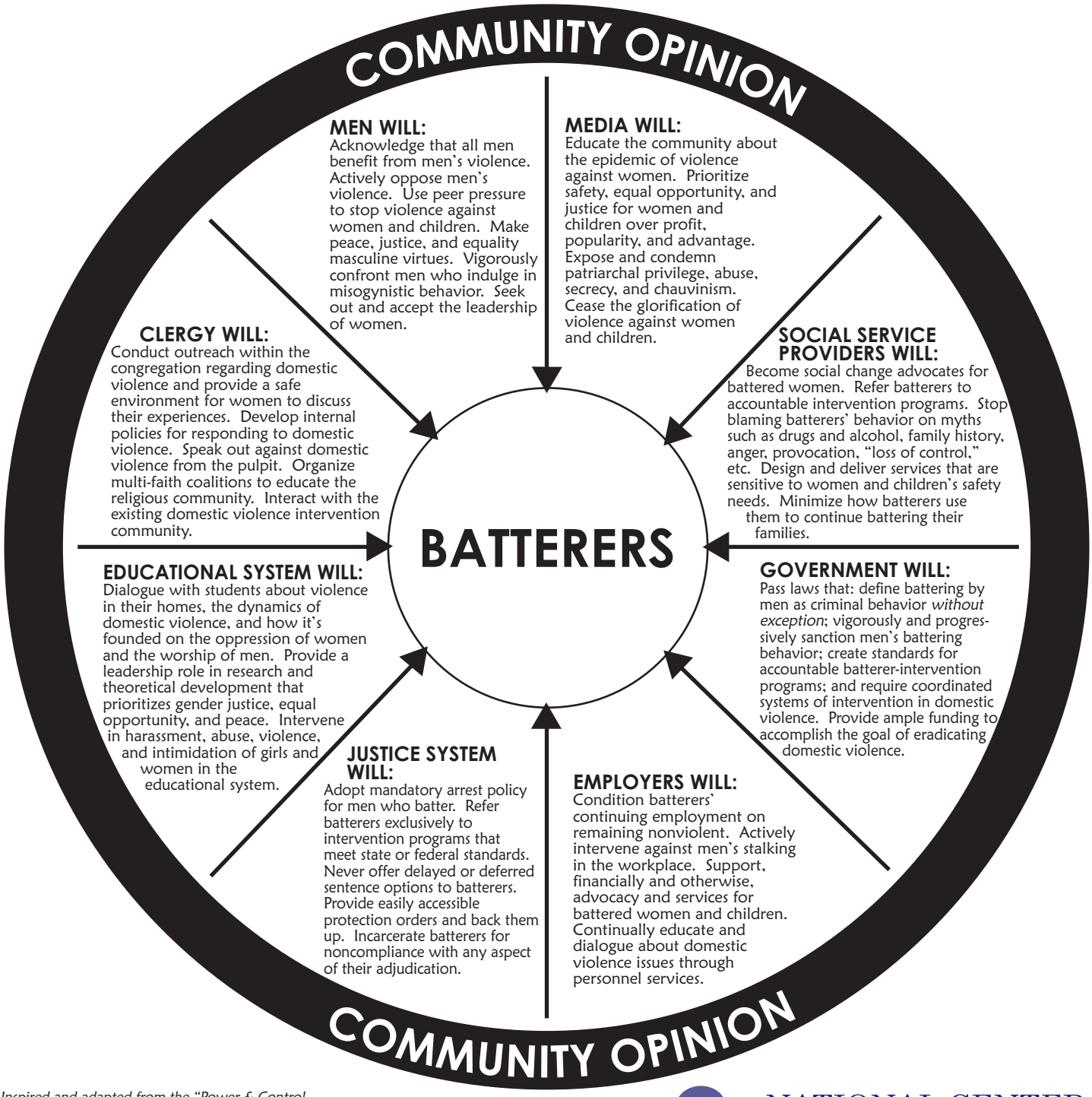
Mental health providers

Substance abuse services

Faith community

Community Accountability Wheel

This wheel *begins* to demonstrate the ideal community response to the issue of domestic violence. Community opinion, which strongly states that battering is unacceptable, leads all of our social institutions to expect full accountability from the batterer by applying appropriate consequences. This wheel was developed by Mike Jackson and David Garvin of the Domestic Violence Institute of Michigan (P.O. Box 130107, Ann Arbor, MI 48113, tel: 313.769.6334).



Inspired and adapted from the "Power & Control Equality Wheels" developed by:
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Domestic Violence and Sexual Assault Resources

Visit www.ncdsv.org for more resources.

Hotlines and Programs

American Overseas Domestic Crisis Center	866-USWOMEN (international toll-free) crisis@866uswomen.org ~ Chat live with advocates, 9:00 am – 4:00 pm PT (M-F)
DoD Safe Helpline	877-955-5247 ~ www.safehelpline.org
GLBT National Help Center and Hotline	7-888-843-4564 ~ www.glnh.org/index2.html
Local Programs (shelters and rape crisis centers)	www.womenslaw.org/gethelp_type.php?type_name=State and Local Programs
National Domestic Violence Hotline	800-799-SAFE (7233) and 800/787-3224 (TTY) ~ www.thehotline.org
National Human Trafficking Hotline	1-888-3737-88 ~ www.polarisproject.org/what-we-do/national-human-trafficking-hotline
National Teen Dating Abuse Helpline	http://loveisrespect.org/ ~ 866/331-9474 and 866/331-8453 (TTY)
National Sexual Assault Hotline	www.rainn.org ~ 800/656-HOPE / online hotline ~ http://apps.rainn.org/ohl-bridge/
State & Territorial Domestic Violence Coalitions	www.nnedv.org/resources/coalitions.html
State & Territorial Sexual Violence Coalitions	www.nsvrc.org/organizations/state-and-territory-coalitions
Shelter Tours	
• Safe Horizon, NYC, NY	www.safehorizon.org/index/get-help-8/dealing-with-domestic-violence-35/tour-a-domestic-violence-shelter-3.html
• SafePlace, Austin, TX	www.safeplace.org/page.aspx?pid=382

Domestic Violence

Asian & Pacific Islander Institute on DV	www.apiahf.org/apidvinstitute/default.htm ~ 415/954-9988 x 315
Battered Women's Justice Prj.	www.bwjp.org/menu.htm ~ 800/903-0111 x 1
FaithTrust Institute	www.faithtrustinstitute.org/ ~ 877/860-2255
Futures Without Violence	www.futureswithoutviolence.org ~ 415/678-5500
Institute on DV In The African American Community	www.dvinstitute.org/ ~ 877/NIDVAAC (643-8222)
Mending the Sacred Hoop	http://www.mshoop.org/ ~ 888-305-1650 or 218-623-HOOP
National Center on Domestic and Sexual Violence	www.ncdsv.org ~ 512/407-9020
Nat'l Coalition Against DV	www.ncadv.org ~ 303/839-1852
Nat'l Health Res. Cen. on DV	www.futureswithoutviolence.org/section/our_work/health
Nat'l Indigenous Women's Resource Center	http://www.niwrc.org/
Nat'l Latin@ Network	http://www.nationallatinonetwork.org/ ~ 651-646-5553
Nat'l Latino Alliance for the	www.dvalianza.org/ ~ 800/342-9908 and 646/672-1404

Elimination of DV / Alianza	
Nat' Network to End DV	www.nnedv.org ~ 202/543-5566
Nat'l Resource Center on DV	www.nrcdv.org ~ 800/537-2238
Stalking Resource Center	http://www.victimsofcrime.org/our-programs/stalking-resource-center
Women's Law Initiative ~ Safety Planning	www.womenslaw.org/safety.htm
Sexual Assault	
Center for Sex Offender Management	www.csom.org ~ 301/589-9383
Darkness to Light (child sexual abuse)	www.darkness2light.org/default.asp
Just Detention International	www.justdetention.org ~ 213/384-1400
Men Can Stop Rape	www.mencanstoprape.org ~ 202/265-6530
Nat'l Alliance to End SV	www.naesv.org
National Center on Domestic and Sexual Violence	www.ncdsv.org ~ 512/407-9020
National SV Resource Center	www.nsvrc.org ~ 877/739-3895
President's DNA Initiative	www.dna.gov
Project GHB	www.projectghb.org
Rape Abuse & Incest National Network (RAINN)	www.rainn.org ~ 800/656-4673 x 3
Rape and SA: Reporting to Police and Medical Attention, 1992-2000	www.ojp.usdoj.gov/bjs/abstract/rsarp00.htm
SANE / SART	www.sane-sart.com
Sex Offenses and Offenders: An Analysis of Data on Rape & SA, 1997	www.vaw.umn.edu/documents/sexoff/sexoff.html
SV Prevention: Building Leadership and Commitment to Underserved Communities (aired 4/3/03)	www.phppo.cdc.gov/PHTN/svprev/
Law Enforcement	
Bureau of Alcohol, Tobacco, Firearms & Explosives	www.atf.gov
Danger Assessment ~ Dr. Jacquelyn C. Campbell	www.dangerassessment.org/WebApplication1/
FBI	www.fbi.gov – 202/324-3000
Federal LE Training Center	www.fletc.gov – 800/74FLETC
Internat'l Assn of Chiefs of Police	www.theiacp.org – 800/THE IACP
LE Officers Killed & Assaulted	www.fbi.gov/ucr/ucr.htm#leoka
Nat'l Association of Domestic and Child Abuse Investigators	www.nadcai.org
Nat'l Center for Rural LE	http://www.cji.edu/programs/national-center-for-rural-law-enforcement/ – 501/570-8000
Nat'l Cen. for Women & Policing	www.womenandpolicing.org
Nat'l Cen. on POs and Full	www.fullfaithandcredit.org – 800/903-0111 ext. 2

Faith and Credit	
Nat'l LE Leadership Initiative	www.theiacp.org/research/VAWLawEnforceInit.html
National Sheriffs' Association	www.sheriffs.org – 800/ 424-7827
Law Enforcement: Interpretation and Translation Services	www.co.summit.oh.us/sheriff/LEP.pdf
Sex Assault Training & Invest ~ Sgt. Joanne Archambault, retired	www.mysati.com
Wynn Consulting ~ Lt. Mark Wynn, ret.	www.markwynn.com
Legal	
ABA Commission on D & SV	www.abanet.org/domviol/home.html
AEquitas	www.aequitasresource.org ~ 202/558-0040
Ayuda (immigration issues)	www.ayudainc.org ~ 202/387-2870
Center for Family Violence and the Courts, NCSC	www.ncsconline.org/famviol/index.html
Legal Momentum	www.legalmomentum.org ~ 212/925-6635
Legal Resource Cen. on VAW	www.lrcvaw.org ~ 301/270-1550, 800-556-4053 survivor hotline
Nat'l Center for the Prosecution of VAW	www.ndaa-apri.org/apri/programs/vawa/vaw_home.html 703/549-9222
Nat'l Clearinghouse for the Defense of Battered Women	www.ncdbw.org ~ 215/351-0010 or 800/903-0111 x.3
Nat'l District Attorneys Assn	www.ndaa.org/index.html ~ 703/549-9222
National Council of Juvenile & Family Court Judges	www.ncjfcj.org ~ 775/784-6012
Nat'l CV Law Institute	www.lclark.edu/org/ncvli/
Women's Law Initiative (state DV laws)	www.womenslaw.org/statutes_states.php
Military	
Defense TF on Domestic Violence Reports, 2001-2003	www.ncdsv.org/ncd_militaryresponse.html
DoD Reports on Sexual Assault in the Military	www.sapr.mil/index.php/annual-reports
DoD SA Prevention and Response Office	www.sapr.mil
Military Advocacy Res. Net.	www.bwjp.org/military.aspx
Military HOMEFRONT	www.militaryhomefront.dod.mil
Military Personnel: The DoD and Coast Guard Academies Have Taken Steps to Address Incidents of Sexual Harassment and Assault…	www.ncdsv.org/images/GAO_DODandCGAcadtoAddressSexHarassNeedMoreOveright_1-08.pdf
Military Personnel: Progress Made in Implementing Recommendations to Reduce DV… 5/2006	www.gao.gov/new.items/d06540.pdf
National Center on Domestic and Sexual Violence	www.ncdsv.org/ncd_militaryresponse.html ~ 512/407-9020
Report of the Defense Task Force on Sexual Assault in the Military Services, 12/2009	www.dtic.mil/dtfsams/reports.html

DoD Spouse Abuse Data	www.ncdsv.org/ncd_military_statresearch.html (scroll down)
TF Report on the Care of Victims of Sexual Assault, 4/2004	www.dod.gov/news/May2004/d20040513SATFReport.pdf
Women's Law Initiative ~ Military	www.womenslaw.org/military.htm

Government

Bureau of Justice Statistics	www.ojp.usdoj.gov/bjs/pubalp2.htm
Div. of Violence Prev., CDC	www.cdc.gov/ViolencePrevention/ ~ 770/488-4362
FV Prevention & Services, Adm. for Children & Families	www.acf.hhs.gov/programs/fysb/content/programs/fv.htm
Nat'l CJ Reference Service	www.ncjrs.org ~ 800/851-3420
Nat'l Institute of Justice	www.nij.gov
Office for Victims of Crime	www.ojp.usdoj.gov/ovc/
Office on VAW	www.ovw.usdoj.gov ~ 202/307-6026

Miscellaneous

A Call to Men	www.acalltomen.org
American Medical Association	http://www.ama-assn.org/ama/pub/physician-resources/public-health/promoting-healthy-lifestyles/violence-prevention.page
CAVNET	www.cavnet2.org
Compendium of Research on VAW 1993-Present	www.ojp.usdoj.gov/nij/pubs-sum/vaw-compendium.htm
Corp Alliance to End PV	www.caepv.org
Domestic Abuse Intervention Programs	www.theduluthmodel.org ~ "home of the Duluth Model"
DV and Mental Health Policy Initiative	www.hektoen.org/programs_dvmhpi.html
Domestic Violence and Sexual Assault Data Resource Center	www.jrsa.org/dvsa-drc/index.html
DV Counts: A 24-Hour Census of DV Shelters and Services	http://nnedv.org/resources/census.html
EMERGE	www.emergedv.com ~ 617/547-9879
End VAW Internat'l	www.evawintl.org
Extent, Nature, & Consequences of Intimate Partner Violence: Findings from the Nat'l VAW Survey, 7/2000	www.ncjrs.org/pdffiles1/nij/181867.pdf
Family Justice Center Alliance	www.familyjusticecenter.com
FORGE	http://forge-forward.org/
Homicide Trends in the U.S.	www.ojp.usdoj.gov/bjs/homicide/intimates.htm
Jackson Katz	www.jacksonkatz.com
Jewish Women International	www.jwi.org
Men Stopping Violence	www.menstoppingviolence.org/ ~ 404/270-9894
MensWork: Eliminating VAW	www.mensworkinc.com
Mentors in Violence Prev.	www.mvpnational.org
Minnesota Center Against Violence & Abuse (resources)	www.mincava.umn.edu
Nat'l Center for Transgender Equality	http://transequality.org/

Nat'l Center on DV, Trauma & Mental Health	www.nationalcenterdvtraumamh.org/home.php ~ 312/726-7020, ext. 11
The National Center for Victims of Crime	http://www.victimsofcrime.org/home
Nat'l DV Fatality Review Initiative	http://www.ndvfri.org/
Nat'l Intimate Partner and Sexual Violence Survey (NISVS)	www.ncdsv.org/ncd_linksstatistics.html#NISVS
Nat'l PREA Resource Center	http://www.prearesourcecenter.org/
Nat'l Organization for Men Against Sexism (NOMAS)	www.nomas.org
Nat'l Training &TA Center on LGBTQ Cultural Competency	http://avp.org/resources/training-center
PreventConnect	www.preventconnect.org/19.0.html
Uniform Crime Reports, FBI	www.fbi.gov/ucr/ucr.htm
VAWnet: The National Online Resource Center on VAW	wwwVAWnet.org ~ 800/537-2238
VAW Online Resources (VAWOR)	www.vaw.umn.edu/ *Note: As of June 30, 2013, this website has been taken offline due to funding cuts.*
Vera Institute of Justice	www.vera.org
Witness Justice	www.witnessjustice.org
Workplaces Respond to DV: A National Resource Center	www.workplacesrespond.org

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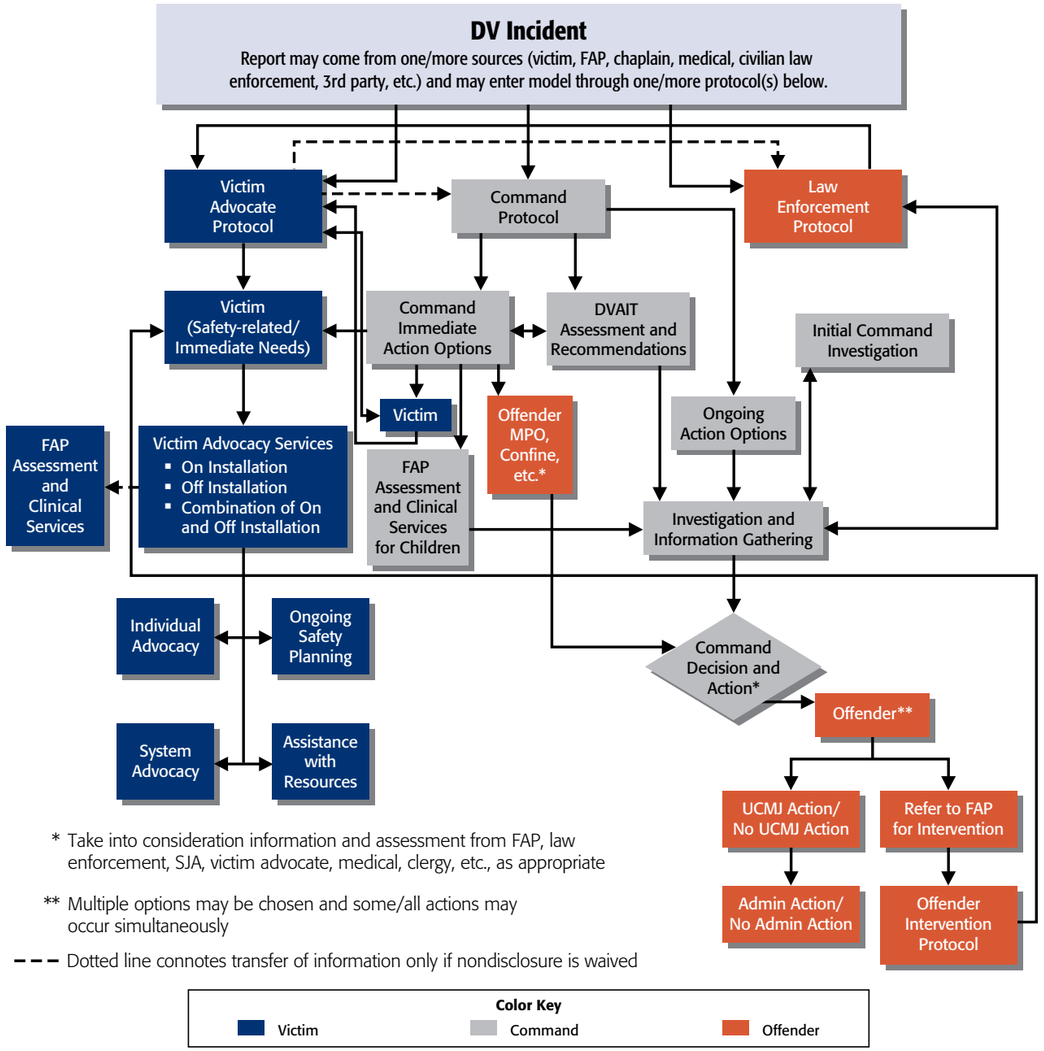
Domestic Violence Intervention Process Model



Core Principles of Domestic Violence Intervention

- Respond to the Needs of Victims and Provide for Their Safety
- Hold Offenders Accountable
- Consider Multi-cultural and Cross-cultural Factors
- Consider the Context of the Violence and Provide a Measured Response
- Coordinate Military and Civilian Response
- Involve Victims in Monitoring Domestic Violence Services
- Provide Early Intervention

Principle Elements of

Strategic Plan

for

More Effectively Addressing

Domestic Violence Matters

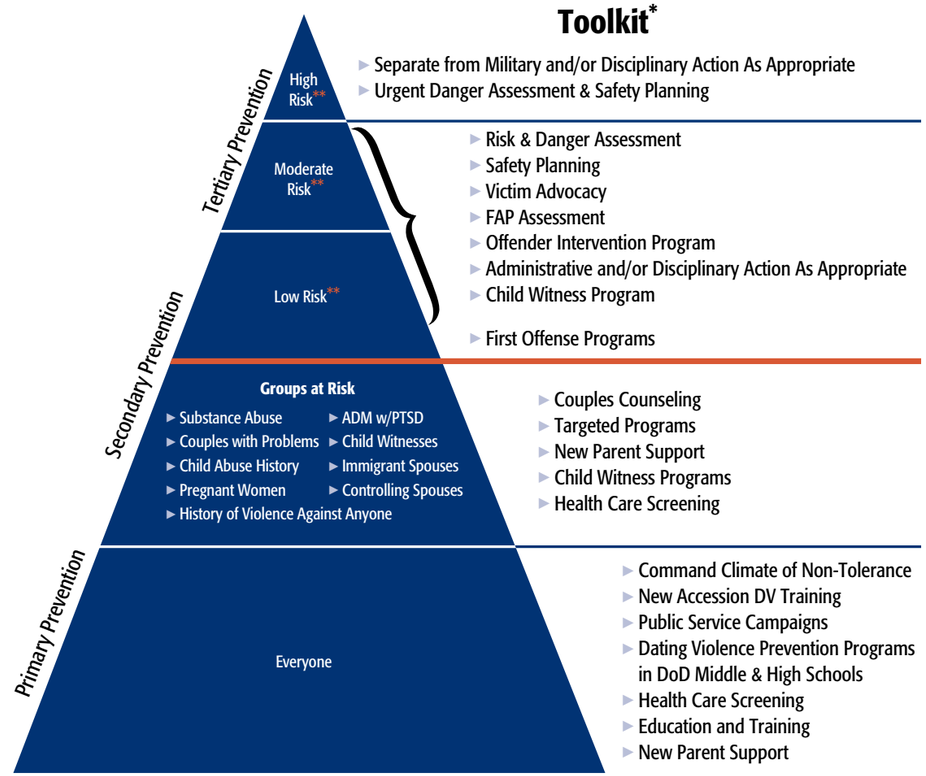
within the

Department of Defense

Key Points from the Reports of the DTFDV

- Create a Culture Shift that . . .
  - Does Not Tolerate Domestic Violence
  - Moves from Victims Holding Offenders Accountable to the System Holding Offenders Accountable
  - Punishes Criminal Behavior
- Establish a Victim Advocate Program with Provisions for Nondisclosure
- Implement the Proposed Intervention Process Model
- Replace the Case Review Committee (CRC) with Domestic Violence Assessment and Intervention Team (DVAIT)
- Enhance System and Command Accountability and Include Fatality Review Process
- Implement DoD-wide Training and Prevention Programs
- Hold Offenders Accountable
- Strengthen Local Military and Civilian Community Collaboration
- Evaluate Results of Domestic Violence Prevention and Intervention Efforts

Domestic Violence Prevention Conceptual Model



* Not all inclusive
** Risk for reoccurrence and danger/lethality

Principle Elements of

Strategic Plan

for

More Effectively Addressing Domestic Violence Matters

within the Department of Defense

Advocacy Wheel

EMPOWERMENT

RESPECT CONFIDENTIALITY ...

All discussion must occur in private, without other family members present. This is essential to building trust and ensuring her safety.

BELIEVE AND VALIDATE HER EXPERIENCES ...

Listen to her and believe her. Acknowledge her feelings and let her know she is not alone: Many women have similar experiences.

ACKNOWLEDGE THE INJUSTICE ...

The violence perpetrated against her is not her fault. No one deserves to be abused.

RESPECT HER AUTONOMY ...

Respect her right to make decisions in her own life, when she is ready. She is the expert on her own life.

HELP HER PLAN FOR FUTURE SAFETY ...

What has she tried in the past to keep herself safe? Is it working? Does she have a place to go if she needs to escape?

PROMOTE ACCESS TO COMMUNITY SERVICES ...

Know the resources in your community. Is there a hotline or a shelter for battered women?

ADVOCACY

EMPOWERMENT

Developed from:
Domestic Abuse Intervention Project
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Duluth, MN 55802
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Re-Examining 'Battering':

Are All Acts of Violence Against Intimate Partners the Same?

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June 20, 2006

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Re-Examining 'Battering':
Are All Acts of Violence Against Intimate Partners the Same?

INTRODUCTION

Putting 'name' to an event, action, experience, or idea is a powerful act. "Naming" is an act of defining and authenticating that provides the person or group, which has successfully conducted the naming, with the authority to say what something is and what it is not. The capacity to name allows the person or group to categorically link the concept, which has been named, with the reality it is to represent. The leaders of the anti-domestic violence movement in the U.S. understood this power of naming and endorsed the term "battering" to represent women's realities of abuse by intimate partners. The word, battering, was to signify a pattern of coercive control, intimidation, and oppression that women often experienced at the hands of their male lovers and spouses (Levinson, 1989; Pence & Paymar, 1993; Stark, 1996). Battering could include physical and sexual abuses, but was definitely not limited only to such brutalities. However, over time, the term battering has come to be used more or less synonymously with physical violence by an individual against an intimate partner. This restriction of the term has, to a certain degree, obscured the complexity of its original meaning and its connection to the real experiences of survivors of ongoing intimate abuse.

Similarly, the phrase "domestic violence" was coined to emphasize the space where this violence occurred: home, supposedly a safe haven for its members. While many activists initially argued against its use, it highlighted the context of intimate abuse, the every day familial realm of women. The label, domestic violence, challenged the image of safety and tranquility of the household and family. It was a term that helped to reveal that women who lived with abusive men were thoroughly vulnerable to their violence because it was perpetrated in their own homes. Later, as laws were enacted in the U.S. to protect women and hold batterers accountable, "domestic violence" took on the gender-neutral meaning of any violence between partners occurring in the context of the home. As a result, every act of violence by one partner against another is now legally considered to be an act of domestic violence.

Yet, confusion occurs when we begin to equate "battering" to all acts of "domestic violence." The comparison is erroneous, as not all violence by intimate partners follows the systematic pattern of control, intimidation, and domination that is typical of battering. Grasping

that there are important differences in partner violence is crucial for researchers, practitioners, and advocates since this understanding would guide the forging of effective interventions for victims and perpetrators. Research suggests that not all batterers respond similarly to treatment programs and batterers' personalities might determine their sensitivity to Batterer's Intervention Programs (BIP).[1] Thus, to design appropriate intervention programs, we need to distinguish who is doing what to whom and with what impact.

Researchers have often tried to understand the personalities of individuals who assault their intimate partners. Amy Holtzworth-Munroe and her colleagues categorized male batterers based on the frequency and severity of their violence, who they predominantly targeted, and the existence of psychopathology (see, footnote # 1). They listed four types of batterers, who: (1) targeted only family (least severe violence); (2) engaged in moderate to severe wife abuse and some extra-family violence (diagnosed as Borderline-dysphoric); and (3) manifested violent behavior in familial and extra-family settings (moderate to severe violence). This group was labeled violent-antisocials; and (4) expressed moderate to severe violence that fell between the first and the third categories. Suzanne Swan and her colleague have developed a typology of women who use abuse against their intimate partners.[2] They have divided the assaultive women into four groups according to the coercive tactic they use: (1) victims; (2) aggressors; (3) both partners use violence but the male uses more than the female; and (4) both partners use violence but the female uses more than the male. Both typologies endeavor to explain behavioral and psychological dimensions of men and women distinctly.

Based on interviews conducted over a fifteen-year period with men and women arrested for domestic abuse in Duluth, Minnesota as well as a number of East and West Coast cities and a review of hundreds of police and court documents, we have attempted to differentiate the various types of violence that occur between intimate partners. We are not so much focused on deriving the personality characteristics of individuals who engage in intimate partner violence, but are interested in tracking the nature of the violence and its contexts. We believe that an understanding of violence that occurs in intimate relationships is essential in providing safety to women and children and deciding upon appropriate intervention with batterers. Five distinct categories of domestic violence emerged in our analysis.

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[1] See, Dutton et al., (1997) and Holtzworth-Munroe (2000, 2003).
[2] See, Swan et al., (2002, 2003).

A Note of Caution

One might erroneously believe that the Duluth advocates have decided to discard the notion of power and control from their theory of male violence against women. That is certainly not the case. This document is not meant to undercut the centrality of the concept of power and control from our work. We are simply addressing the fact that not every act of domestic violence, violence that is perpetrated within the home, is battering.

This is not news to divorce attorneys, police officers, therapists, or other practitioners who intervene in the private lives of men and women. Police officers, for example, have long recognized that not every assault they are called to attend involves a man who is asserting his historic right to chastise and physically control his wife. Nevertheless, the new laws as well as procedures and public policies that were crafted to confront such abuse, lumped all acts of domestic violence into a unitary category. For example, the phrase 'zero tolerance' was coined to emphasize the struggle to end intimate partner battering. However, over the years, its target has been extended to include all violence and any potential violence. That is, the single focus of stopping the ongoing use of violence and coercion against women by their partners became a diffused goal of confronting all acts of violence between couples under the rubric of "zero tolerance."

We differ with this over-generalization and believe that it would lead to a "one-size-fits-all" intervention approach, which would meet neither the goals of fairness nor public safety.

As long standing anti-violence activists, we are definitely not excusing or advocating for the tolerance of some forms of violence by some people. This article is not about that. Our work has always focused on analyzing the dynamics, nuances, and components of intimate partner violence with the idea that this critical comprehension is vital in creating intervention and prevention models that befit the behavior.

BACKGROUND

This differentiation of domestic violence in our conception emerges out of women and men's actual experiences of intimate abuse. Based on our interviews and our findings from court records, we attempted to test the theory of intimate violence against living practice and action

(Herman, 1990). This fine-tuning of the theory of domestic violence is important because it would ultimately enhance the effectiveness of our interventions with victims and perpetrators. It has become increasingly apparent to advocates and practitioners in the domestic violence field that to treat everyone exactly alike can ultimately do more harm than good. Thus, to devise successful intervention and prevention models, we need to understand the nature of the violence that has taken place between individual intimate partners.

At the same time, we are concerned that our elaboration of classes of domestic violence may be used inappropriately to exonerate individuals who pose a serious danger to their victims. Too many practitioners are willing to accept a defense attorney's argument that her/his client had one too many drinks or momentarily lost control in an uncharacteristic outburst of anger (e.g., "in the heat of passion"), therefore, her/his client is not a batterer and should not be treated as one. In such cases, making the correct determination may mean the difference between life and death.[3]

Nonetheless, we would like to put forth the empirical findings of our work by identifying five categories of domestic violence.[4] These categories were not set a-priori but emerged through our analyses of information from the interviews with perpetrators and victims, court records, and police reports on domestic violence cases. We have also classified some specialized interventions for each category of intimate partner violence. We contend that since each category of violence has different social and historical roots, it requires distinct interventions. (See Table 1)

FIVE CATEGORIES OF DOMESTIC VIOLENCE

1. Battering

Battering may be defined as an ongoing patterned use of intimidation, coercion, and violence as well as other tactics of control to establish and maintain a relationship of dominance over an intimate partner. (See, Attachment 1, Power and Control Wheel, developed by Pence and McDonnell 1984)

Often, an individual hitting or striking another individual is just that – a violent act committed by an individual against another in a particular circumstance. However, when a person

[3] We recommend A Guide for Conducting Domestic Violence Assessments as an excellent tool to assist in making these distinctions. It is available from Domestic Abuse Intervention Project, Duluth, MN (218-722-2781 or www.duluth-model.org).

[4] We first proposed these categories in 1996 in our work with the U.S. Marine Corps. As part of that work we developed a matrix for Family Advocacy Counselors to use in determining what type of intervention to propose to commanders responsible for disciplining Marines who had assaulted their spouses.

systematically utilizes various tactics of restricting an intimate partner's autonomy and uses force or the threat of force as a coercive tactic, it is much more than a simple attack. Such systematic use of force and violent tactics of domination can be traced to group identities and the historic use of similar behaviors to achieve power over others. That is, such violence has historical precedence and involves widespread use of superior strength and coercion.

By analyzing strategies of maintaining authority and tactics of suppression used, for instance, by racial groups that have established supremacy and ethnic and economic groups that have dominated, we can comprehend the complexities of relationships between the subjugated and the one who dominates.

Historically, groups of people have established and sustained supremacy over other groups of people by the use of violence that includes ongoing and systematic patterns of intimidation, coercion, as well as other tactics of control to physically, morally, spiritually, and economically devastate them. This is the same kind of violence that has been used by whites over people of color; traffickers over prostituted women; the economically powerful over the poor; slave owners over slaves; and feudal landlords over subjects. At its extreme, it is manifested as witch hunt, ethnic cleansing, genocide, slave trading, and holocaust. The analogy is easily extended to the battering of women in marriage (Mies, Bennholdt-Thomsen, & Werlhof, 1988) and intimate relationships. It is manifested as the murder of thousands of women and their children every year in the U.S. But systems of domination are usually normalized in ways that allow those people who participate in acts of domination, coercion, intimidation and even violence to do so without questioning the ethics of what they are doing. Frequently members of the dominant groups even experience themselves as the victims of tyranny of those who are dominated.

Violence used by men against women who are their intimate partners has its historic roots in centuries of institutionally sanctioned dominance of one gender over the other in key spheres of heterosexual relationships such as economic, sexual, intellectual, cultural, spiritual, and emotional. This use of global and methodical violence by men to rule over women in intimate relationships is called "battering." While it is not unusual for a woman to use violence in her intimate relationship, it is exceptional for her to achieve the kind of dominance over her male partner that characterizes battering. Social conditions, which do not condone women's use of violence, patterns of socialization, as well as the typical physical disparities between the male and female of the species, make the woman "batterer" an anomaly. However, in rare instances, a woman may be able to

effectively establish a relationship of dominance through a pattern of power and control over her male partner.[5]

We can take the analogy between group dominance and domestic violence further. There are a number of social and historic conditions that promote the sense of entitlement of a dominant group or its members, which generally accompanies their use of violence to control a dominated group or its individual members (e.g., gays, wives, romantic partners, racial groups, religious minorities, etc.). Four of these social conditions are highlighted below along with their connections to battering:

1) *Belief in Natural Superiority and Hierarchy*

- Most societies subscribe strongly to the belief that hierarchical relationships among people are natural. For example, the majority of cultures, including this one, accept historical, religious, scholarly, and folk opinions that men as a group are more rational, logical, intellectual, and competent than women (Broverman, Broverman, Clarkson, Rosenkrantz, & Vogel, 1972). Thus, it follows that a man should hold moral authority in the family.
- Furthermore, many perceive hierarchy as a positive principle of social organization. Hierarchy and authority, supposedly, maintains order in our social relations so that we do not descend into chaos. Accordingly, men, being "natural" superiors to women, are entitled to the position of authority in the family. Sentiments such as "You can't have two captains in the same ship," and "Someone has to wear the pants in the family," echo this conviction.
- Since men are entitled to authority within the family, their attempt to maintain the position by any means necessary is also given social approval. Men who have dared to share power with their female partners have often been targets of social ridicule. They are considered "whipped," "unable to keep a woman in line," or "tied to their wives apron strings," etc. Until the past decade, the masculinity of these men as well as their abilities to handle authority and responsibility were routinely questioned.

2) *Lack of Consequences for Using Violence*

- Men's superior physical strength allows them to use aggression without the fear of meaningful retaliation from their victims.

[5] Some women in lesbian relationships may be able to batter their partners because of the equality of their physical strengths and their partners' vulnerable social status, which allows them to use it as a tactic of control.

- Due to the persistent belief in a man's authority to rule over his family and the social contract between the state and the individual regarding privacy of the home, the state, community, and extended family have a propensity not to intervene successfully to stop male violence; thereby, creating an atmosphere without significant consequences to perpetrators.
- It is this social condition that supports battering that the anti-violence movement has been the most successful at challenging.

3) *Social Conditioning*

- In relations of hierarchy and dominance, those at the bottom are often forced to economically and psychologically depend on those at the top (Freire, 1970). In contrast, those at the top are able to impose serious penalty for resistance to their authority, control, and violence. This phenomenon is evident when we analyze separation injuries of battered women; that is, injuries battered women receive when they leave or are in the process of leaving their batterers. Research shows that 65% of battered women who are killed are separated from the perpetrator before the fatal incident.[6] Other studies also indicate that battered women's risk of serious injury goes up significantly in the process of leaving or taking legal action against their abusers (Allen, 1983; Barnard, Vera, Vera, & Newman, 1982; Wilson & Daly, 1993).
- Since masculine authority is considered the preferred condition in society, resistance by women is seen as unnatural, wrong, unfeminine, and a serious transgression of social and moral codes. Society believes that women's misbehavior, expressed in their opposition to male authority, in relationship to their roles in the family should be thwarted and corrected. Consequently, male violence to put down women's resistance to their partners' oppression is frequently viewed as justified and necessary, or at least understandable.
- Since masculine authority is regarded as natural and desirable, women are socialized to accept male power. The gender socialization patterns in almost every society reflect the two sides of the same coin: boys are taught to dominate and girls are trained to accept this domination.

4) *Historical and Social Objectification of the Marginalized*

- Objectification creates an illusory difference and separation between those at the top from those at the bottom. Members of the dominant group tend to view the vanquished as a distinct "species," with not quite the same needs, emotions, and desires as them.

[6] See, Florida Governor's Task Force on Domestic and Sexual Violence's report on domestic fatalities, Table 17, p. 47; and Bureau of Justice Statistics' special report on violence against women (NCJ-154348), p. 4.

- Similarly, batterers are socialized in cultures that promote and support objectification of women. They learn to disrespect women by internalizing the misogyny that is latent in our society. Men who are exposed to multiple forms of hostility toward women (e.g., watching their fathers abuse their mothers, participating in gang and fraternity rapes, extensive exposure to violent pornography, misogynist religious views about women, etc.) are primed to think and act with disrespect and loathing toward women (Paymar, 1993). Batterers objectify their victims by labeling them as "fat," "ugly," "whore," "bitch," "stupid," and "someone whom nobody else would ever want." Rarely do men assault their partners while calling them by their given names. In addition, rarely does a man who batters see himself as "in control." He often experiences himself as the victim of both the woman he beats and the community that intervenes to protect her. To understand these men as simply "choosing" to batter may be too simplistic. To see them as victims is a distortion.

Effective Interventions

For battering, the following interventions have been designed in anti-violence work:

- Change beliefs (e.g., batterer's education programs, public education campaigns, empowerment work with victims, etc.);
- Create consequences, legal and social (e.g., arrest policies, consequences at the job, families and religious leaders openly confronting the abuser, etc.);
- Provide external monitoring (e.g., court probation, community leaders checking up);
- Create equality in gender roles (e.g., education in gender egalitarianism, equivalent public policies regarding work, parenthood, etc.); and
- Organize communities to end violence against women and understand interconnections of oppression such as racism, homophobia, and xenophobia.

2. Resistive/Reactive Violence

Victims of violence often retaliate and resist domination and battering by using force themselves. The major goals of such violence are to: (1) escape and/or stop violence that is being perpetrated against them, and (2) establish a semblance of parity in the relationship as a method of protecting themselves and their children against escalating abuse. Such reactive violence on victims' part is in larger part resistance to ongoing battering (Violence Against Women, 2002, 2003). We have used the terms resistive and reactive violence synonymously in this discussion.

Characteristics of Resistive/Reactive Violence

- The target of resistive violence is specific: the violator or abuser;
- Reactive violence is used to stop and/or escape ongoing battering. It may be considered by the victim as a form of self protection;
- Reactive violence is often used by victims to reclaim and restore dignity and integrity that is destroyed by the batterer by his systematic abuse;
- The motivation behind the use of such force is to retaliate and/or resist battering. Such violence may also be used with the intention of stopping future violence;
- Targets of resistive violence generally hold the key to their own protection. That is, by stopping their own violence against their victims, they would also end their partners' use of violence towards them;
- Violence is rarely the first or only tactic used by victims of ongoing battering. They often use a variety of other methods to stop or reduce abuse, such as:
    - Negotiation;
    - Appeasement;
    - Threats to withdraw from the relationship or actually leave the perpetrator;
    - Solicit help from others such as family, friends, clergy, and police;
    - Threats to expose the offender to others and shame him to end abuse; and
    - Threats to hurt the offender emotionally, economically, or damage his property.

In brief, women's reactions to battering fall into three classes: a) coping (e.g., placating the abuser, enduring, etc.), b) managing (e.g., anticipate abusers' moods, modify own behavior so as not to arouse anger in abuser, attempt to control situations that lead to violence, divert attention from the abuse through religion or other activities, etc.), and c) resisting (e.g., create consequences for abuser such as arrest, seek outside help, hit back or strike preemptively, take other overt and covert actions to end or escape the abuse, etc.). Although all three classes of behavior are independent of each other, often these emerge as subsequent stages of conduct. Victims' decisions about which method would be most effective depend upon a number of factors including:

- The consequence of using violence in the past;
- Perceptions of what might be effective with the abuser;
- Understanding of what would constitute legitimate responses to violence;
- The magnitude of danger the victim believes she is in;

- Victims' personal levels of frustration, fear, desperation, and/or anger; and
- Access to alternative resources and recourses. A woman who believes that there is no recourse or one who cannot access any resource, may use violence as a method of self protection more readily than those who can access alternative recourses or resources (Moss, Pitula, Campbell, & Halstead, 1997; West & Rose, 2000).

Effective Interventions

- Create new options for victim;
- End battering against the victim; and
- Make viable resources and recourses accessible to victim.

3. <u>Situational Violence</u>

Intimate partners often use violence against each other to express anger, disapproval, or reach an objective. For instance, one partner might want the other to quit drinking, end an affair, or stop being obnoxious in public, so s/he uses violence. Battering is perhaps most frequently misdiagnosed as a form of situational violence because, a) practitioners typically intervene in a specific incident of abuse and tend not to investigate whether there is any pattern of abuse in the relationship; b) batterers frequently claim that their use of violence is caused by a specific situation, although an investigator might discover that these "situations" seem to occur quite routinely in their victims' lives; c) victims of battering are generally not free to describe the totality of the abuse they endure. They are exhorted by practitioners to stick to the immediate incident that prompted them to seek help and led to intervention. Furthermore, victims might keep silent from their own concerns about what further problems such extra information might lead to; and d) victims of battering themselves often do not recognize the pattern in the ongoing violence and view each incident as separate and distinct.

Characteristics of Situational Violence

Even though there may be violence in an intimate relationship, the victim may not necessarily be imbued with a generalized fear of her partner. Furthermore, the position of the victim and perpetrator may shift and change continuously. For example, a man may hit his wife because she gambled away all their money, but he does not use a pattern of intimidation and violence to establish control or dominance over her. She tends not to express any substantial fear of him, nor does he set limits to what she can do, whom she can see, how she should look, etc. This

individual's wife may, in a different occasion, use violence against him to control his flirting with another woman. Both partners may use violence against each other but not instill any permanent fear in any one victim.

Effective Interventions

- Create new behavioral options;
- Resolve circumstances leading to the use of violence; and
- Provide counseling programs such as anger management.
- We are reluctant to suggest couples counseling here because, while it may not be dangerous as it often is when working with couples where battering and corresponding resistant violence occurs, there is a very real danger of misreading the situation. Nor is there any evidence that couples counseling is more effective than individual counseling in confronting such violence.

4. <u>Pathological Violence</u>

Individuals who abuse alcohol or drugs, suffer from mental illness or physical disorders, or have neurological damage, may use physical violence against others, including their intimate partners. Sometimes there is a causal link between their use of violence and the pathology from which they suffer. In those cases, when the pathology ends so does the violence. Unfortunately, it is difficult to know when the violence is caused by such pathologies. Many, perhaps even most, batterers drink and get violent while drinking, but stopping the drinking does not stop the abuse. At times, the pathology actually is the key to the violence and its cure the key to ending the violence. For years defense attorneys, abusers, and friends have insisted that these pathologies are at the source of the violence when they are not. As awareness of pathology as an excuse has increased, it leaves those who truly use violence because of the pathology less likely to be identified and appropriately treated.

Characteristics of Pathological Violence

- A pathologically violent individual may target a specific person such as his/her spouse in one situation, but such violence is not typically focused on any particular person or gender. For instance, some alcoholics may become belligerent and abusive towards whoever is nearby in the throes of their addiction. Certain neurological disorders may also induce aggression and violence in an individual.

- At the root of pathological violence are physical conditions related to mental illness or altered mental states due to neurological damage and/or drug or alcohol abuse. In such situations, generally, when the cause is removed, the resultant violence also ends.
- Practitioners need to be astute in discriminating pathological violence from other forms of domestic violence. For instance, research with women who have been arrested for domestic violence indicates that many of these women have serious drug or alcohol abuse problems. At the same time, most of these women are also victims of ongoing battering (Dasgupta, 1999). The findings do not support the notion that sobering up would stop these women's violence, but suggest that ending the battering they routinely experience, might. In fact, trauma due to battering is often a pre-condition of drug and alcohol addiction in victims (Herman, 1990).
- On the other hand, a batterer who is an alcoholic and uses violence against his partner when he drinks, will not typically stop his violence by getting sober. His need for domination is probably not tied to his belligerent behavior while drunk. In contrast, a non-battering alcoholic, who uses random violence against his partner when in the throes of his addiction, would benefit by giving up his alcohol use.

Effective Interventions

- Provide treatment for pathology, illness, or drug addiction;
- Create alternative behavioral options; and
- Create consequences.

5. <u>Anti-social Violence</u>

Anti-social violence is not restricted to a particular partner or gender. A person may have certain antecedents such as childhood abuse and lack of moral maturity that have led to the development of anti-social personality. As a result, s/he may be abusive in a number of social settings: bars, work, home, sports field, etc. Such an individual may have little understanding of the consequences of his/her behavior and no feeling of shame or remorse regarding his/her violence. The anti-social individual is generally not amenable to change through self-reflection or therapy.

However, it is important to keep in mind that dominant groups in society have often used the label, "anti-social," to criminalize oppressed groups and 'legitimately' police them through prison, psychiatry, re-education, and other institutional systems. The description of anti-social allows the more powerful in society to justifiably marginalize "undesirable" minorities and perpetuate their

oppression. We need to carefully discriminate anti-social conduct from violence that erupts from the rage created by systematic oppression and domination, as well as instrumental violence that the oppressed often use to survive under the conditions of their subjugation.

Characteristics of Anti-social Violence

- Research indicates that nearly 25% of men who are court ordered to batterer's programs could be classified as anti-social (Gondolf, 1999; Gondolf & White, 2001).
- Men who use anti-social violence may be similar to batterers as they use violence to establish relationships of dominance, but they are singularly resistant to change. These are individuals who might not benefit by attending existing batterers programs.

Effective Interventions

- Create consequences;
- Provide external monitoring; and
- Provide highly structured treatment or therapy.

SOME QUALIFIERS

In this paper, although we have made distinctions among different forms of domestic violence, the categories are not always mutually exclusive. An individual may be a batterer in addition to being anti-social, alcoholic, and mentally ill. His behavior is distinguished by the fact that he acts from a sense of entitlement and the consequent notion of establishing power and control over his victim. His violence allows him to reach the goal of subjugating his intimate partner.

Furthermore, the classification we offer may not satisfactorily explain all types of violence in every circumstance. In some situations, the reality of violence might be so excessive that to sort it into a box of this set of five would seem paltry. Advocates working in certain communities have informed us that violence there is so acutely pervasive and apparently random that it is impossible to rationally catalog it.[7] Not only are women subjected to horrendous violence but also anyone weak and dependent is victimized by the powerful. Sociologists believe that such uncontrolled violence often characterize communities where social relations have become damaged to the point of being haphazard and chaotic; a consequence of society without norms.[8] Norms or social rules of conduct not only tell us how to behave, they also forbid us from behaving in other ways. Once

[7] We thank Amy Thurber for bringing this issue to our attention.
[8] In 1893, sociologist Emile Durkheim wrote about breakdown of society under such conditions; a state he called 'anomie'.

internalized, norms become encouragement for certain actions and prohibition for others. However, a community might descend or be pushed into normlessness and deregulate its social organization in various areas such as laws, rules, regulations, customs, taboos, rites, rituals, conventions, and etiquette. Without norms, a society can have no order or predictability of behavior and might even become dangerous. It is possible that we are witnessing this phenomenon in communities where violence against women seems to be extreme, arbitrary, and everywhere.

We would also like to highlight that any type of violence, whether it is battering, resistive, situational, pathological, or anti-social could inflict serious injuries on the victim and carry the potential of being lethal. A single incidence of violence can escalate into repetitive abuse and over time, increase in risks for the victim. To evaluate safety of victims, all violence should be assessed on a continuum of dangerousness and particularities of context.

Over a ten-year period, the Domestic Abuse Intervention Project in Duluth, Minnesota assessed men and women, who had been involved in criminal and civil courtroom proceedings that involved domestic violence. Ninety-five percent of the men in their assessment were classified as batterers, with a significant number being alcohol addicted and/or behaviorally anti-social. Overwhelmingly the women offenders were using resistive violence, often simultaneously linked to pathological violence connected to drug and alcohol addiction. Four percent of the offenders appeared to be abusing exclusively because of substance addiction (e.g., alcohol, drug, etc.) or mental illness. That is, this only 4% of male offenders was considered to be using pathological violence. We noted that almost all of the offenders in this group were arrested or respondents to a protection order. One would likely find a lower percentage of "batterers" in a sample of "any adult using violence against an adult partner."

The purpose of this analysis of domestic violence is to suggest that as communities across the country continue to grapple with complexities of intimate partner abuse, we revisit the

fundamental question, "who is doing what to whom and with what impact?" The answer to this query should inform our responses as well as our continued refinement of social and legal public policies regarding domestic violence. For those of us who have worked to coordinate a community response that leads to the protection of victims of ongoing abuse, our current challenge is to address these differences and incorporate them in our interventions. An example of this may be seen in the city of Duluth's efforts to deal with battered women who use violence against their abusive partners.

Over the past twenty-one years, the Domestic Abuse Intervention Program (DAIP) has conducted court-ordered groups for women arrested under Duluth's mandatory arrest policy. In 1999, the City Attorney's Office adopted a new policy that does not automatically lead to prosecution of offenders, who have used minor resistive violence. The policy included provisions for a first-time arrest of victims of ongoing abuse (battering) to be deferred to a special education and advocacy program (McMahon & Pence, 2003). Simultaneously, the Duluth police department, under a 'predominant aggressor policy', agreed to avoid arresting victims of ongoing abuse, who have retaliated against their abusers with minor violence. These combined policies have reduced the level of repeat attacks on women, who resist battering with force. Furthermore, these policies have reduced the number of women who continue to use violence as a form of resistance.

By not treating victims of battering as batterers the Duluth community has not found women's use of violence to rise, but rather to fall. Only 2 of the first 35 women arrested under new policies re-offended and all but 3 completed an educational group for battered women who use force against their partners.

Despite the efforts of many activists and well-meaning community members, battering or ongoing abuse of an intimate partner is still pervasive in society. As we also know, seeking help is not an easy task for victims, who at times, have to overcome insurmountable personal, institutional, and cultural obstacles to escape their situations. Practitioners and advocates may get only one chance to successfully intervene in a victim's bid to end violence and hold the batterer accountable for his behavior. Misjudging battering for the other kinds of violence described in this article and intervening incorrectly might make the difference between life and death for a victim. Thus, until we can create highly sensitive, valid, and reliable diagnostic tools and techniques to identify batterers, we can hardly risk any error in our assessments. This article is an early step in refining our understanding of battering, which we hope, would lead to intervention and prevention models

that are more appropriate and effective. However, before such a time arrives, we would rather err on the side of caution.[9]

REFERENCES

Allen, N. H. (1983). Homicide followed by suicide: Los Angeles, 1970-1979. Suicide and Life Threatening Behavior, 13, 155-165.

Barnard, G. W., Vera, H., Vera, M., & Newman, G. (1982). Till death do us part: A study of spouse murder. Bulletin of the American Academy of Psychiatry and Law, 10, 271.

Broverman, I. K., Broverman, D. M., Clarkson, F. E., Rosenkrantz, P. S., & Vogel, S. R. (1972). Sex-role stereotypes: A current Appraisal. Journal of Social Issues, 28, 59-78.

Bureau of Justice Statistics. (August, 1995). Special report: Violence against women: Estimates from the redesigned survey (NCJ-154348).

Dasgupta, S. D. (1999). Just like men: A critical view of violence by women. In E. Pence & M. Shepard (Eds.), Coordinating community response to domestic violence: Lesson from the Duluth model (pp. 195-222). Thousand Oaks, CA: Sage.

Durkheim, E. (1893/1947). The division of labor in society (Trans. G. Simpson). NY : The Free Press.

Florida Governor's Task Force on Domestic and Sexual Violence. (1997). Report on domestic fatalities. Tallahassee, FL: Florida Mortality Review Project.

Freire, P. (1970). Pedagogy of the oppressed (30th Anniversary Edition). (Trans. M. B. Ramos). New York: Continuum International Publishing Group, Inc.

Gondolf, E. (1999). Characteristics of court-mandated batterers in four cities: Diversity and dichotomies. Violence Against Women, 5, 1277-1293.

Gondolf, E. W., & White, R. J. (2001). Batterer program participants who repeatedly reassault: Psychopathic tendencies and other disorders. Journal of Interpersonal Violence, 16, 361-380.

Herman, J. (1990). Trauma and recovery: The aftermath of violence – from domestic abuse to political terror. New Hampshire: MacLean.

Levinson, D. (1989). Family violence in a cross-cultural perspective. Newbury Park, CA: Sage.

McMahon, M., & Pence, E. (2003). Making social change: Reflections on individual and institutional advocacy with women arrested for domestic violence. Violence Against Women, 9, 47-74.

Mies, M., Bennholdt-Thomsen, V., & Werlhof, C. V. (1988). Women: The last colony. London & Atlantic Highlands, NJ: Zed Books Ltd.

Moss, V. A., Pitula, C. R., Campbell, J. C., & Halstead, L. (1997). The experience of terminating an abusive relationship from an Anglo and African American perspective: A qualitative descriptive study. Issues in Mental health Nursing, 18, 433-454.

Paymar, M. (1993). Violent no more: Helping men end domestic violence. Alameda, CT: Hunter House.

Pence, E., & Paymar, M. (1993). Education groups for men who batter: The Duluth model. New York: Springer.

Stark, E. (1996). Mandatory arrest of batterers: A reply to its critics. In E. Buzawa & C. Buzawa (Eds.), Do arrests and restraining orders work? (pp. 115-149). Thousand Oaks, CA: Sage.

Violence Against Women. (2002, 2003). Special issue: Women's use of violence in intimate relationships, Part 1, 2, & 3. 8(11 & 12), 9(1).

West, C. M., & Rose, S. (2000). Dating aggression among low income African American youth: An examination of gender differences and antagonistic beliefs. Violence Against Women, 6, 470-494.

Wilson, M. I., & Daly, M. (1993). Spousal homicide risk and estrangement. Violence and Victim, 8, 271-294.

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Table 1

Summary of Categories of Violence Perpetrated Against Intimate Partners

Category	Definition	Possible Intervention	Possibility of Confusion
Battering	An ongoing patterned use of intimidation, coercion, and violence to establish and maintain dominance over an intimate partner.	a) Change beliefs b) Create legal and social consequences c) Provide external monitoring d) Create equality of gender roles e) Organize communities to intervene and end violence against women	Can often be confused with situational violence and treated as less dangerous than it is. In any incidence of violence, therefore, it is important to investigate the pattern of ongoing violence.
Resistive/ reactive violence	Violence used by victims to resist domination, end battering, retaliate against abuse, and establish some parity in relationships.	a) Create new options b) End battering c) Provide resources and recourses	Often mistaken as battering and/or anti-social violence.
Situational violence	Violence used to achieve goals without any pattern of control, intimidation, and domination.	a) Create behavioral options b) Resolve issues instigating conflict c) Provide counseling	
Pathological violence	Violence arising from mental illness, neurological damage, physical disorder, substance abuse, etc.	a) Provide treatment b) Create alternative behavior c) Create consequences	
Anti-social violence	Violence arising out of personality disorder. It is usually generalized across situations.	a) Create consequences b) Provide external monitoring c) Provide structured treatment and therapy	

When *She* Hits Him: Why the Institutional Response Deserves Reconsideration

by Lisa Young Larance, MSW, LCSW, LMSW Catholic Social Services of Washtenaw County

Women are capable of violence. Those of us in the United States are familiar with reports of women who have drowned their children, hazed sorority sisters, and abused prisoners of war – to name just a few. But the question advocates, practitioners, child protective service personnel, and criminal justice system staff must ask is not whether women are capable of intimate partner violence – but whether women's force directed toward their intimate male[1] partners is the equivalent of men's force directed toward intimate female partners in terms of context, motivation, and impact (Dasgupta, 2002). Answering this question is critical (Miller, 2005) because many institutions currently use a gender-neutral approach (Miller, Gregory, and Iovanni, 2005) when responding to women who use force (WWUF) in intimate heterosexual relationships – a gender-specific problem. By doing so, women arrested on domestic violence charges are often ordered to attend intervention programs developed to address male battering behavior (Miller, 2005). Women referred for batterer intervention receive inappropriate services rather than the contextualized assessment, advocacy, education, and supportive intervention they need (Larance, 2006). Through lack of attention to the contextual factors surrounding the incident, not only do these interventions fail to meet the needs of WWUF, but in doing so, may fail to meet the goal of the referring agency – to prevent a recurrence of use of force through lack of attention to the contextual factors surrounding the incident. This article's purpose is to use the author's practice experience working with men and women[2] in anti-domestic violence intervention programs to explain this issue's complexity in terms of the need for: contextual analysis, (re)defined language, gendered distinctions in forceful behavior, and appropriate intervention strategies.

Contextualizing the Issue

In the early 1990s, not long after proarrest laws were enacted across the United States, those in the anti-domestic violence movement began to notice an apparent rise in the individual and dual arrest rates (Dasgupta, 2002; House, 2001; Miller, 2005) among women arrested for domestic violence offenses. This, along with decontextualized Conflict Tactics Scale (Straus, 1979) based research, led to the erroneous analysis that women were as violent as men and, in some cases, more violent (Archer, 2000; Dasgupta, 2002; House, 2001; Miller, 2005). When researchers and practitioners took the motivation, intent, and impact of women's and men's forceful actions into consideration they concluded women and men do not use force equally and that the majority of women who use force in their intimate heterosexual relationships are survivors of domestic violence (Dasgupta, 2002; Miller, 2005; Larance, 2006; Miller, 2005; Saunders, 2002).

(Re)defining Language

Until there is a better understanding of who did what to whom, why it was done, and what impact it had, we must be especially cautious about the language used when describing actions and actors in forceful intimate partner situations. Language is powerful. It determines how the community perceives

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WWUF, how the referral process is set into motion, the tone for program development, and ultimately shapes how WWUF view themselves. Thorough contextualized assessments, rather than fixed categories, should chart the course for the referral process and program design.

"Use of force" is used in this article as an "umbrella term that refers to physically, verbally, and emotionally detrimental behaviors used by a woman toward her intimate partner" (Larance, 2006, p. 624). Use of force is a desirable term because it accurately describes "use of physical strength to accomplish a task – but does not imply the same degree of wrong doing or harmful intent as [the term 'violence']" (House, 2001, p. 2). It is used here to describe women who have used both primary and retaliatory aggression toward their intimate male partners.

A hit is not a hit is not a hit. Context matters. A lot. A whole lot.

The term "violence" is often chosen to describe the unjust, intentional infliction of physical pain or injury by one partner against another (House, 2001). But be careful. By this definition, "violence" could be anything from slapping someone on the knee to knocking someone unconscious with the full force of one's fist. Ideally, concise descriptions such as "she was violent" will be abandoned in favor of the more explanatory (Larance, 2006) "she was/was not a survivor of domestic violence in her relationship for 9 years before resorting to physical force by throwing objects at her partner with the objective of making him change his behavior that she perceived as threatening." The latter description is more time consuming, but its specificity calls for a nuanced intervention approach.

Determining whether or not someone is a batterer is a particularly challenging process, and it should be, because "[b]attering is far more than a single event…it teaches a profound lesson about who controls a relationship and how that control will be exercised" (Schechter, 1982, p. 17). It is helpful to recognize that battering behavior does not necessarily include physical violence. Instead, battering is a pattern of cumulative, coercively controlling (Stark, 2007) actions and behaviors that have the power to instill fear and intimidate the victim for the purpose of long-term behavioral change and relationship control. A batterer can hold the victim hostage mentally – whether or not the batterer is in the same room or city.

Furthermore, the language used needs to recognize that "domestic violence" is not really "domestic" at all. "Domestic violence" has evolved into a term that erroneously refers to force used between intimate partners within their home (Pence and Dasgupta, 2006). When one person seeks to instill fear and control a partner over the relationship's long term, those actions infiltrate all space and time in both people's lives. By no means is that control restricted to the confines of a given living space. In the "violence" focused, incident based criminal justice system, the coercively controlling aspect of battering is not a crime punishable by law, whereas the response typically is. Sadia was the member of an intervention group I facilitated. Her situation illustrates this conundrum:

> Sadia and Rohit had an arranged marriage in their home country. Rohit promised Sadia's parents that Sadia would receive the best education and opportunities that life in America could offer. Upon their return to the U.S., Rohit would punch, hit, or slap Sadia when she was not "obedient." Rohit prohibited Sadia from talking to the neighbors, driving, enrolling in the community

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college, or doing anything he perceived outside the realm of her domestic duties. In the meantime, Rohit was actively having affairs with women he met at work and on the internet – and spent their savings doing so. Ten years and three children later, Rohit continued to tell Sadia that she was "trash," would be "nothing" without him, and there was absolutely nothing she could do to stop his affairs. One morning Sadia decided she could do something. During his morning shower Sadia stabbed Rohit in the back.

Sadia committed a crime when she stabbed Rohit. But is Sadia a "batterer"? Would she benefit from batterer services? I don't think so. Sadia needed intervention that balanced exploration of viable nonviolent responses and personal responsibility-taking with traditional survivors' support including, at the very least, safety-planning and community resources. For the purpose of this article it is helpful to note that stabbing Rohit only escalated Rohit's forceful, coercively controlling behavior against Sadia. He routinely chased Sadia to her court-mandated intervention group – threatening what he would do to her if she sought a divorce. But the court declined Sadia's request for a Restraining Order due to her criminal history.

This example is not meant to minimize what Sadia chose to do to Rohit with the knife. It is meant to point out that a decontextualized, incident-based approach does not provide an accurate picture of inter-partner aggression. Such a picture is critical because it dictates the institutional response when the law is broken. According to Osthoff, "Not everyone who hits [her] partner is a batterer. A hit is not a hit is not a hit. Context matters. A lot. A whole lot" (2002, p.1540). In other words, much more needs to be known about the context of relationship dynamics before institutions can effectively intervene in the most private aspects of people's lives.

The process of identifying someone who is battering a partner includes formulating multiple questions that need to be asked, asked again, and answered thoroughly (Larance, 2006; Osthoff, 2002; Pence and Dasgupta, 2006). It is a time-intensive process that includes collateral contacts, time to build trust, the opportunity to reframe the same question in many different ways, and time for awareness to be cultivated in the woman receiving services. For example, what was different for her about the referring incident? Do her actions instill fear in her partner? Are they meant to? Is she able to change his behavior over the relationship's long-term by what she does to him, how she does it, and when she does it? Is she afraid of him in ways that other people do not seem to understand and, if so, what is it that she believes he can do to her? After she answers these questions, assess his answers to the same questions.

Alison's situation illustrates how challenging it can be to know who is *really* battering whom and what the nonphysical impact of those actions may be:

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Alison was referred for services by child protective services for allegations, by her partner of 13 years, Brad, that she was abusing Brad and the children. When Alison's child protective services worker was contacted for more information about Alison's situation the response was, "Alison? Oh Alison, now *she* wears the pants in that relationship!" Because Alison was physically bigger than Brad, the only one of the two who worked outside their home, had sole access to the ATM card and family car, Alison had been identified as the "batterer" in the relationship. But wait. It turns out that 3 years into the partnership Brad claimed he was physically unable to work due to back problems. Alison opted to be the sole breadwinner rather than seek public assistance. Alison limited Brad's access to the ATM card because he had gambled their $20,000 savings away only 5 years prior. And as for access to the car? Brad had lost his license due to a DUI. Was Alison afraid of Brad? No, she stated, because Alison was confident Brad could not physically hurt her. Did Alison believe there was something Brad could do to Alison that did not necessarily involve physical harm? According to Alison, Brad had routinely threatened her with loss of the children if she did not comply with his demands. So how had Alison been noncompliant this time? Alison had refused to pick Brad up, at the bar, at 2 a.m. when Alison had to be at work by 7 a.m.

Yes, Alison admitted, she had pushed Brad at different times during their relationship and had threatened to leave the relationship if things did not get better. But the impact of her actions seemed to put Alison at a greater risk of Brad's coercively controlling behavior rather than present any risk to Brad's safety.

Are there female batterers? At this point in my practice I believe "batterer" is a gender specific term that refers to coercively controlling tactics exhibited by men in intimate heterosexual relationships. I have not worked with a woman in a heterosexual relationship who has had the capacity to effectively instill fear or intimidate her partner in a way which has changed his behavior over the relationship's long term. According to Pence and Dasgupta, "…it is exceptional for [a woman] to achieve the kind of dominance over her male partner that characterizes battering. Social conditions, which do not condone women's use of violence, patterns of socialization, as well as the typical physical disparities…make the woman 'batterer' an anomaly" (2006, p. 6). Margie was a woman whom I served in an intervention program who initially presented as a batterer:

> Margie and Jim had been married for 11 years and, when angry, Margie was prone to grabbing anything close enough and throwing it at Jim. Why was Margie so angry? Well, Margie liked the dishwasher to be loaded a certain way or the bathtub to be drained within a certain time frame after the kids' baths. In short, Margie wanted Jim to do things Margie's way and if he didn't, she let him know it.

But did Margie instill fear in Jim? No. After Margie threw their china collection at him, Jim only grimaced and encouraged her to seek help. Was she

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able to change Jim's behavior or intimidate him through her actions? No. He continued to load the dishwasher how he wanted and drain the water when he remembered. After weeks of group work Margie disclosed that she had been adopted at 13 in exchange for money her family desperately needed. She believed she was still working out her anger but Margie acknowledged she was doing so inappropriately and on Jim. Margie was angry, volatile, and violent toward Jim. Margie was not a batterer.

Making Distinctions

Distinguishing between the force a WWUF uses and the force and coercively controlling tactics a batterer uses is not intended to excuse her behavior or vilify his. It is meant to expose a dynamic that has multiple repercussions for both individuals. The men I have worked with use power, control, and force in order to intimidate and instill fear in their partners for long-term relationship control. If these men acknowledge their behavior during the group process, they often state a belief that their tactics have been effective at controlling their female partners but consistently minimize and deny their actions. Most of the women I have worked with, in contrast, take responsibility for their behavior at the time they call for an intake and are eager to seek help for their partners as well. The women's stated motivations for using force include: the desire to defend their self-respect against their partners' verbal and/or emotional attacks; to defend their children; a refusal to be victimized again; being passive did not work so maybe using violence will; and to gain short-term control over a chaotic/abusive situation (Larance, 2006; for similar findings refer to Dasgupta, 2002; House, 2001; Kernsmith, 2005; Miller, 2005). By using force, these women have not successfully controlled their partners' behaviors. Instead, their use of force has put the women at increased risk of physical injury and escalated the violence against them.

A glimpse of what happened at the scene of one domestic violence arrest, when a woman used force and her partner was a batterer, is instructive of how the differences between her behavior and his can shape the turn of events – for those being helped and those sent to help.

> Tonya had been waiting for George all night. He had not come home and she was worried that he was hurt. When George came home Tonya yelled at him and demanded to know where he had been. George picked Tonya up and threw her against the wall. She responded by grabbing her purse and hitting George with it. Upon impact the purse's zipper scratched George's face. George grabbed Tonya and threw her against the opposite wall. Tonya called the police to have George removed from the home. When the police arrived Tonya was crying and "hysterical." George was calm. Tonya immediately told the police what she had done and why she had done it. George also told the police what *Tonya* had done – taking no responsibility for his own behavior. Tonya did not disclose what George had done to her out of a fear of what he may do to her the next time. Tonya was arrested. George was not.

Physically hurting someone with the use of non-self-defensive physical force is a crime. However, Tonya's call for police intervention is the first clue that this is not a "level playing field." But law enforcement's decontextualized response treats the situation as though it were. Law enforcement's response is

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driven by an incident based approach to justice in which mandatory arrest laws dictate that, in the words of the responding officer, "Because this is a DV call someone is going to jail." From that perspective the police officers' assumptions of what the "good" vs. "bad" victim looks and sounds like, during those few moments of intervention, can have far-reaching consequences. Often a "good victim" is perceived as compliant, quiet, passive, bruised, sympathetic, and white. Tonya presented as none of those. Furthermore, Tonya's voluntary statement of responsibility made further investigation seem unnecessary because the statement made it "clear" to the police who was going to jail and who was not.

The scene is also indicative of how a batterer can intentionally try to manipulate law enforcement officers' response. At the scene, George was calm. After all, he had expended much of his energy throwing Tonya across the room (similar to Miller's 2005 findings). Tonya was crying and screaming. George capitalized on his outward calm in a way that, in Tonya's words, "seemed to draw attention to" Tonya's "hysterical" and "out of control" behavior. Furthermore, George's visible wound from the impact of Tonya's purse served him in a way that Tonya's tendency for latent bruising did not. Tonya was shocked that her call for help resulted in *her* designation as "the perpetrator" and his designation as "the victim." The short-term result was that Tonya had to immediately leave the home she owned, was unwelcome at the county's battered women's shelter that does not serve "perpetrators," and spent the weekend in jail. Tonya's situation is similar to Rajah and colleagues' (2006) findings that, due to a decontextualized approach, many survivors who are assigned the "perpetrator" role when they are arrested are later denied job training opportunities, safe shelter, employment options, and issuance of restraining orders.

Similar to Susan Miller's (2005) findings, the partners of the women I have worked with have used the women's "perpetrator" status against the women. The partners of these women have: threatened the women with loss of custody if the women refused to waive their rights to trial or drop divorce proceedings; encouraged the women to violate orders of protection in order to show they "really loved" them; self-inflicted wounds after battering their female partners but before the police arrived to appear "victimized"; threatened to call to the police if the women refused to have sex with them; destroyed property, called the police, and then wrongly accused the women of destroying property based on prior "evidence" that the women were the primary aggressors.

What happens if a woman is not assessed to be a domestic violence survivor in the present relationship? After all, not all WWUF are survivors. However, for the sake of thorough assessment I encourage a closer look. Dasgupta warns, "the history of women's experiences of abuse, which may stretch across several consecutive relationships, is an important consideration because it may influence their perceptions of danger (2002, p. 1374)" in the present relationship – whether their partners are abusive or not. In Hazel's case it was difficult to understand why she had resorted to force when her husband was neither threatening nor controlling. Further assessment brought clarity to how her history had largely motivated her present behavior:

> Hazel had been married for just two years and couldn't figure out why she would "just lose it" with her husband, Eric. Every time Eric voiced a desire to do

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> something with someone other than Hazel, she would respond with verbal attacks and would throw objects at Eric. Hazel denied a history of domestic violence survivorship. But after 11 weeks in group Hazel was discussing a "challenging situation." At that time, Hazel noted that her first marriage ended because "we had different ideas" about marriage. She noted that five days a week, for nearly 16 years, Hazel's first husband had come home to eat the lunch he had instructed Hazel to prepare – and then went upstairs and slept with his secretary in the couple's marital bed. Hazel "endured" because, among other things, he threatened to leave her with three children and no money. Hazel didn't believe she had options at that time but now she felt an unfamiliar level of safety in an intimate relationship for the first time.

Hazel's feelings of safety in her nonabusive second marriage provided space for decades of anger and abandonment to surface – but in a way that put Hazel and Eric at risk of injury. Hazel's forceful actions did not change Eric's behavior nor did her actions put Eric in fear or intimidate him. However, Hazel's actions had damaged their relationship and the way Hazel viewed herself. Hazel needed contextualized intervention tailored to her complex history.

Unintended Consequences

At the time of sentencing, women's tendency to not only admit to their actions but initiate a statement of full-responsibility – and male batterer's denial about what happened during the incident – does not serve women. Many women have told me, "I believed if I just told the whole truth then everything would be okay." As a result prosecuting attorneys often charge WWUF to the full extent of the law, while the male batterers' denial and minimization are often rewarded with plea bargains. Many of the women I have worked with also state that they "just wanted to get home to the kids" so they agreed to "whatever" their attorneys offered them, not considering the long-term consequences of this choice. Because these women were identified as "perpetrators" they did not have the benefit of victim-witness advocate advice to raise their awareness of other options. Many women have followed their attorney's advice because, in the words of one woman's attorney, "You don't really want to go through a long trial and spend money you don't have when you will probably lose anyway." The end result is a record of criminal history which, in many cases, has meant the loss of jobs or ineligibility for employment for beauticians, nurses, teachers, and others, whose professional licenses are revoked due to domestic violence charges.

Appropriate Interventions

When women resort to non-self-defensive physical force in their intimate heterosexual relationships, they are without what they recognize as viable behavioral options. Proactive anti-domestic violence intervention, focused on the contextual analysis of women's use of force, needs to be an integral component of middle and high school curricula; teen dating violence prevention programming; and domestic violence survivors' services. Effective proactive interventions for girls and women will raise their awareness of healthy relationship dynamics; viable nonforceful responses to abusive partners; and short- and long-term consequences of resorting to nonself-defensive physical force in intimate relationships.

By using force, women are putting themselves and others at increased risk of harm and physical injury (Kernsmith,

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2005; Larance, 2006; Miller, 2005; Stark, 2007). According to Pence and Dasgupta, "A woman who believes that there is no recourse or one who cannot access any resource, may use violence as a method of self protection more readily than those who can access alternative recourses and resources" (2006, p. 11). Therefore, it is critical that attention be focused on reactive interventions as well. From my experience, effective micro-level intervention is a mix of thorough contextualized assessment, targeted advocacy, relevant education, and emotional support in a group setting (Refer to Larance, 2006 and Larance and Hoffman, forthcoming for a more detailed explanation). Assessment needs to be viewed as an ongoing process, at all points of agency contact, rather than a time-limited interview and/or completion of finite paperwork. "By thoroughly analyzing the history and dynamics of the relationship, the intent, purpose and effect of the violent act can be better understood. The deeper understanding of the nature of the violence that comes from the analysis" (Miles, 2007, p. 3) allows for a more effective institutional response.

Providing WWUF with relevant educational information and emotional support in a group setting, can be a bridge between many women's chaotic pasts and/or current relationship dynamics, toward possibilities for the future. This "bridge" should consist of opportunities to:

- process possible victimization and plan for their safety;
- identify appropriate levels of responsibility for their actions;
- address the shame felt for their actions;
- raise awareness of what they view as viable nonviolent behaviors in their relationships; and
- build social networks with other group members that have the potential to sustain the women long after they have left the agency setting (Larance and Porter, 2004).

Those from referring agencies may not understand the women's complex circumstances that led to their choices to use force or that "change" may not happen at the pace or in the manner the referring agencies desire. Therefore, advocating for WWUF by communicating the complexities of this process is critical to effective service provision.

The Duluth Abuse Intervention Project in Duluth, Minnesota, used a coordinated community response to design an innovative macro-level approach to addressing women's use of force. The City Attorney's Office created a provision for victims who were arrested for the first time that referred the women to an education and advocacy program (Pence and Dasgupta, 2006). Likewise, the police department drafted a "predominant aggressor policy" in which officers avoid arresting victims of ongoing abuse who have retaliated against their abusers (Pence and Dasgupta, 2006). The combination of both programs has resulted in an impressive reduction in the recidivism rates of survivors of DV using force against their partners.

In general, women's forceful behaviors toward their intimate male partners can be thought of as "pushing back" against their male partners' coercively-controlling battering tactics that "push down" on the women – an "ascending" vs. "descending" power dynamic. Therefore, interventions and policies developed to address women's use of force should not be considered panaceas for eradicating domestic violence. Instead they should be understand to be additonal responses to the core problem of men who batter women.

Summary

Intervening in the intimate lives of others is a time-sensitive opportunity for lasting change. Misjudging who is

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"battering" whom and intervening incorrectly could mean an opportunity lost and, in some cases, the "difference between life and death" (Pence and Dasgupta, 2006, p. 16). Recognizing that women's use of force in intimate heterosexual relationships is a gender-specific issue that requires contextualized questions and answers is the first step in appropriately tailoring the institutional response. By doing so, women who use force and male batterers will receive appropriate intervention. An informed institutional response has the potential to contribute to the goal of encouraging nonviolence through personal responsibility, survivor support, and true batterer accountability.

Endnotes

1 The author focuses on heterosexual relationships because homosexual relationship dynamics and societal responses to those relationships are unique and therefore warrant a separate discussion.

2 All intervention program group participant names have been changed and defining case details have been omitted to promote the individuals' anonymity.

References

Archer, J. (2000). Sex differences in aggression between heterosexual partners: A meta-analytic review. *Psychological Bulletin*, Vol. 126, 651-680.

Dasgupta, S. D. (2002). A framework for understanding women's use of nonlethal violence in intimate heterosexual relationships. *Violence Against Women*, Vol. 8, No. 11, pp. 1364-1389.

House, E. (2001). *When women use force: An advocacy guide to understanding this issue and conducting an assessment with individuals who have used force to determine their eligibility for services from a domestic violence agency*. Ann Arbor, MI: Domestic Violence Program/Safe House.

Kernsmith, P. (2005). Exerting power or striking back: A gendered comparison of motivations for domestic violence perpetration. *Violence and Victims*, Vol. 20, No. 2, pp. 173-185.

Larance, L. Y. (July 2006). Serving Women Who Use Force in Their Intimate Heterosexual Relationships: An Extended View. *Violence Against Women Journal*. Volume 12, Number 7, 622-640.

Larance, L.Y. and Hoffman, A. (Forthcoming 2008). *VISTA Program Curriculum: An Extended View of Serving Women Who Use Force*. Jersey Center for Nonviolence Publication: Morristown, NJ.

Larance, L. Y. and Porter, M. L. (June 2004). Observations from Practice: Support Group Membership as a Process of Social Capital Formation among Female Survivors of Domestic Violence. *Journal of Interpersonal Violence*. Volume 19, Number 6, pp. 676-690.

Miles, D. (Summer 2007). The system's response when victims use force: One county's solution. *Violence Against Women Newsletter: Prosecuting Attorney's Association of Michigan*. Vol. 5, Issue 3, pp. 1-6.

Miller, S. L. (2005). *Victims as offenders: The Paradox of Women's use of violence in*

Continued on page 19

Continued from page 18

relationships. New Brunswick, NJ: Rutgers University Press.

Miller, S.L., Gregory, C., and Iovanni, L. (2005). One size fits all? A gender-neutral approach to a gender-specific problem: Contrasting batterer treatment programs for male and female offenders. *Criminal Justice Review*, Vol. 16, No. 3, pp. 336-359.

Osthoff, S. (2002). "But Gertrude, I beg to differ, a hit is not a hit": When battered women are arrested for assaulting their partners. *Violence Against Women*, Vol. 8, No. 12, pp. 1521-1544.

Pence, E. and Dasgupta, S.D. (2006). *Re-examining 'battering': Are all acts of violence against intimate partners the same?* Praxis International, Inc.

Rajah, V., Frey, V., and Haviland, M. (2006). "Aren't I a victim?" Notes on identity challenges relating to police action in a mandatory arrest jurisdiction. *Violence Against Women*, Vol. 12, No. 10, pp 897-916.

Saunders, D. G. (2002). Are physical assaults by wives and girlfriends a major social problem? A review of the literature. *Violence Against Women*, Vol. 8, No. 12, pp. 1424-1448.

Schechter, S. (1982). *Women and male violence: The visions and struggles of the battered women's movement*. Boston, MA: South End Press.

Stark, E. (2007). *Coercive control: The entrapment of women in personal life*. New York, New York: Oxford University Press.

Straus, M. (1979). Measuring intrafamily conflict and violence: The conflict tactics (CT) scale. *Journal of Marriage and Family*, Vol. 41, pp. 75-88.

Who is Lisa Larance?

Lisa Young Larance is a Fulbright scholar who holds a Masters of Social Work Degree from Washington University's George Warren Brown School of Social Work. Lisa co-created, implemented, and managed the Jersey Battered Women's Service, Inc.'s. VISTA Program, in Morristown, New Jersey that continues to serve women who have used force in their intimate relationships. Lisa currently serves women who have used force as the RENEW Program Coordinator for Catholic Social Services of Washtenaw County in Ann Arbor, Michigan. Lisa is a published author and national presenter on the topic of women's use of force.

Women's Use of Force in Heterosexual Relationships:

Additional Resources

Compiled by Lisa Young Larance

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Website-Based Resources:

RENEW Program Website, includes audioconferences, curricula, and articles. www.csswashtenaw.org/renew

When *She* Hits Him: Why Gender & Context Matter, November 2010 national conference addressing women's use of force. Conference materials and speeches available for download. http://www.biscmi.org/wshh/

Community-Based Curricula/Guides:

***Turning Points*: A Nonviolence Curriculum** for women who use violence against their partners. For more information go to: http://dvturningpoints.com/products

***Vista Curriculum*,** a 20-session curriculum (available for free download) framing intervention and support services for women who use force in their intimate relationships. http://www.jbws.org/publications.html

Prison-Based Curriculum:

Meridians for Incarcerated Women, a 20-session curriculum providing incarcerated women an opportunity to reflect upon their pasts as they shape their futures. www.csswashtenaw.org/renew

Listserv Membership:

W-Catch22 provides local, national, and international resource sharing opportunities for professionals involved in the lives of women who have used force in their intimate relationships. Contact listserv moderator, Lisa Young Larance, for membership information: llarance@csswashtenaw.org

A Brief List of Recommended Articles:

Brush, L. guest editor (2009). Special Issue: Focusing on Evan Stark's Coercive Control. *Violence Against Women, 15*(12).

Dasgupta, S. D. (2002). A framework for understanding women's use of nonlethal violence in intimate heterosexual relationships. *Violence Against Women 8*(11), 1364-1389.

Dasgupta, S.D. (2007). Exploring South Asian battered women's use of force in intimate relationships. *Manavi Occasional Paper 1*. New Brunswick, NJ: Manavi (manavi@manavi.org)

DeKeseredy, W. S., & Schwartz, M.D. (1998). Measuring the extent of woman abuse in intimate heterosexual relationships: A critique of the Conflict Tactics Scale. *VAWnet*. Available: http://new.vawnet.org/Assoc_Files_VAWnet/AR_ctscrit.pdf

Goodmark, L. (2008). When is a battered woman not a battered woman? When she fights back. *Yale Journal of Law and Feminism, 20*(75), 75-129.

Larance, L.Y. (2006). Serving women who use force in their intimate heterosexual relationships: An extended view. *Violence Against Women*, *12*(7), 622-640.

Larance, L.Y. (Winter 2007). When she hits him: Why the institutional response deserves reconsideration. *Prosecuting Attorney's Association of Michigan, Winter Newsletter*, pp. 10-19.

Larance, L.Y. (2012). Commentary on Wilson, Woods, Emerson and Donenberg: The necessity for practitioner vigilance in assessing the full context of an individual's life experiences. *Psychology of Violence: Special Issue on Co-occurance Among Forms of Violence*, *2*(2), 208-210.

Larance, L.Y. and Das Dasgupta, S., guest editors (2012). Contemporary issues regarding battered women's use of nonfatal force in their intimate heterosexual relationships. *Violence Against Women: Special Issue*, Volume 18, Number 9.

Larance, L.Y. and Das Dasgupta, S., (2012). Guest editors' introduction. *Violence Against Women: Special Issue*, Volume 18, Number 9, 1004-1007.

Miller, S. L. (2005). *Victims as offenders: The paradox of women's use of violence in relationships*. New Brunswick, NJ: Rutgers University Press.

Miller, S. L., & Meloy, M. L. (2006). Women's use of force: Voices of women arrested for domestic violence. *Violence Against Women*, *12*(1), 89-115.

Pence, E., & Dasgupta, S.D. (2006). *Re-examining 'battering': Are all acts of violence against intimate partners the same?* Praxis International, Inc. Available: http://praxisinternational.org/files/praxis/files/ReexaminingBattering.pdf

Potter, H. (2008). *Battle cries: Black women and intimate partner abuse.* NY: New York University Press.

Renzetti, C.M. (1999). The challenges to feminism posed by women's use of violence in intimate relationships, In S. Lamb (ed.), *New versions of victims: Feminists struggle with the concept* (pp. 42-56). NY: New York University Press.

Swan, S.C., & Snow, D.L. (2006). The development of a theory of women's use of violence in intimate relationships. *Violence Against Women*, *12*(11), 1026-1045.

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Domestic Violence Online Petition Program

"Orders of protection are vital to the safety of litigants who come before Family Court. The Domestic Violence Online Petition speeds up the process for petitioners at this critical stage in the proceedings."

–Judge Judy Harris Kluger, Chief of Policy and Planning, New York State Unified Court System

The Challenge

Protection orders are a critical tool for ensuring the safety and security of survivors of domestic violence. But because of limited court resources, litigants in New York often experience waits for a clerk's assistance to file a petition. And advocates—also facing high volume—are all too often unable to accompany litigants through the process.

The Response

Aided by Federal STOP funding, a team of programmers and court system planners in New York State developed the Domestic Violence Online Petition Program. They piloted the system in Bronx County Family Court in February 2013 and two months later expanded it to Brooklyn Family Court. Along with staff from the New York City Family Court and the Center for Court Innovation, this collaborative effort included representatives from the New York State Unified Court System—specifically, the Office of Access to Justice, Division of Technology, and Office of Policy and Planning—as well as the U.S. Department of Justice's Office on Violence Against Women and the New York State Division of Criminal Justice Services.

"The online petition program is successful because it creates a direct link from the online application to the court," said Liberty Aldrich, the director of Domestic Violence Programs at the Center for Court Innovation. By creating a direct link, the Domestic Violence Online Petition Program facilitates access to justice for domestic violence victims.

How It Works

The Domestic Violence Online Petition Program allows a petitioner—with help from a trained domestic violence advocate—to use the Internet to file the application for an order of protection. Whether in the advocate's office at a Family Justice Center or in another comfortable, private setting, the advocate guides the petitioner through the secure online process and ensures that all essential information is included. With just a few questions appearing on the screen at one time, the new system is simple to use.

"The website collects the required data in the proper format," Christine Sisario, the director of technology at the Center for Court Innovation, explained. "Questions are worded in plain language but in a way that still gets the legally required information." The system cuts back on time and error. In the past, when the form was filled out by hand, "people had to wade through many questions, some of which may not apply to them, and they could miss a required question. But the online system skips sections that aren't applicable based on the petitioner's particular circumstances and also won't let them proceed without answering each required question," Sisario said.

The New York City Family Justice Center in Brooklyn, a partnership between the Mayor's Office to Combat Domestic Violence and the Kings County District Attorney's Office, uses the online application as part of its effort to offer comprehensive services to victims of intimate partner violence. Case managers and civil legal attorneys, who come from numerous community-based organizations, help petitioners make the application as accurate and thorough as possible.

"The civil legal attorneys on-site from our partner agencies can review a petition for an order of protection and offer immediate feedback to the case manager who drafted the petition with the client," said Jennifer DeCarli, the Justice Center's executive director.

Only advocates working at registered agencies are permitted to enter the information, and the data sent to the secure court system is encrypted. This means that victims of domestic violence are assured that only appropriate parties have access to their online petitions and their privacy will not be violated during the process, Sisario said.

After the advocate helps the petitioner fill out the online form, the petitioner receives a print-out of the draft of the application to take to court. Meanwhile, the data collected online is sent electronically so that when the petitioner arrives in Family Court, the information is already in the court's confidential database.

When the petitioner arrives in court, he or she verifies the information with the court clerk and provides any updates. The final petition is then docketed and a court appearance is scheduled for that day so an order of protection can be issued.

The Impact

The system has improved efficiency all around. "It now takes only about five to 10 minutes to docket and schedule a petition, so a litigant is saving several hours a day," Mike Williams, clerk of court for Bronx County Family Court, said. This time savings also helps the court serve other litigants more efficiently.

An added benefit of this program is faster, accurate communication with state and national databases, which improves victim safety. As soon as an order of protection is issued, the information is sent to the domestic violence registries of the New York State Police Information Network and the FBI. This means that law enforcement officials have improved access to background information about people who have orders of protection against them when, for instance, they are pulled over for speeding or they attempt to purchase firearms.

Kimberlina Kavern, director of the Bronx Family Court Program at Safe Horizon, where the first online petition was filed, called the automated system life-changing. "We used to get a lot of victims who came at the end of the day when it was too late to file and we had to tell them to come back in the morning. Now, we can complete the online form any time, even at the end of the day. When they return the next day, they can go straight to the petition room and then right to the intake judge," she said.

The Domestic Violence Online Petition Program will be rolled out statewide by the end of 2013.

For More Information

To learn more about the Domestic Violence Online Petition Program, contact Domestic Violence and Family Court Programs at the Center for Court Innovation at *info@courtinnovation.org*.

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THE DOMESTIC VIOLENCE ADVOCATE ASSISTED PETITION PROGRAM

The Domestic Violence Advocate Assisted Petition Program was specifically designed for domestic violence advocates and attorneys to assist litigants in completing and filing family offense petitions with the family court. As part of a grant obtained by the Hon. Judy Harris Kluger's Office of Policy and Planning, the Unified Court System's Department of Technology worked with the Hon. Fern Fisher's NYS Courts Access to Justice Program, NYS Family Court, Pro Bono Net, the Center of Court Innovation to build a user friendly web-based system integrated with the Family Court's Universal Case Management System (UCMS). Additionally, advocate groups including Safe Horizon and Family Justice Centers participated in the developmental and testing phases of the program.

Basically, this program allows domestic violence advocate groups to create legally sufficient Family Offense petitions for a victim of domestic violence. The information collected in the program is directly transferred into the Family Court's case management system, where court personnel can easily review the information and docket the case. It is anticipated to be a great assistance to domestic violence victims throughout New York State and lead to greater access to justice for all litigants.

1. SCOPE OF THE INITIATIVE:

a. Advocates use the dedicated LawHelp Interactive (LHI) site hosted by Pro Bono Net to create a Family Offense petition for litigants via a streamlined HotDocs interview.

b. The program generates:
   - A Family Offense Petition;
   - Personalized and county based instructions;
   - An address confidentiality affidavit, if requested.
   - An "Affidavit in Support of Issuance of Family Court Temporary Order of Protection (from Criminal Court) when Family Court is not in session.
   - A form requesting a electronic/telephonic initial appearance doe elder or mobility challenged victim of domestic violence (county based option).

c. Data collected in the program is electronically transferred from LHI to the Court's case management system's "E-Share Wizard."

d. Litigant brings copy of petition to court. After brief review of information received in E-Share Wizard, court personnel "accept" data and docket case.

2. BENEFITS:

a. **Litigants:**
   - Reduce time spent in court
   - More detailed petitions
   - More comprehensive wraparound domestic violence services
   - More detailed information transmitted to NYSPIN
   - Reduces waiting time for all litigants

b. **Advocates:**

- User friendly interface and faster processing times
- Easily prepared detailed petitions
- Enhanced service to victims of domestic violence
- Saves time
- Strengthens relationship with local Family Court

c. **Court:**

- Reduces overall clerical burden saving hours of data entry time
- Professional, legible detailed petitions
- Streamlined process allowing court to handle more cases without additional staff
- Improve case management and thereby meet the complex needs of our court users.

3. EXPANSION:

As described above, the initiative seeks to achieve short and long term goals by incorporating domestic violence agencies into the daily operations of family court while expanding access to justice to all court users and enhanced services to victims of domestic violence. To achieve a smooth and successful statewide implementation, the following steps are being taken:

1. A list of primary Family Court domestic violence agencies has been created and a rollout plan is targeting a being developed with meetings between these agencies and the local court to finalize implementation.
2. District Coordinators have been selected for each Judicial District. Each District Coordinators will be responsible for outreach to advocacy agencies and training of court staff. The goal is for each district to have one county operational be the end of calendar year 2013. All counties should be operational within 6-8 Months.
3. Melissa Mills MJMills@courts.state.ny.us shall serve as the primary point person for the courts outside NYC and ProBono.Net liasion, Mike Williams MWilliams@courts.state.ny.us will serve same role within the NYC Family Courts.
4. Follow-up meetings and training will be set up with advocates and court personnel.

5. SUMMARY:

Upon statewide implementation, the court will be better suited to overcome the burdens of the upcoming year while expanding the services provided. This initiative addresses multiple issues affecting the family court by providing long term benefits to the court operationally but also to the court users and their families.

How Language Helps Shape Our Response to Violence Against Women

Presentation Exercises

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New York Judicial Symposium on Domestic Violence

Brooklyn, NY

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Appendix B
Exercise: Jastorff Pleads Not Guilty

Jastorff Pleads Not Guilty to More than 30 Counts of Rape

by Jenna Mann, December 28, 2010 6:16 PM

KDLT South Dakota News – NBC Affiliate
http://www.kdlt.com/index.php?option=com_content&task=view&id=6866&Itemid=57

The Sioux Falls middle school teacher accused of fostering sexual relationships with two 13-year-old girls was back in court today. 26-year-old Nicolas Jastorff entered his plea on more than three dozen counts of rape.

Jastorff, a former special education teacher at Patrick Henry Middle School, faced judges in two counties and pleaded not guilty to all 39 counts against him."

Jastorff was first arraigned in Minnehaha County Tuesday morning on 25 counts of fourth degree rape. He is also charged with two counts of solicitation of a minor and two counts of sexual contact with a minor. Later, Jastorff appeared in Lincoln County on an additional ten counts of fourth degree rape.

Jastorff is accused of maintaining sexual relationships with two 13-year-old girls who attended Patrick Henry. According to police affidavits, he would perform sex acts on the two victims in a classroom at the middle school. The documents show he would visit one of the girls at her home during the summer, and the same victim would go to his home in Harrisburg, where the two engaged in sexual activity.

During his arraignment in Minnehaha County, Jastorff's lawyer asked the judge to lower bond from $1 million to $50,000, on the condition he would remain under house arrest at his parents' residence in Spearfish and would check in daily with the Spearfish Police Department. The judge denied the request, but did lower bond to $500,000 cash only.

Jastorff's lawyer did not request bond be lowered in Lincoln County because he said it was *not* possible for Jastorff to make bail in Minnehaha County.

In Minnehaha County, a trial has been scheduled for March 7. The judge has scheduled a jury trial to begin in Lincoln County the next month, on April 7.

35 of the charges against Jastorff are Class 3 felonies. Each is punishable by up to 15 years in prison and/or a $30,000 fine.

VIOLENCE AGAINST WOMEN

Violence against women continues to be a major problem in U.S. society in the 21st century. Our rates of rape, sexual abuse, spouse abuse, and sexual harassment are the highest in the industrialized world.

Each year, according to national crime statistics, more than one-half million women are raped. Half are raped before the age of 18. Contrary to one of the old myths about rape, most of these victims are assaulted by someone they know, including family members and friends. Rapists come from every socio-economic class and racial background. Most have a "normal" appearance; you can't tell if a person is a rapist by how they look.

Annually, millions of girls are sexually abused. Much of this abuse happens to adolescents. But sometimes girls as young as two or three are abused by members of their own family, or other adults in care-giving roles. The high incidence of child sexual abuse is one of the great tragedies of modern American society.

On average, three women every day are murdered as a result of domestic violence. According to the Surgeon General, battering is the leading cause of injury to women in the U.S. More women are injured by partners or spouses than by automobile accidents, athletic injuries, or household mishaps. Sometimes these injuries result in emergency room visits. Domestic abuse is one of the leading causes of emergency room visits by women. It occurs in every socioeconomic class and racial group. Batterers can be middle-aged, twenty-something, or high school students. They can be stockbrokers or truck drivers. Family violence doesn't discriminate by age or profession.

Millions of girls and women suffer sexual harassment in school, in the workplace, and on the street. One national study found that 83% of the girls responding reported being harassed at school. Women and girls of all racial and ethnic backgrounds are harassed by peers, teachers, and employers.

There are no easy solutions to the problem of violence against women. Over the past two decades, services for rape survivors and victims of domestic violence have improved, although funding for these services is often precarious and frequently inadequate to the scope of the problem. There has also been an increase in the number of programs for sex offenders and batterers, although activists in the battered women's movement still maintain that sentences are typically lenient and abusers are rarely held accountable, either by the law or by their school or employer.

While the problem is deep and widespread, better services for victims, more effective treatment of offenders, and an increased focus on prevention through education and community awareness campaigns offers the hope that one day violence against women will not be such a common event, but rather a rare and aberrational occurrence.

Language Matters #1: "Violence Against Women"
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How Language Helps Shape Our Response to Violence Against Women

Presentation Resource Materials

Claudia J. Bayliff
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National Judicial Education Program – Legal Momentum

New York Judicial Symposium on Domestic Violence

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How Language Helps Shape Our Response to Gender-Based Violence
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Letter from Judith G. Greenberg, Co-Director, The Judicial Language Project, New England Law, to Chief Justice Carol W. Hunstein, Supreme Court of Ga., and Chief Judge M. Yvette Miller, Court of Appeals of the State of Ga. (Sept. 23, 2010) (on file with NJEP).
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http://www.kdlt.com/index.php?option=com_content&task=view&id=6866&Itemid=57 (last visited June 8, 2011).
Permission granted by Paul Heinert, News Director, KDLT Television via Email on June 8, 2011.

Letter from Wendy J. Murphy, Co-Director, The Judicial Language Project, New England Law (Apr. 7, 2011) (on file with NJEP).
Permission granted by Wendy Murphy via email on April 19, 2011.

Judge Chuck Weller, *Covering Domestic Violence: A Guide for Informed Media Reporting in Nevada*, Nev. Network Against Domestic Violence, http://www.nnady.org/pdfs/Press_Room/Covering Domestic Violence-Media Guide.pdf.
Permission granted via email by Judge Chuck Weller on August 11, 2011.

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Appendix B
Exercise: Jastorff Pleads Not Guilty

Jastorff Pleads Not Guilty to More than 30 Counts of Rape

by Jenna Mann, December 28, 2010 6:16 PM

KDLT South Dakota News – NBC Affiliate
http://www.kdlt.com/index.php?option=com_content&task=view&id=6866&Itemid=57

The Sioux Falls middle school teacher accused of fostering sexual relationships with two 13-year-old girls was back in court today. 26-year-old Nicolas Jastorff entered his plea on more than three dozen counts of rape.

Jastorff, a former special education teacher at Patrick Henry Middle School, faced judges in two counties and pleaded not guilty to all 39 counts against him."

Jastorff was first arraigned in Minnehaha County Tuesday morning on 25 counts of fourth degree rape. He is also charged with two counts of solicitation of a minor and two counts of sexual contact with a minor. Later, Jastorff appeared in Lincoln County on an additional ten counts of fourth degree rape.

Jastorff is accused of maintaining sexual relationships with two 13-year-old girls who attended Patrick Henry. According to police affidavits, he would perform sex acts on the two victims in a classroom at the middle school. The documents show he would visit one of the girls at her home during the summer, and the same victim would go to his home in Harrisburg, where the two engaged in sexual activity.

During his arraignment in Minnehaha County, Jastorff's lawyer asked the judge to lower bond from $1 million to $50,000, on the condition he would remain under house arrest at his parents' residence in Spearfish and would check in daily with the Spearfish Police Department. The judge denied the request, but did lower bond to $500,000 cash only.

Jastorff's lawyer did not request bond be lowered in Lincoln County because he said it was *not* possible for Jastorff to make bail in Minnehaha County.

In Minnehaha County, a trial has been scheduled for March 7. The judge has scheduled a jury trial to begin in Lincoln County the next month, on April 7.

35 of the charges against Jastorff are Class 3 felonies. Each is punishable by up to 15 years in prison and/or a $30,000 fine.

VIOLENCE AGAINST WOMEN

Violence against women continues to be a major problem in U.S. society in the 21st century. Our rates of rape, sexual abuse, spouse abuse, and sexual harassment are the highest in the industrialized world.

Each year, according to national crime statistics, more than one-half million women are raped. Half are raped before the age of 18. Contrary to one of the old myths about rape, most of these victims are assaulted by someone they know, including family members and friends. Rapists come from every socio-economic class and racial background. Most have a "normal" appearance; you can't tell if a person is a rapist by how they look.

Annually, millions of girls are sexually abused. Much of this abuse happens to adolescents. But sometimes girls as young as two or three are abused by members of their own family, or other adults in care-giving roles. The high incidence of child sexual abuse is one of the great tragedies of modern American society.

On average, three women every day are murdered as a result of domestic violence. According to the Surgeon General, battering is the leading cause of injury to women in the U.S. More women are injured by partners or spouses than by automobile accidents, athletic injuries, or household mishaps. Sometimes these injuries result in emergency room visits. Domestic abuse is one of the leading causes of emergency room visits by women. It occurs in every socioeconomic class and racial group. Batterers can be middle-aged, twenty-something, or high school students. They can be stockbrokers or truck drivers. Family violence doesn't discriminate by age or profession.

Millions of girls and women suffer sexual harassment in school, in the workplace, and on the street. One national study found that 83% of the girls responding reported being harassed at school. Women and girls of all racial and ethnic backgrounds are harassed by peers, teachers, and employers.

There are no easy solutions to the problem of violence against women. Over the past two decades, services for rape survivors and victims of domestic violence have improved, although funding for these services is often precarious and frequently inadequate to the scope of the problem. There has also been an increase in the number of programs for sex offenders and batterers, although activists in the battered women's movement still maintain that sentences are typically lenient and abusers are rarely held accountable, either by the law or by their school or employer.

While the problem is deep and widespread, better services for victims, more effective treatment of offenders, and an increased focus on prevention through education and community awareness campaigns offers the hope that one day violence against women will not be such a common event, but rather a rare and aberrational occurrence.

Language Matters #1: "Violence Against Women"
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September 23, 2010

Chief Justice Carol W. Hunstein
Supreme Court of Georgia
244 Washington Street
Room 572, State Office Annex Building
Atlanta, GA 30334

Chief Judge M. Yvette Miller
Court of Appeals of the State of Georgia
47 Trinity Avenue, Suite 501
Atlanta, GA 30334

Dear Honorable Justices,

We are writing to you on behalf of "The Judicial Language Project," a first of its kind program based at New England Law | Boston which uses sociolinguistic research to critique the language used by courts to describe violence against women and children. By identifying both problematic and appropriate words and phrases, we hope to influence the impact of judicial language on law and society.

We have identified in decisions of Georgia appellate courts, the pervasive use of the word "perform" in describing the actions of child victims of sexual abuse. As set forth in more detail below, research shows that this language is harmful to society and particularly to children who have suffered, or are at risk for suffering, sexual abuse.

A review of Georgia appellate decisions in sex crimes cases involving child victims since 1979 indicates the following:

- In 50 cases, the court used the word "perform" to describe the actions of the child victim when a criminal act had occurred against the child.
- In 38 of those 50 cases, the court included the phrase "perform oral sex" or "perform oral sodomy" or some variation thereof.
- In 12 of those 50 cases, the court included the phrase "perform sex acts" or "perform sexual acts" or some variation thereof.

One recent example of the Georgia courts' use of this type of harmful language can be seen in *Moe v. State*, which involved the drugging and repeated raping of a 13-year-old girl over a period of two days. The Court of Appeals wrote that a witness "...saw the victim performing oral sex on Moe." *Moe v. State*, 297 Ga.App. 270, 271 (2009).

The word "perform" is defined as "to adhere to the terms of; [to] fulfill, [as in to] perform a contract; to carry out, to do, [or] to do in a formal manner or according to prescribed ritual."[1] When used to describe the actions of a child, this commonly understood term suggests that the child was morally responsible for his or her own victimization.[2]

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[1] http://www.merriam-webster.com/dictionary/perform.

[2] Janet Bavelas & Linda Coates, *Is it Sex or Assault? Erotic Versus Violent Language in Sexual Assault Trial Judgments*, JOURNAL OF SOCIAL DISTRESS AND THE HOMELESS 30 – 32 (2001).

Use of the word "perform" alongside the phrase "oral sex" exacerbates the problem because sexual terminology connotes mutuality, pleasure and consent.[3] When a term can be understood to mean consensual or pleasurable activity, a crucial distinction in the law between sexual pleasure and sexual violence has been obscured.[4]

Language in judicial opinions influences the way readers interpret and react to the information conveyed.[5] Thus, it is important for courts to use terminology that accurately describes the nature of the event and the legal responsibilities of the parties involved.[6] Words also reflect connotations and social myths that readers may passively attribute to certain ideas and behaviors, without conscious awareness.[7] Thus, terms that suggest pleasurable conduct should be avoided when courts are writing about criminal violence.[8] Language that normalizes sexual violence by bringing the behavior discursively into the range of everyday human activities necessarily inhibits the reader's understanding that a person experienced fear, disgust, objectification, and pain.[9]

In criminal cases involving child victims, it is particularly important to assign complete responsibility to the offender because the child lacks capacity to consent. Thus, rather than "the child performed oral sex", a court could say "the defendant forced/pushed/inserted his penis into the child's mouth." This accurate, if disturbingly blunt, use of language makes it clear to the reader that the victim was a recipient of someone else's harmful criminal acts.

Thank you for your time and attention to this matter.

Sincerely,

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[3] *Id.*
[4] *Id.*
[5] *Id.* at 38 – 39; Collings, S. J., & Bodill, B. M. (2003). Methodological issues in research on child sexual abuse attributions. *South African Journal of Psychology, 33*(3), 170–175.
[6] *Id.*; Cromer, L.D. & Goldsmith, R.E. (*in press*). Stereotyped beliefs, myths, and individual differences that influence believing child sexual abuse disclosures. *Journal of Child Sexual Abuse, Special Issue: Forensic Issues and Disclosures*
[7] Nina Philadelphoff-Puren, *The Right Language for Rape*, EBSCO Publishing (2003).
[8] Bavelas & Coates, *Supra* at 1, 38 – 39.
[9] *Id.*

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April 7, 2011

Dear colleagues,

This past summer The Judicial Language Project at New England Law | Boston sent a letter to the Georgia appellate courts regarding their use of the phrase "performing oral sex" in decisions involving child sexual abuse. As all of you know, Justice Hunstein, Chief Justice of the Georgia Supreme Court, sent us a response in which she thanked us for our critique and promised to be more mindful of the identified problem in the future.

Since that time we have been monitoring Georgia appellate opinions and we are pleased to inform you that courts have, indeed, consistently used more appropriate language in all narratives related to child sex abuse.

One recent example appears in *Mitchell v. State*, 2011 Ga.App. LEXIS 104. Throughout this opinion, the court uses the word "sodomy" rather than "oral sex" to describe the aggravated sexual assault of three child victims.

Another example can be seen in *Loyd v. State*, 705 S.E.2d 616 (Ga. 2011) where the court wrote: "the defendant attempted to anally rape victim, orally sodomized him, and put his penis in victim's mouth".

As a signatory to the Judicial Language Project's letter, we wanted to say thank you for your collaboration and to inform you that our work is making a meaningful difference.

We will continue to update you as to any and all responses and developments from Georgia and other jurisdictions where we have conveyed our concerns about problematic language.

Yours truly,

/s/ Wendy J. Murphy

Co-Director, The Judicial Language Project

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The birthday boy

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By Casey Gwinn

midnight, Aug. 5, 2011

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"My kidneys may fail on me but my mom never will"

Gunman kills self, 5 others at Texas roller rink

More than 60% of nation's children exposed to violence, survey finds

San Diego man pleads

It was his birthday. He was 11 years old and all his friends were coming to the roller-skating rink for the party. He was excited and happy. His mom had worked so hard to plan the party and make sure relatives and friends would be there. At 5:30 p.m., it was anticipation and laughter and excitement. By 6:30 p.m., the air was filled with music and action and stolen glances between the boys and girls skating. But at 7:15, the exciting day took an unimaginable turn. Dad arrived and started arguing with mom. And then dad pulled a gun and shot mom in front of the birthday boy and his 3-year-old sister. As dad stood over her, he said, "I told you so." Pandemonium was everywhere. Children were running, people were screaming. Then, dad shot three of mom's family members. The terrified little boy begged for his life as his dad pointed the gun at him. Dad spared his life by turning the gun and killing himself.

There was screaming, terror and weeping. People raced out of the rink with their skates still on. There was blood everywhere. Death was the epilogue of the private birthday party. Police arrived. Ambulances arrived. The birthday boy will never forget it, never get over it, and never live a day without thinking about it.

This horror occurred on July 23 in Grand Prairie, Texas. Within hours it would make the local news and the national news. And the familiar phrases would appear – Fox News called it a "domestic dispute" and WLFI 18 called it a "domestic disturbance." As if on cue when a domestic violence homicide occurs, the media quickly pulls out of their lexicon the clear evidence of their own ignorance about domestic violence. The Associated Press would call it a "spat" between family members. The owner of the roller skating rink said "there was nothing anyone could do

not guilty in domestic violence death

to prevent this," reopened for business the next day and called the shooting "random." Police said the birthday boy and his sister were "not hurt" in the attack. Later, "authorities" were quoted as saying the children were "unharmed."

As I write just days after the killings, no one has called them predictable. No one has called them preventable. No one has called them a mass murder, though the FBI defines mass murder as four murders or more with no "cooling-off period" between the deaths. No one has put it in the context of the four women that are killed every day in this country by their abusive partners. The national news story is fading away in a flurry of stories about the debt ceiling. No one is talking about the protection order that mom had against dad. No one is talking about the lifelong journey of trauma and pain facing those children. In fact, one attendee at the party summed it up for most of America – "This too shall pass."

But don't be deceived. It will not "pass" for the sweet little boy or his 3-year-old sister. They will live with it for the rest of their lives. That "domestic disturbance" will no longer disturb most of the public, but a whole bunch of children will be disturbed for the rest of their lives.

In the tragic aftermath of the mass domestic violence murders, I would suggest that everyone reading this can still honor the young, innocent birthday boy with a gift. Let me offer a few suggestions:

• Members of the media: Pledge to never again use the phrases "domestic dispute," "spat" or "domestic disturbance" when talking about a domestic violence mass murder.

• Police authorities: Never again say that the children were "unharmed" or "not hurt" after witnessing the murder of their parents.

• Caring San Diegans: Ask every elected official to make family violence prevention a higher priority. And donate money to a local shelter or other agency working with children exposed to domestic violence. It is estimated there are 3 million to10 million children witnessing violence in their homes every year.

The birthday boy deserves our time and attention. Will you do something today in honor of his birthday?

Gwinn, a former San Diego city attorney, is president and chief financial officer of the Family Justice Center Alliance.

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COVERING DOMESTIC VIOLENCE: A GUIDE FOR INFORMED MEDIA REPORTING IN NEVADA

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This Guide is endorsed by:

Nevada Press Association

Nevada Broadcasters Association

Nevada Network Against Domestic Violence

Committee to Aid Abused Women

Safe Nest

The author permits -- and encourages -- reporters and editors to make verbatim use of the materials contained within this media guide.

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I. HOW TO RECOGNIZE A DOMESTIC VIOLENCE STORY

It is a domestic violence story if there is now, or was in the past, an intimate or family relationship between the perpetrator and the victim of violence.

II. QUESTIONS TO CONSIDER WHEN COVERING A DOMESTIC VIOLENCE STORY

1) **Have there been prior incidents?**
Acts of violence are often portrayed as an isolated incidents when, in reality, they are part of a pattern of conduct. Particularly if family members express surprise at the attack, it is easy to slip into a suggestion that the person just "snapped" or had an uncharacteristic lapse of control. A more accurate and complete story will result if prior conduct is also reported. Look for a history of controlling behavior. Review court records for prior criminal, divorce, child custody, parental rights and Temporary Protection Order (TPO) cases. Check law enforcement records for prior arrests and police response to allegations of domestic violence involving the same persons or address.

2) **Who can speak for the victim?**
An abuser's justification for violence commonly involves blaming the victim or the "system." The victim and the "system" may not be free to dispute the abuser's allegations because of fear, or because of physical or legal constraints. Presentation solely of the abuser's point of view implies that the abuser's violence was justified or motivated by the behavior of someone else.

3) **Why did this happen?**
Warning signs of domestic violence are understood. Victims can be protected. Abuse is a learned behavior. Any implication that the crime was inexplicable is likely incorrect. Contact an expert to give you insight.

4) **What's the true portrait?**
It is incorrect to imply that "normal" or successful people aren't typical perpetrators of domestic violence. In fact, domestic abusers often present two images: skillful in social and business settings but controlling and obsessive in intimate relationships.

5) **What language should describe domestic violence?**
It is good practice to use the term "domestic violence" in describing the crime. Give the public a vocabulary with which to identify a social issue. The United States and most of its communities have been engaged in a massive effort for more than three decades to provide resources to address the societal problem of domestic violence. Acknowledge the existence of that effort and the availability of those resources by correctly labeling the conduct you are reporting.

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6) **Are authoritative points of view available?**
Seek a statement from, or consult with, a local domestic violence advocate or a recognized domestic violence expert.

7) **How much do friends and neighbors really know?**
Use statements from associates of the abuser with caution. Domestic violence is often unknown to friends and neighbors until it becomes murder. Balance statements that express surprise at the abuser's conduct with any record of past controlling behavior and information about domestic violence.

8) **Were they separating? Was she pregnant?**
Domestic violence often is worst when the victim tries to separate or during pregnancy because the abuser's control of the victim's behavior is threatened.

9) **Where can more contextual information be obtained?**
Information from this media guide may be used to add context and depth to a story about domestic violence. See below for more story ideas.

10) **What is the impact beyond this victim?**
Experts can help describe the impact of the domestic violence on children, families, employers, the community and the larger society.

11) **How can victims get help?**
Include local contact information for domestic violence services. Many victims are unaware of the available support and, except through your reporting, may by unable to safely access this information.

12) **How can abusers get help?**
One way to help prevent future domestic violence is by providing information to allow present and potential abusers to identify themselves, to understand that change is possible and to seek help to change their behaviors.

13) **Can a story make things worse?**
Reporters should be aware that abusers use news reports to threaten their victims with similar fates or to reinforce the belief that, like the victim in the reporter's story, the victim will be humiliated and not believed. Reporters can reduce the likelihood of this perversion of their reporting by following these suggestions.

III. MORE IDEAS FOR STORIES ON DOMESTIC VIOLENCE

1) WHAT IS DOMESTIC VIOLENCE?

The meaning of "domestic violence" can be a source of confusion for the media and the public because important groups use different definitions for the term. Among others, common definitions include the following:

a) The laws of many states use the term domestic violence to embrace any act of actual or threatened violence between individuals within a family or household.

b) Some scholars, mainstream women's groups, and domestic violence educators use the term "domestic violence" almost exclusively to refer to acts occurring as part of a pattern of control. For example, the U.S. Department of Justice, Office of Violence Against Women, defines domestic violence as "a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone."

   Domestic violence, as a course of conduct, is also described as "battering." This violence requires the greatest use of medical, shelter and law enforcement services and is the most lethal, overall, in domestic situations. Studies show that 85 percent of victims are women.

c) Some scholars and mainstream men's groups refer to single instances, or isolated acts as domestic violence. They describe one-time assaults, committed at times of high stress, which are not part of a pattern of conduct intended to create or maintain power and control.

   Studies suggest that while this may be the most common variety of violence between family members it results in less injuries and less severe injuries than domestic violence that is part of a pattern of control. These studies suggest that men and women are victims more or less equally of this kind of violence.

   Reporters should be alert that confusion and controversy often result when any definition of "domestic violence" is advanced as the "only" definition. For example, women's and men's groups frequently offer seemingly contradictory statistics on the gender of domestic violence victims. The resolution of apparently conflicting views is, sometimes, that groups are using the same term to refer to different types of violence that occur within domestic settings. The media can attempt to avoid misunderstanding by providing explanation where appropriate.

2) WHY DO VICTIMS STAY WITH ABUSERS?

Victims of domestic violence are often compelled to remain with or return to their abuser. The reason for staying or returning may include physical safety, love, economic dependence, the well-being of children, cultural belief, or a hope that the violence won't happen again. Leaving an abuser can be dangerous because violence often gets worse when the abuser's power and control are threatened by separation. Although it might appear irrational to someone who has never shared the victim's experience, the phenomenon of a victim staying with or returning to an abuser is common. Victims should be educated about domestic violence and encouraged to engage in safety planning, but should not be blamed.

3) WHAT HELP IS AVAILABLE FOR VICTIMS OF DOMESTIC VIOLENCE?

A list of domestic violence programs in Nevada, together with information on shelters, crisis call lines and other available services is available at:
http://sos.state.nv.us/information/cap/agencies.asp;
http://www.ag.state.nv.us/dv/nv/programs.htm;
http://www.nnadv.org/members.html.

4) SIX THINGS TO SAY TO A VICTIM OF DOMESTIC VIOLENCE

a) I am afraid for your safety.
b) I am afraid for the safety of your children.
c) I am afraid it will only get worse.
d) You are not alone: I am here to help you -or- I can help you find someone who can help.
e) You don't deserve to be abused. No one deserves to be abused.
f) It is not your fault.

5) THE EFFECT OF DOMESTIC VIOLENCE ON CHILDREN

The emotional stress of exposure to domestic violence can harm the development of the brain and impair cognitive and sensory growth in infants and toddlers. Children exposed to domestic violence have more health problems, poorer school performance and more behavioral disturbances than children not exposed to domestic violence. Babies have a harder time developing a bond with mothers who are abused than with mothers who are not abused.

For further information visit the Family Violence Prevention Fund at: http://endabuse.org/userfiles/file/Children_and_Families/Children.pdf or the local resources identified in this media guide.

6) SAFETY PLANNING FOR DOMESTIC VIOLENCE VICTIMS

Victims can increase their own safety and prepare in advance for the possibility of further violence. Planning might include teaching children to call emergency numbers, removing guns

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from the home, keeping some money and an extra set of car keys with a friend, and dozens of other strategies that have been successfully used by other victims.

For further information about safety planning visit the National Domestic Violence Hotline at: http://www.ndvh.org/get-help/safety-planning/ or the local resources identified in this media guide.

7) THE WARNING SIGNS OF DOMESTIC VIOLENCE

Physical Domination
Actual or threatened strangulation, hitting, kicking, biting, restraint, destruction of property, injuring pets, reckless driving, display of weapons.

Financial Domination
Withholding of money for discretionary spending, preventing the victim from working or causing termination of employment.

Emotional Domination
Threats of suicide, removal of children, or deportation, other threatening behavior, destruction of self-esteem, name-calling, yelling, rule making, unreasonable jealousy, accusations of infidelity, humiliation.

Social Domination and Isolation
Limiting or eliminating the victim's relationships with friends or family and employment, interrogating children, stalking, cyber stalking, opening the victim's mail, monitoring the victim's phone calls, activities, associations, appearance.

Sexual Domination
Forcing or withholding sex, affairs, sexual exploitation.

Litigation Domination
Harassing, retaliatory, delaying, economically coercive legal tactics.

Animal Cruelty

Separation
Separation of the victim from the abuser threatens to break the abuser's control of the victim. Abusers often react to this threat by strongly re-asserting control. Periods of actual or impending separation are recognized as the most dangerous for victims of domestic violence.

For further information visit the Centers for Disease Control at: http://www.cdc.gov/healthmarketing/entertainment_education/tips/domviol.htm or the local resources identified in this media guide.

8) WHY ARE SOME PEOPLE ABUSERS?

Abusers come from all economic, educational, ethnic, and religious backgrounds. Many domestic violence abusers are not a one-time assailants acting out-of-character in a stressful circumstance. Abusers are not acting in self-defense. Some abusers use a pattern of coercive techniques to control their victim. These abusers believe they are entitled to control their victims. Abusers often show a pleasant and charming personality to their acquaintances and the public and a controlling, threatening personality to their victim. Many abusers learned their controlling behavior as children by observing the abusive conduct of their parents or other adults.

9) ARE YOU AN ABUSER?

a) Do you call your partner or your children names or swear to get them to do things the way you want them done?
b) Have you ever threatened, pushed, slapped, hit or choked your partner?
c) Have you ever thrown, broken or damaged something during a disagreement?
d) Have you ever tried to make a partner leave or stop a partner from leaving during a disagreement?
e) Have you ever stopped your partner from reporting your behavior to the police?
f) Do you decide which friends and family your partner can associate with?
g) Are you controlling or unreasonably jealous? Does your partner think that you are?
h) Is your partner afraid of you?
i) When you do something that hurts your partner, do you expect your partner to accept your apology without any change in your behavior?
j) Are your children afraid of you?
k) Have you ever been accused of mistreating your children?
l) Do you think you are abusive?
m) Do you blame your behavior on your partner? On stress, alcohol or drugs?
n) Are you concerned that your behavior is damaging to your partner, your children or your relationships?
o) Have you tried to change your behavior and failed?

10) HOW CAN ABUSERS BE HELPED?

People are not born as abusers. Abuse is a learned behavior. There is reason to hope that abusers can learn acceptable ways of dealing with conflict within relationships. Unfortunately, most standard interventions for behavior modification don't work well with domestic violence perpetrators. Individual counseling and anger management classes are not usually effective. Substance abuse programs, while helpful with substance abuse, are not typically directed at issues of abuse. Couples' counseling and family therapy can actually be dangerous for the victims of abuse.

Batterers' Intervention Programs are the preferred manner of addressing the problems of the abuser. These programs focus on behavioral change and the safety of victims. Success requires a strong motivation to change and not everyone succeeds. Batterer's programs do, however, offer a

path to ending the violence. Most people who attend Batterers' Intervention Programs are required to participate by a court, but individuals can enroll voluntarily.

A list of programs that are certified, reviewed and monitored according to law by the Nevada Committee on Domestic Violence is available at:
http://ag.state.nv.us/dv/dvunit/Certified%20Treatment%20Providers.pdf.

11) ANIMAL CRUELTY AND DOMESTIC VIOLENCE

Some abusers harm or threaten to harm pets as a technique to control intimate partners and children. Animal abuse sends the message: "You may be next." Knowing that a pet may be injured also makes it harder for someone who cares about the animal to leave. Individuals with no empathy for the suffering of animals or the distress of their owner are capable of domestic violence.

Animal abuse is a criminal offense and a sign of serious psychopathology. People responsible for animal cruelty commit other criminal offenses at a rate greater than 300% higher than those who are not involved in animal abuse.

For additional information visit the American Humane Association at:
http://www.americanhumane.org/about-us/newsroom/fact-sheets/animal-abuse-domestic-violence.html.

12) DOMESTIC VIOLENCE AND GUNS

Domestic violence involving a gun is 12 times more likely to result in a death than family violence in which no gun is involved. Two-thirds of domestic violence homicides are carried out with firearms.

Federal and state laws prohibit a perpetrator of domestic violence from possessing a firearm.

For further information on firearms and domestic violence visit:
http://aja.nesc.dni.us/courtrv/cr39-2/CR39-2MitchellCarbon.pdf.

13) DOMESTIC VIOLENCE STORIES OF LOCAL INTEREST

NEVADA GIRL SCOUTS CAN EARN DOMESTIC VIOLENCE PATCH

The Girl Scouts of the Sierra Nevada offer a "Peace Begins at Home Patch" to encourage girls to learn about domestic violence and the characteristics of healthy and unhealthy relationships. The 70-year-old Sierra Nevada Council serves over 8,400 girls from ages 5 to 17 in thirteen Northern Nevada counties and ten Eastern California counties. Girls must complete a number of activities to earn the patch. The program description, available on-line and from local scout leaders, identifies fifteen acceptable activities that include: Asking a troop leader to invite a

speaker from a local domestic violence program, finding out how to get help for a victim of domestic violence, reading a book or watching a movie about domestic violence, designing a poster, and performing a service project to benefit a local domestic violence shelter. The patch has been available since October 2008.

For more information visit:
http://www.gssn.org/girls/Peace%20Begins%20at%20Home/CouncilPatchCurriculum-FINAL.pdf.

DOMESTIC VIOLENCE TRAINING FOR NEVADA JUDGES

Did you know that all judges in Nevada are required to take special domestic violence training? The Nevada Supreme Court has twice, first in 1993 and again in 2006, ordered all judges in the state to attend full-day seminars on domestic violence. The Supreme Court required mandatory education based upon its findings that:

a) Domestic violence is a pervasive problem in American society and has escalated to a national crisis;
b) Spousal abuse is the single greatest cause of non-accidental injury to women and is a strong indicator that physical or sexual abuse of children also is occurring in the family;
c) Children witnessing the violent abuse of a parent suffer profound emotional harm, even if the children are not targets of the violence;
d) Domestic violence affects the entire community and all segments of the community must confront this violence, including, but not limited to, law enforcement, social services, the medical profession, public and private attorneys, the courts, and the media;
e) Domestic violence is the cause of a substantial portion of criminal and domestic relations case filings, and is by far the greatest cause of violence occurring in and around American courtrooms.

NEVADA'S CONFIDENTIAL ADDRESS PROGRAM

In 1997 Nevada became the second state in the nation to adopt a Confidentiality Address Program (CAP) for the protection of victims of domestic violence. CAP allows participants to use a fictitious mailing address assigned by the Secretary of State. Mail received at that address is forwarded by the Secretary of State to the participant. This allows domestic abuse victims to maintain confidentiality of their physical address in government and business records. The program greatly reduces the risk of being tracked through such records. More than 700 Nevadans participate in the program. Today, 30 states have CAP laws.

For further information about CAP visit: http://sos.state.nv.us/information/cap/
or telephone, toll free: 888-432-6189.

NEVADA'S RATE OF WOMEN MURDERED BY MEN

Every year during October, which is Domestic Violence Awareness Month, the Violence Policy Center releases its publication *When Men Murder Women: An Analysis of Federal Bureau of Investigation Homicide Data*. The most recent available information is for calendar year 2007.

Nevada has ranked as one of the10 states with the highest rate of female homicide by men in the nation during each of the last 10 years.

Year	National Rank	# of Women Murdered	Murders per 100,000 population
1998	#8	18	2.10
1999	#1	30	3.38
2000	#9	17	1.73
2001	#3	27	2.93
2002	#4	27	2.54
2003	#2	29	2.64
2004	#5	25	2.21
2005	#1	30	2.53
2006	#1	40	3.27
2007	#5	28	2.23

In 2007, 96 percent of the Nevada's female murder victims were murdered by men they knew. Seventy-seven percent of the murdered were the wives or intimate partners of the killers.

For further information visit: http://www.vpc.org/studies/wmmw2009.pdf

14) COSTS TO SOCIETY OF DOMESTIC VIOLENCE

Domestic violence imposes a staggering cost on society, including:

a) One-third of all police time is spent responding to domestic violence disturbance calls.
b) More than 7.9 million paid workdays are lost each year because of domestic violence.
c) Almost three-fourths of employed female victims are harassed at work by their abuser.

For further information visit the Family Violence Prevention Fund:
http://endabuse.org/userfiles/file/Children_and_Families/Workplace.pdf

15) DOMESTIC VIOLENCE AND SPECIFIC POPULATIONS

Dating Years

The highest rate of domestic violence is experienced by females between the ages of 16 and 24. *U.S. Department of Justice, Violence by Intimates, NCJ-167237, March 1998.*

Girls abused in dating relationships are 4 to 6 times more likely than non-abused girls to get pregnant and 8 to 9 times more likely to attempt suicide. *Bureau of Justice Statistics, Violence against Women: Estimates from the Redesigned Survey, August 1995.*

For further information, visit the U.S. Department of Justice at:
http://www.ovw.usdoj.gov/teen_dating_violence.htm.

Elderly
An estimated one million persons 65-or-older are abused each year. For further information visit the American Association for Retired Persons (AARP) at:
http://bulletin.aarp.org/yourworld/law/articles/state-by-state_elder.html?CFC_cK=1207327217393.

Tribal
Violence against Native Women is not traditional but it occurs at a rate higher than those of all other groups. The Sacred Circle, National Resource Center to End Violence Against Native Women, provides assistance, training, and information on tribal violence. The Sacred Circle can be contacted at www.sacred-circle.com or toll free at 1-877-733-7624

Military
Domestic violence in the military is complicated by the fact that victims are often reluctant to seek help because of a concern with their spouse's career. For information, visit http://usmilitary.about.com/od/divdomviolence/l/aadomviol1.htm

Lesbian, Gay, Bisexual, Transgender and HIV-affected Communities
Domestic violence occurs in same-sex relationships at about the same rate as in heterosexual relationships. Control tactics not usually seen in heterosexual relationships, like intentional exposure to HIV or public revelation of sexual orientation, are used by same-sex abusers. The National Coalition of Anti-Violence Programs, a coalition of lesbian, gay, bi-sexual and transgender organizations, is an excellent source of information about the barriers and special issues involved in domestic violence in these communities. www.ncavp.org

Immigrants
Immigrant victims of domestic violence often have additional problems caused by social isolation, language barriers, immigration laws and poverty. For information, visit the National Network to End Violence against Immigrant Women at:
http://www.immigrantwomennetwork.org/AboutUs.htm

16) DOMESTIC VIOLENCE STATISTICS

Nevada Domestic Violence Statistics

a) In Nevada, domestic violence incidents reported to law enforcement increased from 11,160 in 1994 to 26,162 in 2008. *http://nvrepository.state.nv.us/dv_reports.shtml*

b) In Nevada, during FY 2007-2008 35,982 people received services from domestic violence programs. 1,389 adults and 1,559 children spent 59,434 nights in beds provided by domestic violence programs.
http://www.nnadv.org/pdfs/Press_Room/Information_for_the_Press/Domestic%20Violence%20The%20Facts_FY%200708.pdf

National Domestic Violence Statistics

a) Seventy-five percent of all family violence occurs in or near the victim's residence and an additional 15 percent occurs at the home of a friend, relative or neighbor. *Source: U.S. Department of Justice, Family Violence Statistics, June 2005.* *http://www.ojp.usdoj.gov/bjs/pub/pdf/fvs.pdf.*

b) Forty-one percent of all family violence is not reported to police. *U.S. Department of Justice, Family Violence Statistics, June 2005.* *http://www.ojp.usdoj.gov/bjs/pub/pdf/fvs.pdf.*

c) One-third of all family violence is reported to police by someone other than the victim. *Source: U.S. Department of Justice, Family Violence Statistics, June 2005.* *http://www.ojp.usdoj.gov/bjs/pub/pdf/fvs.pdf.*

d) Twenty-three percent of all murders in the United States are murders of family members. *Source: U.S. Department of Justice, Family Violence Statistics, June 2005.* *http://www.ojp.usdoj.gov/bjs/pub/pdf/fvs.pdf.*

e) More than two-thirds of spouse and ex-spouse murder victims are killed by guns. *Source: U.S. Department of Justice, Homicide trends in the U.S., June, 2006.* *www.ojp.usdoj.gov/bjs/homicide/intimates.htm.*

17) DOMESTIC VIOLENCE AND NEVADA LAW

Criminal Penalties for Domestic Violence

The law deals harshly with people charged with crimes of domestic violence. The police are required to make an arrest if there is slight evidence to believe a person was the primary physical aggressor involved in a domestic battery during the last 24 hours. (NRS 171.137).

The law requires the aggressor be held in jail for at least 12 hours. There are statutory guidelines setting the amount of bail necessary for release from jail in amounts higher than usually charged for other batteries. (NRS 178.484).

The law requires the prosecutor to prosecute and prohibits any plea-bargaining of a provable domestic violence battery case. Sentences for misdemeanor conviction require a minimum of two days and a maximum of six months in county jail for a first conviction and from 10 days to six months for a second conviction. A third conviction within seven years, or any conviction involving a deadly weapon or serious harm to the victim, is a felony that requires a minimum sentence of one year in state prison. Community service and fines are also required. A convicted abuser is required by law to pay for and undergo state approved counseling of not less than one and one-half hours per week for six months to a year. The law does not permit the judge to grant probation. (NRS 200.485).

Liability to the Victim of Domestic Violence for Money Damages

An injured victim can obtain a judgment for money against a convicted domestic abuser. In Nevada, criminal conviction is conclusive evidence of civil liability. After conviction of a

domestic violence crime, the only question to be answered in a lawsuit by the victim against an abuser may be the amount the abuser must pay. (NRS 41.133).

Protection Orders against Domestic Violence

Nevada law permits an otherwise powerless victim of abuse to use the tremendous power of the court for protection. A Temporary Protection Order (TPO) can require an abuser to leave his home, even if he owns it. It can require an abuser to stay away from the home, job and other places the victim and the victim's children regularly go. It can grant sole custody of children and of pets. It can make the abuser pay the victim's rent or mortgage and compel the payment of child support. It can require an abuser to surrender firearms to law enforcement. Protection orders are aggressively enforced. Any abuser who violates a TPO may go to jail. Parents or guardians may obtain orders on behalf of children. (NRS 33.017 et seq.).

The process of obtaining a TPO is user-friendly and designed for people without lawyers. For further information contact your local district court or justice court.

Child Custody

Judges are required by statute to consider domestic violence as a factor when determining the best interest of a child. Proof that an abuser committed an act of domestic violence against a child, a parent of a child, or any person living with a child, requires a court to presume that the abuser should not have sole or joint custody of that child. This presumption can be overcome with compelling evidence. (NRS 125C.230).

Sometimes the Law Doesn't Work as it Should

Sometimes the legal system breaks down. TPO's sometimes aren't served because of a lack of address or for other reasons. Sometimes they aren't enforced. Sometimes domestic violence isn't taken into consideration in granting custody. Sometimes the victim can't find a lawyer to handle a civil case for damages. Investigative reporting can identify and explain such failures and may promote change for the better.

18) DOMESTIC VIOLENCE AND FEDERAL LAW

The Violence Against Women Act (VAWA) makes it a federal crime in some circumstances to cross, or cause any person to cross, a State or tribal boundary if domestic violence or violation of a TPO results. The Violent Crime against Women Act amended VAWA to include cyber-stalking as a federal crime. The penalty for violation of these federal statutes ranges from five years to life imprisonment depending upon the extent of injury to the victim.

The Gun Control Act prohibits firearms possession in some circumstances by a person who is convicted of domestic violence or subject to a TPO. It is also a crime to transfer a firearm to such a person. Penalties of up to 10 years imprisonment are possible.

Questions about the application of Federal laws may be directed to the US Attorney, District of Nevada, 333 Las Vegas Blvd. South, Las Vegas, NV 89101 or to Public Affairs Specialist Natalie Collins at (702) 388-6508.

IV. NEVADA DOMESTIC VIOLENCE RESOURCES

1) PUBLICATIONS

"Nevada Domestic Violence Resource Manual for Law Enforcement, Prosecutors, the Judiciary, Attorneys, Advocates," the Urban Group LLC (2000)., 370 pages. Available on-line at: http://npac.state.nv.us/Publications/DomesticViolenceResourceManual.pdf.

"Domestic Violence Prosecution Best Practices Guidelines," as adopted by the State of Nevada Council for Prosecuting Attorneys pursuant to NRS 241A.070 on May 4, 2006. Available on line at:
http://www.nvpac.state.nv.us/Domestic_Violence/DV_Best_Practice_Guidelines.pdf

2) POLICY ORGANIZATIONS

The Family Violence Department of the National Council of Juvenile and Family Court Judges, P.O. Box 8970, Reno, NV 89507. Telephone: (775)784-6012. Fax: (775)784-6628, http://www.ncjfcj.org/contnt/view/20/94/

One of the nation's foremost authorities on domestic violence is headquartered in Reno, Nevada. The Family Violence Department (FVD) of the National Council of Juvenile and Family Court Judges (NCJFCJ) works to improve the way criminal, civil, and social justice systems respond to family violence by providing cutting-edge training, technical assistance, and policy development.

Nevada Committee on Domestic Violence, www.cdv.state.nv.us
The Committee adopts regulations for the evaluation, certification and monitoring of programs for the treatment of persons who commit domestic violence. For a list of Nevada's certified domestic treatment providers visit:
http://ag.state.nv.us/dv/dvunit/Certified%20Treatment%20Providers.pdf.

Nevada Council for the Prevention of Domestic Violence, 5420 Kietzke Lane, Suite 202, Reno, NV 89511, Telephone: (775) 850-4119, Fax: (775) 688-1822,
http://ag.state.nv.us/dv/dvpc/dvpc.htm

The Council is chaired by the Nevada Attorney General and has members representing law enforcement, the judiciary, prosecution, victim services, health care, education, and domestic violence survivors.

The Council efforts include (a) increasing awareness of the existence and unacceptability of domestic violence; (b) making recommendations for any necessary legislation relating to domestic violence; and (c) providing financial support to programs for the prevention of domestic violence.

Nevada Domestic Violence Ombudsman, http://ag.state.nv.us/dv/dvunit/ombud.htm
The Domestic Violence Ombudsman (a) produces quarterly reports for the legislature; (b) provides information and assistance to victims, the criminal justice system and the general public and responds to complaints and concerns; and (c) administers the court assessment account for programs related to domestic violence.

Nevada Network Against Domestic Violence, (775) 828-1115, http://www.nnadv.org/
The Nevada Network Against Domestic Violence (NNADV) is a statewide organization that helps Nevada's communities respond effectively to the needs of victims of domestic violence. NNADV provides a resource library, advocacy training, and technical assistance to Nevada's domestic violence programs. NNADV also coordinates networking meetings, assists in the provision of community and professional education, and is active in educating legislators on issues of concern to Nevada families.

Southern Nevada Domestic Violence Task Force, PO Box 758, Las Vegas, NV 891125-0758, (702) 225-4113, http://sndvtf.org/

The task force (a) provides a working forum for interdepartmental information sharing and interaction of agencies dealing with domestic violence victims and perpetrators; (b) identifies and analyzes the components of current responses to domestic violence and makes recommendations; and (c) serves as a conduit to local news media for information compiled by task force members to facilitate change by sponsoring education and media campaigns on domestic violence issues.

3) DOMESTIC VIOLENCE SERVICES

For Victims: http://sos.state.nv.us/information/cap/agencies.asp

Nevada Domestic Violence Hotline: (800) 500-1556

For Abusers: http://ag.state.nv.us/dv/dvunit/Certified%20Treatment%20Providers.pdf

Sexual Assault Report

Suggested Guidelines for Language Use

Introduction

This document was developed to provide guidance for authors, editors, and members of the Editorial Board of *Sexual Assault Report*, a bimonthly newsletter published by the Civic Research Institute. Because it may provide helpful information for others working in the field of sexual violence, we welcome its dissemination beyond this audience. We believe these recommendations for language use can improve our verbal and written communications as professionals in the field, helping us to provide information in ways that maximize our accuracy and clarity – and avoid common tendencies that can create confusion, perpetuate misinformation, and contribute to a climate of doubt and victim blame.

Please feel free to let us know if you find these guidelines helpful or want to offer feedback.

Sgt. Joanne Archambault (Ret.)
Executive Director, EVAW International
Co-Editor, *Sexual Assault Report*

Kimberly A. Lonsway, Ph.D.
Research Director, EVAW International
Co-Editor, *Sexual Assault Report*

Referring to the Perpetrator, Suspect, Defendant

When writing a case review for SAR, the defendant will generally be named, following standard conventions for the legal field, and also reflecting the reality that criminal legal cases are identified, filed, and retrieved using the defendant's name. This will typically include the defendant's full legal name (first, middle, and last name). One exception to this general rule is when the identification of the defendant would also lead to the identification of the victim (e.g., when the defendant is the victim's spouse, parent, sibling). In these situations, the defendant might be identified using only initials, or with a first name and an initial for the last name. Alternatively, the defendant may simply be identified on the basis a relationship to the victim or another household member (e.g., the victim's mother's boyfriend).

When referring to the criminal justice system, the word "perpetrator" will generally be used only when a sexual assault conviction represents the final resolution of a case. This would be the case, for example, when a defendant has been convicted. Otherwise, the defendant will typically be referred to by name or described using the specific legal standing at the appropriate point in the narrative (e.g., "suspect" prior to the filing of charges, or "defendant" during the pendency of a case). Outside the criminal justice context, the word perpetrator will be used to refer to those who commit sexual offenses (e.g., "Sexual assault perpetrators typically use instrumental force, not gratuitous physical violence."

Civil Legal Cases

When reviewing civil legal cases, the language use will differ from the criminal justice context. For example a tort or divorce case may name the victim or the victim's parent(s) in its heading. Child protection cases are usually filed under the child's name (or initials or an acronym), but sometimes they are filed under the protective parent's name. As a policy, however, *SAR* will not include a victim's name in connection with any sexual assault case (civil or criminal), except in exceptional instances where this reflects the stated preference of the victim.

Referring to the Victim

Also following standard legal conventions, the term "victim" will typically be used when referring to the context of the criminal justice system. Only in exceptional instances will the phrase "alleged victim" be used, and its use must be justified by unique circumstances. The terms "accuser" or "prosecutrix" are not appropriate, unless they are used in a direct quote from another source and cited appropriately.

Other terms may be preferred by authors in other professional disciplines and/or articles addressing different contexts. For example, those in the health care profession will generally use the term "patient," because it is oriented toward their mission. Victim advocates and other social service providers may use alternative terms, depending on their professional mission and philosophy; these could include "client," "survivor," etc.

Victims will generally not be named in *SAR* articles, except in circumstances where this reflects the stated preference of the victim. In some instances, the victim will simply be referred to as "the victim" or some other neutral identifier in relation to the defendant (e.g., girlfriend, wife, daughter, foster son, nephew, neighbor). In other situations, the victim's initials may be used (typically in cases involving child victims). In still others, a pseudonym will be used (e.g., "Jane Doe"). Typically, the referent used in the *SAR* review will reflect the language from the original court decision.

Referring to the Crime, and Avoiding the Word "Alleged"

The word "alleged" will generally be avoided, given the historical context of skepticism for reports of sexual assault. In some instances, the offense will simply be described as a "rape" or a "sexual assault," following standard conventions within the criminal justice system. It may also be described as the "crime," "offense," "reported sexual assault," etc. However, this terminology will be used with the understanding that the case may not have reached its final resolution (e.g., the defendant has not been convicted of sexual assault).

It is always important to keep in mind that only a miniscule percentage of sexual assaults that are committed ever proceed through the criminal justice system. Moreover, exhausting the appeals process can take years and even decades. In other words, almost all sexual assaults remain "unresolved" by the legal system, and it would be inappropriate to refer to all such reports (or even disclosures) of sexual assault as "alleged." This practice is not generally used for any type of crime other than sexual assault.

Describing Sexual Acts

Every effort will be made to avoid using the language of consensual sex to describe acts of sexual abuse and assault. For example, terms such as the following will be avoided because they convey a degree of mutual consent and/or minimize the seriousness of the acts: "sexual intercourse," "had sex," "oral sex," "fondling," "massaging," "foreplay," etc. Instead, objective language will be used to describe the specific body parts and sexual acts involved: "penile-vaginal penetration," "rubbed his penis on her vulva," "the defendant penetrated the victim's anus with her fingers."

Other phrases will be avoided when they appear to place agency for the sexual act on the victim rather than the perpetrator. Problematic phrases include: "the victim performed oral sex on the defendant." Rather, objective language will be used to describe the specific body parts and types of contact involved, including the element of force or coercion if it is present. For example: "The defendant forced his penis into the victim's vagina," or "After he threatened to hurt her, the victim stopped resisting, enabling the defendant to penetrate the victim." Alternatively, the legal term may be used: "the defendant raped the victim," again with the understanding that this conclusion may not reflect the final resolution of the case within the legal system.

Strangled vs. Choked

The term "strangled" will be used, rather than "choked," to accurately describe an act of force. The term "choked" actually refers to a blockage within the victim's windpipe (e.g., food stuck in the throat), although it is commonly mistaken as referring to an act of strangulation.

Statement, History, and Story

Authors should avoid using the term "story" when referring to the victim's statement or account of events, given the connotation of skepticism conveyed. Other terms are more appropriate, such as "account," "statement," or even "the victim's description of the sexual assault," etc. The term "history" is often used when describing the victim's account of the event for health care providers. For example: "The Sexual Assault Nurse Examiner took the victim's history before collecting evidence."

Active Language

In general, active language will be preferred over passive forms. An example of passive language would be: "The victim was thrown against the wall" or "The victim was pushed, causing him to strike his head against the table." Alternative versions using active language would include: "The defendant threw the victim against the wall," and "The defendant pushed the victim, so his head struck the table."

On occasion, a similar problem may occur when language implies agency that is not warranted given the common dynamics of sexual assault victimization. For example, it would be problematic to state that the victim "delayed reporting" if he/she did not contact law enforcement for several days after the sexual assault. While this may be described as a "delayed report" in the criminal justice context, alternative wording can be used to describe the victim's response to the sexual assault in ways that do not carry the connotation of active obstruction of the criminal justice process. To illustrate: "The victim disclosed to her mother the day after the assault and then contacted law enforcement two weeks later."

Finally, the word "experience" is not preferred for describing victimization. An example would be the following statement: "A woman who experiences sexual assault in addition to physical violence is more likely to be killed than a woman experiencing physical violence only." Better wording more accurately captures the reality of victimization. To illustrate: "A woman subjected to sexual assault in addition to physical violence is more likely to be killed than a woman subjected to physical violence only."

Referring to Victims with Disabilities

Approximately one in five people have a disability. It is a minority group that one can join at any time, and in fact most people will join if they live long enough. When referring to victims with disabilities it is therefore important to use respectful language, or what is referred to as "People First Language." People First Language puts the person before the disability and acknowledges that victims with disabilities have a great deal in common with other victims. Having a disability can be one part of the human experience and therefore, such language conveys that a person *has* a disability, not that he or she *is* the disability. For example, a person *has* cerebral palsy rather than a person *is* cerebral palsied.

Other examples of People First Language include describing someone as:

- a person who uses a wheelchair, rather than "wheelchair bound"
- a person with an intellectual disability, rather than "mentally retarded"
- a person with a disability, rather than "the disabled"
- a person with mental illness, rather than "insane"

Other terms that should be avoided when possible include references to Mental Age. Some standardized tests for intelligence and adaptive functioning include a Mental Age comparison. Mental Age scores or age equivalent scores have sometimes been used to describe adults with intellectual disabilities as children or "functioning as a seven year old." This reference does not accurately describe the person and their abilities or limitations and should be avoided. One possible exception is when referencing official documents that use such language. In that situation, the language can be used as long as it is clearly attributed to the original source. However, it is best to include a note or discussion to convey that the term is not the most accurate or appropriate.

In general, there is no disability label or diagnosis that describes a specific person. Just as each person with diabetes is unique, so is each person with autism. Also, each person's experience is unique. It is therefore best to avoid words designed to elicit pity or a patronizing attitude, and rather to use language that communicates an attitude of respect for all victims.

Flexibility and Reasonableness

While these preferences are stated for the wording of articles or case reviews to be published in *SAR*, it is worth noting that some degree of flexibility is required. Sometimes problematic wording is included in the original text of a court decision and retained in the case review; this can be noted using quotation marks or other means. In other situations, it can be difficult to avoid problematic language for a variety of reasons. Therefore, a standard of reasonableness will be used to evaluate wording of case reviews and other articles in light of these general standards.

Conclusion

We believe these recommendations for language use can improve our verbal and written communications as professionals in the field, helping us to provide information in ways that maximize our accuracy and clarity. Ultimately, the goal is to avoid common tendencies that can create confusion, perpetuate misinformation, and contribute to a climate of doubt and victim blame.

The Importance of Using Accountable Language

Filed under: Ending Men's Violence, Paper

by Phyllis B. Frank and Barry Goldstein

This article was conceived because of the frequency with which leaders of our movement and presenters at conferences use unaccountable language in our presentations and proposals, even as they deeply care about ending men's violence against women and have devoted their lives to helping women partnered with abusive men.

Like all tools of oppression, unaccountable language is conditioned into our psyches, taught and learned as appropriate vocabulary and in socially acceptable sentence structure. Thus, unaccountable language is part of everyday parlance of people acting in complete good faith in trying to end men's violence against women. We know this is true because as long as we have trained to avoid unaccountable language, we still sometimes make this error, as well. The movement to end domestic violence has not yet made the use of accountable language a priority. We hope this article will encourage all of us in the movement to do so. This is one program we can afford even in tight economic times.

UPCOMING EVENTS

36th National Conference on Men and Masculinity: Changing Faces of the Movement (event) (11 days)

more

Defining unaccountable language

Unaccountable language refers to the powerful messages embedded in all forms of speech and media that have all of us lapse into sentence structure that obscures perpetrators, minimizes their abuse, and supports blaming victims. One common example is the phrase "an abusive relationship." The relationship did not hit the woman, but rather it was the abuser, typically a man who is husband or intimate partner, who was abusive. Such statements make the person who committed the offense, invisible. More specifically it is the use of passive language that results in making the perpetrator invisible. For example, a phrase like a woman was raped should be replaced by, "A man raped a woman." The rape did not just happen, but rather the rapist committed a brutal act. The idea is to focus attention on the person responsible. Accountably speaking we might say a woman was in a relationship with an abuser or he is abusive to his intimate partner. Another example is exposed by the question, "How many women will be raped or assaulted in this year?" Do we ever hear, "How many men will rape or assault this year?"

Other examples of the language of accountability

Once, when discussing accountable language during a staff training, we looked up on the wall to see a bumper sticker that said, "Every 15 seconds a woman is assaulted." Our objection at the time was not with the accuracy of the information but that the statement failed to focus on the cause of these assaults. "Every 15 seconds a man assaults a woman!" would be an accountable description.

During a dinner conversation, Barry, and his partner, Sharon, were discussing a series of disastrous calamities in their home caused by the builder who seemed to have deliberately sabotaged their house. After hearing about one emergency repair after another, Phyllis said it was the first time she actually understood the true meaning of an "abusive home", since too often the phrase "abusive home" is misused to invisiblize a man who repeatedly abuses his partner in their home.

The police and media often refer to incidents in which a man brutalizes his wife or girl friend as a "domestic dispute." This describes a man's criminal assault as if it were some kind of mutual problem, even-sided engagement, or tame dispute, rather than an act of brutality. When a mugger assaults and robs a cab driver, it is not described as a "fare dispute."

Unaccountable language hides responsibility

The use of accountable language is not a technicality or merely a play on words, but rather an issue with profound social consequences. The systemic use of unaccountable language minimizes men's abuse of women, fails to take his abuse seriously, and hides his responsibility for his actions. If we say "a woman was hurt" it seems like it just happened, as if on its own accord, or by accident, and there is nothing to be done about it. If instead we refer to the man who is hurting the woman, this requires assigning responsibility and taking action to stop him from hurting her again and provide consequences for the harm he caused.

Domestic violence is comprised of a wide range of tactics used by men to maintain power and to control their intimate partners The tactics are part of a pattern of coercive actions designed to maintain, what he believes (consciously or not), are his male privileges, to control his significant other. Historically, men were assigned, by social and legal norms, control over wives and families. Today, even though that is no longer legally, and for so many, morally, the case, an "abusive relationship" or "domestic dispute" makes it seem like a communications or relationship problem between the parties. It suggests counseling or therapy as a remedy instead of consequences to hold abusers accountable for abusive, controlling, and/or violent tactics.

Social Consequences of unaccountable language

As a society our constant use of unaccountable language gives still another advantage to abusers. Unaccountable language, embedded in all dominant institutions, including the judicial system, leads police, prosecutors, defense attorneys, and judges in domestic violence custody cases to confidently assume that both parties share equal blame for not getting along. They often tell the parties they are equally responsible for the problems in the relationship and they must start to cooperate, get therapy, or anger

management classes. When a mother attempts to protect her children or limit contact with an abusive father, she is routinely blamed for not getting along rather than recognized for what is a normal reaction to a partner's abuse.

If we are going to end or at least reduce the use of unaccountable language in this society, those of us working in the battered women's movement must take the lead and must set an example to use accountable language. Politicians often use phrases like "mistakes were made" Instead of saying, "I made a mistake." We want society to be clear that men ,who abuse and mistreat the women they are partnered with, are responsible for their actions. We are asking presenters and others working to end domestic violence to join us in striving to use accountable language.

Dedication

Dedicated to our dear friend and colleague Jon Cohen, who worked with Phyllis B. Frank in developing the NY model for Batterers Programs, and with Barry Goldstein, to find many of the examples of unaccountable language in Barry's first book, Scared to Leave Afraid to Stay.

Phyllis B. Frank, pbfrank@vcs-inc.org, www.nymbp.org
Barry Goldstein, Barryg78@aol.com, www.civicresearchinstitute.com/dvac.html

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How Language Helps Shape Our Response to Violence Against Women

NJEP Resource Materials

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Legal Momentum

New York Judicial Symposium on Domestic Violence

Brooklyn, NY

December 2013

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National Judicial Education Program

A project of LEGAL momentum*

Established in 1980, the National Judicial Education Program to Promote Equality for Women and Men in the Courts (NJEP) is a unique, award-winning project of Legal Momentum in cooperation with the National Association of Women Judges.

NJEP educates judges, attorneys, and justice system professionals about the myriad ways in which gender bias and myths and misconceptions about the social and economic realities of women's and men's lives can undermine fairness across the spectrum of criminal, civil, family and juvenile law. NJEP has also designed and presented programs for judicial colleges and organizations, bar associations, and law schools across the country. In addition to developing and presenting model curricula, NJEP creates DVDs and web courses and publishes frequently in publications such as *Judicature* and *The Judge's Journal*.

State and Federal Task Forces on Gender Bias in the Courts:

NJEP's judicial education programs prompted state supreme courts and federal circuit councils nationwide to establish task forces to examine gender bias in their own jurisdictions and recommend reforms. The first was appointed in 1982. In 1988 the Conference of Chief Justices resolved that every Chief Justice should establish such a task force. Over a twenty year period forty-three states and seven federal circuit courts appointed task forces, to which NJEP provided technical assistance.

Judicial Education About Sexual Assault and Co-Perpetrated Sexual Assault and Domestic Violence:

A particular focus of NJEP's work is adult victim sexual assault and the intersection of sexual assault and domestic violence. Since its inception, the program has worked with state, federal, and tribal courts to promote the fair adjudication of these cases. NJEP creates and presents an extensive array of materials for in-person, DVD and web-based judicial education about adult victim sexual assault and co-perpetrated sexual assault and domestic violence. The curricula include multidisciplinary research from law, medicine, and the social sciences. These curricula employ interactive teaching techniques and are meant to be adapted for local jurisdictions.

Technical Assistance for Judges, Judicial Educators and Court Personnel:

NJEP also provides technical assistance for courts, judicial educators, and other professionals interested in designing education programs about gender bias in the courts, sexual assault, the intersection of domestic violence and sexual assault, and judges' role in these complex cases. In addition, NJEP assists jurisdictions in developing relevant local materials, summarizing key case law, and tailoring our materials to fit the jurisdiction's specific needs. NJEP's expert faculty also presents at judicial education programs across the country.

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National Judicial Education Program

A project of LEGAL momentum*

Materials and Resources on Adult Victim Sexual Assault

A particular focus of the National Judicial Education Program's (NJEP) work is adult victim sexual assault. Since its inception in 1980, NJEP has worked with state, federal, and tribal courts to promote the fair adjudication of these cases. NJEP creates and presents an extensive array of materials for in-person, DVD and web-based judicial and multidisciplinary education about adult victim sexual assault and the intersection of sexual assault and domestic violence.

NJEP's curricula include research from law, medicine, and the social sciences. These curricula employ interactive teaching techniques and are meant to be adapted for local jurisdictions. All of these resources are intended for multidisciplinary audiences and are utilized by individuals ranging from judges to sheriffs to social workers.

Model Training Curricula on Sexual Assault Cases

Each curriculum includes a PowerPoint presentation with suggested commentary, a detailed Faculty Manual and additional resources. Access these curricula for free online at:

www.legalmomentum.org/njep/materials-for-judicial-education

Intimate Partner Sexual Abuse: Adjudicating This Hidden Dimension of Domestic Violence Cases

6 curricula | 15 to 180 minutes in length | for civil, family and criminal court judges

Sexual abuse is far more prevalent in cases involving other forms of intimate partner violence than is generally recognized. Recent research with battered women reveals that intimate partner sexual abuse is a hidden but frequent aspect of domestic violence with significant implications for the courts, particularly with respect to risk assessment.

Based on NJEP's extensive web course *Intimate Partner Sexual Abuse: Adjudicating This Hidden Dimension of Domestic Violence Cases*, these six curricula can be integrated into in-person or online judicial education programs on a variety of topics relating to domestic violence or sexual assault, utilized in webinars, or reviewed by individuals online.

Go to curriculum:
www.legalmomentum.org/intimate-partner-sexual-abuse adjudicating-hidden-dimension-domestic-violence-cases

The Challenges of Adult Victim Sexual Assault Cases: Materials for New Judges

Introductory presentation

This curriculum focuses on alerting new judges and judges rotating into a new assignment to the unique challenges of cases involving adult victims of sexual assault that arise in criminal, civil, and family courts. This curriculum provides extensive resources to assist judges in meeting these challenges. A featured component of the Materials for New Judges curriculum is the publication ***Judges Tell: What I Wish I Had Known Before I Presided in an Adult Victim Sexual Assault Case***, described later below, which can also be downloaded independently.

Go to curriculum:
www.legalmomentum.org/challenges-adult-victim-sexual-assault-cases

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Materials and Resources on Adult Victim Sexual Assault

Elder Victims of Sexual Abuse

90 minutes

Elder sexual abuse by intimate partners, relatives, caregivers, other nursing home residents and stranger assailants is a prevalent and distinct form of victimization in which the victims' age and health further complicate the challenges that every sexual abuse/assault case presents for the courts. This curriculum presents current research, strategies for handling these cases, and exercises.

Go to curriculum:
www.legalmomentum.org/elder-victims-sexual-abuse

Jury Selection and Decision Making in Adult Victim Sexual Assault Cases

2 & 3 hour versions (adaptable to each jurisdiction)

Research shows that jurors in adult victim sexual assault cases assess the evidence through the lens of commonly held misconceptions and myths about rape, rape victims and rapists. This curriculum presents the research carried out with actual and mock jurors, as well as public opinion poll data about sexual assault. After learning about the current research, judges discuss their role in selecting a fair jury, protecting jurors' privacy and minimizing jurors' stress and trauma in these difficult cases.

Go to curriculum:
www.legalmomentum.org/jury-selection-and-decision-making-adult-victim-sexual-assault-cases

Interpreters in Adult Victim Sexual Assault Cases

75 minutes

For already traumatized rape victims, encountering an interpreter untrained on sexual assault and domestic violence issues and determined to protect the image of his or her community, even at the expense of the victim, is profoundly destructive and undermines the fair administration of justice. This curriculum includes resources to improve court interpreter services.

Go to curriculum:
www.legalmomentum.org/interpreters-adult-victim-sexual-assault-cases

Raped or "Seduced"? How Language Helps Shape Our Response To Sexual Violence

2 hours

When we discuss sexual assault, we constantly use the language of consensual sex to describe assaultive acts. In addition, we describe violence against women in passive terms, which allows the perpetrators of this violence to remain invisible and unaccountable. We also use language that objectifies or blames victims. This curriculum explores the language of violence against women: how we talk about and write about these crimes. Using case law examples, participants will practice re-writing text in ways that more accurately depict the true nature of the crimes.

Go to curriculum:
www.legalmomentum.org/raped-or-seduced-language-helps-shape-response-sexual-violence

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Materials and Resources on Adult Victim Sexual Assault

Women in Drug Treatment Courts: Sexual Assault as the Underlying Trauma

60 minutes

Many women in drug courts are self-medicating the psychological pain of childhood and adult sexual and physical violence. When drug treatment programs fail to address the underlying trauma, women fail the programs. This curriculum explores the research on substance abuse among female sexual assault victims and the role of drug courts and treatment programs in their recovery.

Go to curriculum:
www.legalmomentum.org/women-drug-treatment-courts-sexual-assault-underlying-trauma

Online Course

Intimate Partner Sexual Abuse: Adjudicating This Hidden Dimension of Domestic Violence Cases

The course provides interdisciplinary research from law, medicine and the social sciences on this hidden but frequent aspect of domestic violence, and explains the significant implications for the courts, particularly with respect to all types of risk assessment, including custody and visitation. The web course contains 13 in-depth modules on issues ranging from risk assessment to cultural defenses, four civil and four criminal case studies, and several interactive elements.

Funded by the State Justice Institute and the Department of Justice Office on Violence Against Women, registration is free and open to all. This online course was designed to permit states and jurisdiction to their own law and practice.

A California judge wrote NJEP:

> This course is superb. Every judge, prosecutor, public defender, probation and parole officer, and police officer should tak e it, I hihgly recommend this course for all involvfed in the criminal justice system. Well done and thank

Go to course:
www.njep-ipsacourse.org

Publications

Judges Tell: What I Wish I Had Known Before I Presided in an Adult Victim Sexual Assault Case

Judges Tell is a compendium of 25 points and commentary on key issues related to adult victim sexual assault. NJEP developed this publication in conjunction with judges experienced in presiding in adult victim sexual assault cases.

The Program Management Specialist at the Washington State Coalition of Sexual Assault Coalitions wrote NJEP:

> "I just read your *Judges Tell* document, and I just want to write you a fan letter! This is a terrific resource for all professionals in the sexual assault field. You do an amazing job of presenting extensive, complex material in an accessible manner. I hope every judge in America reads this, and I know we will use this document in our educational efforts."

Download:
www.legalmomentum.org/resources/judges-tell-what-i-wish-i-had-known-i-presided-adult-victim-sexual-assault-case

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Materials and Resources on Adult Victim Sexual Assault

Risk Assessment and Intimate Partner Sexual Abuse: The Hidden Dimension of Domestic Violence

By Lynn Hecht Schafran, Esq.

Based on the National Judicial Education Program's online course, *Intimate Partner Sexual Abuse: Adjudicating This Hidden Dimension of Domestic Violence Cases*, this article, originally published in *Judicature* magazine, details how sexual abuse elevates the level of risk and potential lethality in domestic violence cases for victims and their children.

Download:
www.legalmomentum.org/resources/risk-assessment-and-intimate-partner-sexual-abuse-hidden-dimension-domestic-violence

"The Undetected Rapist"

7 minutes

A re-enactment of part of an interview conducted with a college student/rapist by Dr. David Lisak, a leading researcher in the field. In the interview, the rapist, who was never reported or prosecuted, callously describes how he planned and executed the rape of a young college student.

This DVD comes with a Discussion Guide and should only be shown with a skilled facilitator.

To learn more and order online:
http://www.legalmomentum.org/store/undetected-rapist-dvd

DVDs

Understanding Sexual Violence: The Judge's Role in Stranger and Nonstranger Rape and Sexual Assault Cases

4 hours

A DVD curriculum based on NJEP's two-day, in-person curriculum. Includes courtroom vignettes, expert commentary, and a panel of judges discussing how they have used these experts' information in their own courtrooms.

Order online:
www.legalmomentum.org/understanding-sexual-violence-judges-role-stranger-and-nonstranger-rape-and-sexual-assault-cases

A Response to The "Undetected Rapist"

23 minutes

Produced in association with IMPACT Personal Safety, Part I is *The Undetected Rapist*. Part II is focus groups of men and women of various ages and backgrounds responding to *The Undetected Rapist*.

This DVD comes with a Discussion Guide and should only be shown with a skilled facilitator.

To learn more and order online:
http://www.legalmomentum.org/store/response-undetected-rapist-dvd

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Materials and Resources on Adult Victim Sexual Assault

Presenting Medical Evidence in an Adult Rape Trial

2 hours

A DVD curriculum that explores the presentation of medical evidence in an adult victim rape trial, with a focus on forensic sexual assault examinations, admitting medical evidence into a rape trial, and cross-examination of the medical witness, among other topics.

To learn more and order online:
http://www.legalmomentum.org/store/presenting-medical-evidence-adult-rape-trial-dvd

In-Person *Understanding Sexual Violence* Curricula for Judges & Prosecutors

Understanding Sexual Violence: The Judicial Response to Stranger and Nonstranger Rape and Sexual Assault

A two-day model curriculum

Provides current interdisciplinary research from law, medicine, and the social sciences about adult victim sexual assault and invites judges to consider how this information relates to their responsibilities in the pre-trial, trial and sentencing phases of sexual assault trials, and as leaders in the criminal justice system and the community. Suggests ways judges can minimize retraumatization of victims without undermining defendants' constitutional rights.

To learn more and order online:
http://www.legalmomentum.org/store/understanding-sexual-violence-judicial-response-stranger-and-nonstranger-rape-and-sexual

Understanding Sexual Violence: Prosecuting Adult Rape and Sexual Assault Cases

A four-day model curriculum

This curriculum for prosecutors uses a case file to explore issues surrounding the prosecution of nonstranger rape cases including: the effect of rape myths and stereotypes on charging decisions, victim treatment, forensic evidence and sexual assault examinations. The curriculum comprises a Faculty Manual, a Participants' Binder, and Resource Books, which include reports, articles, and excerpts that allow participants to consider this subject in greater depth. The Faculty Manual and Participants Binder are available for free online. The Resources Book Vol. I & II is only available in hard copy and can be purchased separately.

To learn more and order online:
http://www.legalmomentum.org/store/understanding-sexual-violence-prosecuting-adult-rape-and-sexual-assault-cases-entire-set

Free online binder:
www.mincava.umn.edu/documents/usvpros

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THE UNDETECTED RAPIST & A RESPONSE TO "THE UNDETECTED RAPIST"

"The Undetected Rapist" is a powerful and disturbing DVD which may be triggering for viewers. Do not watch it alone, and do not show it without a skilled facilitator.

This DVD is a seven-minute re-enactment of part of an interview conducted by Dr. David Lisak. At the University of Massachusetts Boston, Dr. Lisak is an Associate Professor of Psychology and Director of the Men's Sexual Trauma Research Center. He and other researchers across the United States and Europe conduct research to answer a conundrum. The number of women who have been victims of rape vastly outnumbers the number of men indicted, much less convicted, of rape.[1] Who are these "undetected" rapists?

The research methodology utilized by Dr. Lisak and others is this: men on university campuses are invited to participate in a written survey on life experiences, including sexual experiences. Embedded in the survey are questions such as: Have you ever had sexual intercourse with an adult when they didn't want to because you used physical force (twisting their arm, holding them down, etc.) if they didn't want to cooperate? These questions are framed to meet conservative legal definitions of rape, attempted rape, and other forms of sexual assault. Respondents are only asked behavioral questions; they are not asked whether they have committed rape or other criminal acts. The researchers then interview the respondents who say "yes" to the questions about forced sex.

Dr. Lisak's research has documented statistics like the following. In one sample of 1,882 men, the subjects were representative of the diverse American population, had an average age of twenty-eight, and were employed and attending college part-time. The results revealed that **120 men had committed 483 rapes against women they knew**. *None of these rapes were ever reported.*

Of these 120 rapists, 44 men committed a single act of rape and 76 were serial rapists who committed 439 rapes, an average of nearly six rapes per rapist.

The research on undetected rapists shows the same pattern as is found among incarcerated rapists: a small number of men commit the majority of crimes. But these undetected rapists do not reflect the stereotypes about rapists that have been derived from the incarcerated population or invented to explain the phenomenon of rape.

[1] The most recent study of rape victimization comes from the Centers for Disease Control Division of Violence Prevention, *The National Intimate Partner and Sexual Violence Survey* (2011) and is available at http://www.cdc.gov/ViolencePrevention/pdf/NISVS_Report2010-a.pdf. According to this report, 21,840,000 living American women have been victims of rape (which includes completed forced penetration, attempted forced penetration, and completed alcohol/drug facilitated penetration) over their lifetime, p. 18.

*** a project of Legal Momentum in cooperation with the National Association of Women Judges**

In the course of twenty years of interviewing these undetected rapists, in both research and forensic settings, it is clear that the stereotypes about rapists are false. The stereotype of a rapist is a ski-masked stranger who jumps from the bushes with a knife or gun and inflicts terrible, visible injuries on his victim. The reality is 180° from this stereotype.

In fact, the vast majority of rapists:

- Know their victim;
- Have access to consensual sex;
- Are educated and employed;
- Come from every racial, ethnic and economic group;
- Are not mentally ill;
- Plan and premeditate;
- Rarely use weapons;
- Rarely inflict serious visible injuries;
- Use only instrumental violence, meaning only the level of threat or force needed to terrify and coerce their victims into submission;
- Use psychological weapons—power, control, manipulation, and threats—backed up by physical force, and almost never resort to weapons such as knives or guns;
- Use alcohol deliberately to render victims more vulnerable to attack, or completely unconscious;
- Are as likely to be serial and multi-faceted offenders as are incarcerated rapists.

What is also clear from this research is that so-called "date rape" is not a pleasant evening gone bad because of too much alcohol. These undetected rapists plan and premeditate. They have a scheme for getting their victims into a secluded place where they will be vulnerable. Alcohol is part of this plan, intended to make the victim vulnerable.

A Related DVD—"A RESPONSE TO *THE UNDETECTED RAPIST*"

This 23-minute DVD was produced by IMPACT Personal Safety in conjunction with the National Judicial Education Program (NJEP). The first part is NJEP's DVD is *The Undetected Rapist*, in which a never-reported college-student rapist is interviewed. This is followed by three focus groups: one group is all women of diverse ages and backgrounds, the second group is all men of diverse ages and backgrounds, and the third group is women and men meeting together. The responses from these focus groups are a powerful catalyst for discussion.

*

To order "The Undetected Rapist" or "A Response to *The Undetected Rapist*," please visit NJEP on the Web at: www.njep.org

Or fill out and send or fax the attached order form to:

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National Judicial Education Program
395 Hudson Street, 5th Floor
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(212) 226-1066
E-mail: njep@legalmomentum.org

A Discussion Guide to "The Undetected Rapist"

"The Undetected Rapist" is a powerful and disturbing DVD which may be triggering for viewers. Do not watch it alone, and do not show it without a skilled facilitator.

This reenactment of an actual interview with an undetected rapist is intended for use as an educational and training aid. It has been used across the United States in professional training seminars for judges, prosecutors, law enforcement personnel, victim advocates, SANE nurses and other groups involved in victim services and the criminal justice system. It has also been used in community education and prevention programs for students and educators in higher education.

The DVD should not be shown in the absence of a knowledgeable facilitator who can explain its context and guide discussion of the content. The interview can be disturbing to viewers; it can also be misunderstood. It is therefore imperative that it never be shown without a facilitator.

It is very likely that the DVD will evoke many questions and comments from viewers, and these spontaneous responses should always inform the facilitator's guidance of the discussion. However, the following questions and answers may help in focusing viewers on some of the most important implications of the DVD.

Note to Facilitator:

Viewers may distance themselves from Frank's behavior and dismiss him as an atypical rapist because he uses force (choking) to restrain his victim. In this case, it is important for the facilitator to bring viewers back to the specific language and tactics Frank uses, all of which distinguish him as a rapist, whether or not he chose to use force. It is important to emphasize that Frank's use of physical force is only one of the many dangerous behaviors he exhibits, and that a rapist does not have to use force in order to commit a rape.

How is this research conducted?

Researchers administer a survey about a wide range of life experiences to a large sample of men. Embedded in the survey are behaviorally-based questions based on a conservative definition of rape and attempted rape, such as "Did you ever make someone have sex with you when she did not want to by using force (for example, holding her down)?" Survey respondents who say "yes" to these questions are invited to participate in an interview, during which they are asked about the incidents that led them to answer these questions affirmatively. Over the years of conducting this research, the men who said "yes" to these questions spoke freely and with no remorse about what the rapes and other acts of interpersonal violence they had committed. Only one interviewee asked whether he had done anything wrong.

How would you describe the "typical rapist"?

It is still widely believed that rapists typically attack strangers out in the open, during the dead of night and use knives and guns, inflicting brutal injuries on their victims. In truth, only a small fraction of rapists attack strangers. Most rapes are non-stranger rapes that involve premeditation, and very few rapes result in visible, physical injuries.

Is Frank a typical rapist?

Frank can be described as typical in that he is a non-stranger rapist. The vast majority of rapes are committed in a manner very similar to the assault committed by Frank. Although Frank admitted to choking his victim, many rapes are committed without the use of any physical force.

Did Frank premeditate the rape he described?

Frank devoted considerable time and energy to planning this rape. Note Frank's language. He "targeted" first-year college women, his "prey," because they were more likely to be naïve about his ruses and manipulations. Using these animalistic terms, Frank de-humanizes his victims and therefore distances himself from the young women and the fact

that he is doing something wrong. Frank ensures that they will come to the fraternity party by emphasizing how much of an "honor" it is to be invited. He helps produce the high-alcohol punch used to intoxicate the victim and he helps set up the "designated" room where the rape was to take place.

If Frank's premeditation and planning had not occurred, but he still had non-consensual sex with the young women at the party, would his actions still be considered rape? Do you think this is a typical situation?

Yes. If Frank forced the young woman into having sex, even if he had not planned out how he would do so, his act would still be considered rape because he did not have her consent.

What was Frank's *modus operandi*?

As soon as Frank's "target" arrived at the party, he focused his attention on her. He immediately began plying his victim with drinks to ensure that she quickly became intoxicated. Once the victim had been lured to the "designated" room, he began his physical/sexual advances. The "designated" room was a room which all members of the fraternity knew was set aside for this purpose. Personal belongings were removed from it, and it was usually as far away from the "action" of the party as possible, so that there would be no chance of interruption or interference. Frank's use of violence and intimidation was graduated, which is typical of these assaults. He used just enough force – using his body weight to pin his victim down on the bed and then placing his arm across her wind pipe – to terrorize her and ensure that she would submit to the rape.

Do rapists like Frank rape again?

Research indicates that the majority of non-stranger rapists are serial offenders who rape repeatedly, and who also perpetrate other forms of interpersonal violence, such as domestic violence and child abuse. Indeed, in other parts of the interview not reenacted here, Frank disclosed that he had raped other women in a manner very similar to the rape he describes in the DVD.

Was Frank ever prosecuted?

No. The vast majority of rapists in the U.S. are never prosecuted. In fact, only about 15% of rapes are reported to authorities, and of those, very few are successfully prosecuted. Of those that are successfully prosecuted, most are stranger assaults. In recent years there has been a concerted effort to educate the justice system and the public about the fact that most rapes are committed by non-strangers and to bring these cases into court. As a subject in a research project, Frank's participation was protected by federal laws that protect human subjects. As such, the information he disclosed could not be used to initiate a prosecution. However, the information obtained from these studies has been widely published and disseminated to help further rape awareness and prosecution across the U.S.

Did the researcher who conducted the interview tell Frank that he had committed rape?

No. The same federal laws governing the treatment of human subjects in research prohibit a researcher from saying anything to a subject that might significantly change that subject's view of himself. In this case, telling Frank that he was a rapist would clearly have been prohibited.

THE UNDETECTED RAPIST &
A RESPONSE TO "THE UNDETECTED RAPIST"

***The Undetected Rapist* is a re-enactment of an interview conducted by Dr. David Lisak, excerpted from the National Judicial Education Program's DVD curriculum, *Understanding Sexual Violence: The Judge's Role in Stranger and Nonstranger Rape and Sexual Assault Cases. A Response to "The Undetected Rapist"* is a DVD of the interview of the never-reported college-student rapist and the responses of women and men of different ages and backgrounds to this interview.**

DVD Order Form

Name: _____
Organization: _____
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_____
Phone: _____ Fax: _____
Email: _____
Number of *The Undetected Rapist* DVDs at $15.00 each: _____
Running time: 6 minutes, 18 seconds
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National Judicial Education Program

A project of LEGAL momentum

Intimate Partner Sexual Abuse: Adjudicating this Hidden Dimension of Domestic Violence Cases

A Free Web Course & Resource for Judges & Other Justice System Professionals

"This course is superb. Every judge, prosecutor, public defender, probation and parole officer, and police officer should take it. I highly recommend this course for all involved in the criminal justice system. Well done and thank you. I will be a better judge as a result." - A California Judge

Sexual abuse is far more prevalent in cases involving other forms of intimate partner violence than is generally recognized.

Recent research with battered women reveals that intimate partner sexual abuse is a hidden but frequent aspect of family violence with significant implications for the courts, particularly with respect to risk assessment.

The term "intimate partner sexual abuse" encompasses a continuum of behaviors from verbal degradation relating to sexuality to felony-level sexual abuse and torture. Cases involving this type of abuse present complex challenges for the judiciary, beyond the overarching goal of protecting victims and their children while ensuring due process for the accused. Intimate partner sexual abuse is an important factor in risk assessment; in decision-making in civil, criminal, family, juvenile and probate cases; and in custody and visitation determinations. Thus, it is important for the justice system to have strategies that encourage victims to disclose such abuse and resources for effective offender dispositions and management.

Intimate Partner Sexual Abuse: Adjudicating This Hidden Dimension of Domestic Violence Cases provides current interdisciplinary research from law, medicine and the social sciences. Registrants for this course will learn about the implications for the courts of the severe impact of intimate partner sexual abuse, how the law itself often undermines victim safety, how to create a court environment in which victims feel safe disclosing, cultural issues that affect disclosure, which risk assessment instruments include intimate partner sexual abuse as a factor, how to assess the capability of batterer intervention and sex offender treatment programs to address intimate partner sexual abuse and more.

The course was written with a focus on judges but the research and materials cited are useful for all justice system professionals. In addition to thirteen modules, the course consists of self-tests and answers, reflection questions, civil and criminal case studies, questions and commentary.

This online course was developed and written by the National Judicial Education Program, a project of Legal Momentum in cooperation with the National Association of Women Judges.

Instructional design and technology were provided by the Rozier E. Sanchez Judicial Education Center of the New Mexico Institute of Public Law at the University of New Mexico Law School. Funding was provided by the State Justice Institute and the Department of Justice Office on Violence Against Women.

Course Modules & Case Studies

MODULE I: Defining Intimate Partner Sexual Abuse & Assessing Its Prevalence
MODULE II: Victims & Offenders
MODULE III: Risk Assessment
MODULE IV: Statutory Constraints
MODULE V: Why Victims Don't Report
MODULE VI: Institutional Responses
MODULE VII: Custody and Visitation When Intimate Partner Sexual Abuse is a Factor
MODULE VIII: Jury Selection
MODULE IX: Evidentiary Issues
MODULE X: Marital Privilege & Confidentiality of Victim Records
MODULE XI: Cultural Defenses & Cultural Evidence
MODULE XII: Orders of Protection, Pre-Trial Release & Dispositions
MODULE XIII: Recommendations for Improving Court Response to Intimate Partner Sexual Abuse
Developing Issues: Post-Crawford Prosecution & Adjudication of Intimate Partner Sexual Abuse Cases

Case Studies: Eight civil and criminal case studies that provide opportunities to apply the information explored in the modules.

To register for this free online course visit:
www.njep-ipsacourse.org

Intimate Partner Sexual Abuse: Adjudicating this Hidden Dimension of Domestic Violence Cases

A Free Web Course & Resource for Judges & Other Justice System Professionals

Course Modules & Case Studies

Module I: Defining Intimate Partner Sexual Abuse & Assessing Its Prevalence

Explores all aspects of intimate partner sexual abuse from forced sex acts to economic mechanisms of coercion. Presents the research on the surprising prevalence of sexual abuse in the context of domestic violence.

Module II: Victims & Offenders

Describes who the victims and offenders are, the profound impact of intimate partner sexual abuse on victims and the misconception that there is an offender profile. Also explores the typologies of marital rape and offenders' rationales for their abuse.

Module III: Risk Assessment

Research documents forced sex as a leading indicator of potential lethality. Domestic violence victims are most at risk of escalating physical violence, sexual assault, and murder when they try to leave. This module discusses risk assessment instruments that address intimate partner sexual abuse as well as the factors influencing separation sexual assault, the risk to the victim and the six types of potential lethality.

Module IV: Statutory Constraints

The origins of and rationales behind the marital rape exemption and the current statutory exemptions and restrictions that make it difficult to bring marital rape cases.

Module V: Why Victims Don't Report

This module addresses the numerous reasons victims do not report intimate partner sexual abuse including fear of the abuser, ignorance of the law and immigration concerns.

Module VI: Institutional Responses

From the clergy to the courts, this module discusses the various ways social institutions help or hinder victims from leaving relationships where intimate partner sexual abuse is a factor and suggests ways these institutions can improve their response.

Module VII: Custody and Visitation

The issues judges should consider when determining custody and visitation awards to intimate partner sexual abuse offenders including heightened risk to the children of sexual abuse and/or physical violence and the psychological impact on children of witnessing intimate partner sexual abuse.

Module VIII: Jury Selection

Ways to identify biased jurors through voir dire and the difficulties of seating a jury in intimate partner sexual abuse cases because of prevalence of sexual assault in society at large and the widespread myths and misconceptions about rape, particularly between intimate partners.

Intimate Partner Sexual Abuse: Adjudicating this Hidden Dimension of Domestic Violence Cases

A Free Web Course & Resource for Judges & Other Justice System Professionals

Course Modules & Case Studies

Module IX: Evidentiary Issues

From rape shield laws to prior bad acts to the criteria and need for expert witnesses, this module discusses the evidentiary issues present in intimate partner sexual abuse cases.

Module X: Marital Privilege & Confidentiality of Victim Records

Determining the appropriateness of allowing spousal immunity in intimate partner sexual abuse cases and the importance of keeping victim counseling and medical records confidential.

Module XI: Cultural Defenses & Cultural Evidence

The balance between allowing evidence about a victim's or offender's cultural background as a defense or mitigating factor in intimate partner sexual abuse cases and the impact on ensuring justice and safety for the victim and the community.

Module XII: Orders of Protection, Pre-Trial Release & Dispositions

Explores the range of actions courts can take to ensure victim safety and offender rights in intimate partner sexual abuse cases, including whether and how various batterer intervention and sex offender treatment programs address the intersection of sexual abuse and physical violence and judges' role in insuring that the programs to which offenders are sent address this issue effectively.

Module XIII: Recommendations for Improving Court Response to Intimate Partner Sexual Abuse

Provides numerous recommendations to improve access to justice and treatment for victims and offenders in intimate partner sexual cases, as well as suggestions for judges' involvement in coordinated community response within the code of judicial conduct.

Developing Issues

This section includes material on evidence-based, post Crawford prosecution and adjudication of intimate partner sexual abuse cases. New content about emerging issues in the law will be added to this section as they arise.

Case Studies

Four civil and four criminal case studies illustrate the issues that arise in intimate partner sexual abuse cases and provide an opportunity to apply the information explored in the twelve modules.

Intimate Partner Sexual Abuse: Adjudicating this Hidden Dimension of Domestic Violence Cases

A Free Web Course & Resource for Judges & Other Justice System Professionals

Adapting this Online Course to Your Jurisdiction's Law & Practice

This online course was designed to permit states and jurisdictions to add sections to each web page about their own law and practice.

To date, adaptations have been created for Minnesota and the Tribal Courts.

Minnesota

Developed by the Minnesota Coalition Against Sexual Assault

To access the *Minnesota Law and Practice* sections, enter "Minnesota" as your state of residence on the online course's intial registration screen.

Tribal Courts

Developed by the American Indian Law Center of the University of New Mexico in consultation with the Southwest Indian Legal Clinic of the University of New Mexico School of Law

To access the *Tribal Law and Practice* sections, enter "Tribal" in the field "Court Type" on the online course's initial registration screen.

If you are interested in adapting the online course for your jurisdiction, contact NJEP Director, Lynn Hecht Schafran at:
lschafran@legalmomentum.org

This free online course and resource is available at:
www.njep-ipsacourse.org

JUDGES TELL:

What I Wish I Had Known Before I Presided in an Adult Victim Sexual Assault Case

NJEP National Judicial Education Program*

*A project of Legal Momentum in cooperation with the National Association of Women Judges

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JUDGES TELL: WHAT I WISH I HAD KNOWN BEFORE I PRESIDED IN AN ADULT VICTIM SEXUAL ASSAULT CASE

by the
National Judicial Education Program*

"They are crimes like no other."

HON. J. RICHARD COUZENS & HON. TRICIA SUN BIGELOW,
CALIFORNIA BENCHBOOK: THE ADJUDICATION OF SEX CRIMES (2006).

"Sex offense trials are "more difficult…to preside [over] from a legal and technical standpoint, a personal and emotional viewpoint, and a public scrutiny and public pressure perspective."

Kurt M. Bumby & Marc C. Maddox, *Judges' Knowledge About Sexual Offenders, Difficulties Presiding Over Sexual Offense Cases, and Opinions on Sentencing, Treatment and Legislation*, 11 SEXUAL ABUSE: A JOURNAL OF RESEARCH AND TREATMENT 305 (1999).

Sexual assault cases present a unique challenge for the judiciary. They are unique in that they are beset with a myriad of deeply held stereotypes and misconceptions that can undermine the judicial process. Since 1980, the National Judicial Education Program (NJEP) has created and presented judicial education programming about adult victim sexual assault cases, focused on providing the accurate factual information judges need to conduct a fair process and suggesting procedures to minimize victim retraumatization without undermining defendants' rights. To assist new judges, NJEP canvassed judges across the country who had attended NJEP programs to ask what these judges wished they had known before they presided in an adult victim sexual assault case, or a case of co-perpetrated sexual abuse and domestic violence. These judges' twenty-five points are listed below followed by commentary and sources.

1. The widespread misconception that rape is about sexual desire – rather than power and control – colors every aspect of the justice system's response to sexual assault.

2. Sexual assault, including marital/intimate partner rape and male victim rape, is far more prevalent than the general public believes.

3. The vast majority of sexual assaults are committed by someone the victim knows.

4. Sexual assault co-perpetrated with domestic violence is a significant problem and a key factor for risk assessments of all kinds.

5. Few rapes are ever reported to law enforcement.

6. The absence of serious, observable physical injuries is not inconsistent with a sexual assault.

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7. Victims of stranger and nonstranger rape almost always sustain profound, long-lasting psychological injury.

8. Marital and intimate partner rape victims suffer particularly severe psychological injury because of the betrayal of trust by the person they should most be able to trust, and the fact that the rapes are usually repeated.

9. Victim behaviors that are commonplace during and after a rape (not physically resisting, delayed reporting, post-assault contact, etc.) appear counterintuitive to those not knowledgeable about sexual assault.

10. Expert witness testimony is often essential to enable jurors to understand a sexual assault case.

11. Traumatic memories are developed, stored and retrieved differently than non-traumatic memories.

12. It is common for a sexual assault victim to display a flat affect while testifying.

13. On occasion a sexual assault victim, female or male, will have a physical response during the attack, but this is not a sexual response in the sense of desire and mutuality.

14. The widespread belief in rampant false allegations of rape is erroneous.

15. The typical rapist is neither a brutal stranger nor a "good guy" who had a bit too much to drink one night. Rather, he knows his victims, premeditates and uses little overt violence.

16. Like stranger rapists, most nonstranger rapists are serial offenders.

17. Most sex offenders are crossover offenders, committing a variety of sex crimes as well as other interpersonal offenses against adults and children.

18. When evaluating sex offender risk, actuarial assessments are more accurate than clinical assessments.

19. Sex offender treatment is rigorous and specialized. Traditional outpatient psychotherapy is NOT appropriate for these types of offenders.

20. Because of the high incidence of child and adult sexual victimization among women and men in the population at large, sexual assault case jury pools will almost always include victims – often a surprising number – and require special treatment.

21. A thorough *voir dire* that includes questions about the rape myths relevant to the case at bar is essential to seating an impartial jury.

22. Do not let counsel equate the Rape Shield Law and Prior Bad Acts evidence.

23. Scheduling and continuance decisions in rape cases can have a significant impact on victims' recovery.

24. Be prepared for the rape case defendant who demands to appear *pro se*.

25. Always expect the unexpected – these cases can be fraught with peril for the trial judge.

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COMMENTARY AND SOURCES

Below are commentary and sources for each of the 25 points on the previous pages. The sources cited below that are provided in full on the *Challenges of Adult Victim Sexual Assault Cases* Resources CD are listed in **bold.**[*]

1. The widespread misconception that rape is about sexual desire – rather than power and control – colors every aspect of the justice system's response to sexual assault.

Justice Richard Andrias, in his article *Rape Myths: A Persistent Problem in Defining and Prosecuting Rape*, provided on the Resources CD, writes, "Rape myths are false and stereotyped views about rape, rape victims and offenders. Among the most common…is that [r]ape is an expression of sexual (albeit misplaced) desire." Viewing this crime through this mistaken lens has produced deeply flawed police investigations, prosecutions, jury deliberations, media reporting and public response. Although written in 1992, Justice Andrias' article is in no way dated.

Source: **Hon. Richard T. Andrias, *Rape Myths: A Persistent Problem in Defining and Prosecuting Rape*, CRIMINAL JUSTICE, Summer 1992 at 2.**

2. Sexual assault, including marital/intimate partner rape and male victim rape, is far more prevalent than the general public believes.

According to the National Intimate Partner and Sexual Violence Survey: 2010 Summary Report, published by the National Center for Injury Prevention and Control of the Centers for Disease Control, "[n]early 1 in 5 women (18.3%) and 1 in 71 men (1.46%) in the United States have been raped at some time in their lives, including completed forced penetration, attempted forced penetration, or alcohol/drug facilitated completed penetration." "Nearly 1 in 10 women in the United States (9.4%) has been raped by an intimate partner in her lifetime, and an estimated 16.9% of women and 8.0% of men have experienced sexual violence other than rape by an intimate partner at some point in their lifetime." The incidence figure for the 12 months preceding the survey was 1.27 million women raped.

These data match those documented in prior research. According to the most highly-regarded researchers in this field – Dr. Dean Kilpatrick and his team at the Crime Victims Research and Treatment Center at the Medical University of South Carolina – 18% (20 million) of U.S. women have been raped at least once in their lifetime. Kilpatrick's study concluded that in 2006,

[*] This document is designed to be distributed along with the Resources CD for the *Challenges of Adult Victim Sexual Assault Cases: Materials for New Judges* judicial education module. The Resources CD is not just a bibliography. It contains an Annotated Table of Contents with hyperlinks to the full text of each resource. We encourage you to burn a copy of the Resources CD for yourself and to distribute copies to your colleagues. If you obtained this document without a copy of the Resources CD, we encourage you to visit the National Judicial Education Program's website www.njep.org (click on "Sexual Assault Resources") where the Annotated Table of Contents and the full content for the Resources CD can be downloaded for free. On the Sexual Assault Resources page, click on the "Resources Available for Download" link which will direct you to the registration and login page for NJEP's materials for in-person education. Registration is free and open to all.

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1.4 million women over 18 were subjected to 800,000 forcible rapes, 300,000 drug-facilitated rapes, and 300,000 incapacitated rapes, meaning rapes perpetrated when the victim was unable to give consent because of voluntarily ingesting drugs or alcohol. Some of the drug-facilitated and incapacitated rapes also involved force.

Sources:
Michele C.Black, et al., National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, THE NATIONAL INTIMATE PARTNER AND SEXUAL VIOLENCE SURVEY (NISVS): 2010 SUMMARY REPORT at http://www.cdc.gov/ViolencePrevention/pdf/NISVS_Report2010-a.pdf.;

Dean Kilpatrick et al., DRUG-FACILITATED, INCAPACITATED AND FORCIBLE RAPE: A NATIONAL STUDY (2007) at 2, http://www.ncjrs.gov/pdffiles1/nij/grants/219181.pdf;

National Judicial Education Program, Web Course/Resource: *Intimate Partner Sexual Abuse: Adjudicating This Hidden Dimension of Domestic Violence Cases: Module 1: Defining Intimate Partner Sexual Abuse and Assessing its Prevalence*, (2008), www.njep-ipsacourse.org

Note: The National Judicial Education Program's web course/resource, *Intimate Partner Sexual Abuse: Adjudicating This Hidden Dimension of Domestic Violence Cases* was funded by the State Justice Institute and the Office on Violence Against Women. Registration at www.njep-ipsacourse.org is free and open to all.

3. The vast majority of sexual assaults are committed by someone the victim knows.

The stereotyped image of rape involves a stranger jumping from the bushes. The reality is far different. Dr. Kilpatrick and his team found that 89% of forcible rapes and 81% of drug-facilitated and incapacitated rapes of women over 18 were perpetrated by someone known to the victim. The relationship of offender to victim was as follows:

	Forcible	**Drug Facilitated & Incapacitated Rapes**
(Ex) Husband	10%	3%
(Step) Father	11%	1%
Boyfriend	14%	13%
Other Relative	18%	4%
Friend	12%	31%
Classmate	2%	6%
Other Nonrelative	22%	21%
Stranger	11%	19%

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Source: Dean Kilpatrick et al., DRUG-FACILITATED, INCAPACITATED AND FORCIBLE RAPE: A NATIONAL STUDY, 30 (2007), http://www.ncjrs.gov/pdffiles1/nij/grants/219181.pdf.

4. Sexual assault co-perpetrated with domestic violence is a significant problem and a key factor for risk assessments of all kinds.

Until recently, intimate partner sexual abuse in the context of domestic violence was nearly invisible. Recent studies with battered women and battering men document a widespread problem that presages escalating violence and potential lethality. Studies of domestic violence murders, attempted murders and potentially fatal assaults document an extremely high incidence of rape along with the physical violence. Taking all risk factors into account, a batterer who subjects his partner to forced sex in addition to physical violence is twice as likely to kill her as the batterer who subjects his partner to physical violence only. Sexual assault of a mother poses an elevated risk to her children's safety and should be considered in custody/visitation determinations.

Sources: National Judicial Education Program, Web Course/Resource: *Intimate Partner Sexual Abuse: Adjudicating This Hidden Dimension of Domestic Violence Cases Module 1: Defining Intimate Partner Sexual Abuse and Assessing its Prevalence and Module 3: Risk Assessment* (2008), www.njep-ipsacourse.org; Jacquelyn Campbell et al, *Risk Factors for Femicide in Abusive Relationships: Results from a Multisite Case Control Study*, 93 AMERICAN J. OF PUBLIC HEALTH 1089 (2003); DAVID ADAMS, WHY DO THEY KILL? MEN WHO MURDER THEIR INTIMATE PARTNER, 171-172 (2007)

5. Few rapes are ever reported to law enforcement.

Dr. Kilpatrick's study found that in 2006 only 18% of forcible rape victims and 10% of drug-facilitated/incapacitated rape victims reported the crime to law enforcement.

Source: Dean Kilpatrick et al., DRUG-FACILITATED, INCAPACITATED AND FORCIBLE RAPE: A NATIONAL STUDY, 43 (2007), http://www.ncjrs.gov/pdffiles1/nij/grants/219181.pdf.

6. The absence of serious, observable physical injuries is not inconsistent with a sexual assault.

Another rape myth holds that "real" rape victims sustain serious physical injuries, especially in the genital area. In fact, observable physical injuries are uncommon. According to Dr. Kilpatrick's national study:

- 70% of drug-facilitated/incapacitated and 48% of forcible rape victims reported no injuries;
- 23% of drug-facilitated/incapacitated and 34% of forcible rape victims reported minor injuries; and
- 6% of drug-facilitated/incapacitated and 16% of forcible rape victims reported serious injuries.

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There are few observable serious physical injuries because most rapists use instrumental violence, which means they use only the threats and level of physical violence necessary to compel acquiescence and many victims do not physically resist, as explained in #9, below.

Source: Dean Kilpatrick et al., DRUG-FACILITATED, INCAPACITATED AND FORCIBLE RAPE: A NATIONAL STUDY, 31-32 (2007), http://www.ncjrs.gov/pdffiles1/nij/grants/219181.pdf.

7. Victims of stranger and nonstranger rape almost always sustain profound, long-lasting psychological injury.

Almost every rape victim, female or male, suffers severe psychological injury and a high percentage suffers from long-term Posttraumatic Stress Disorder (PTSD). Rape victims have far higher rates of contemplated and attempted suicide than do nonvictims. Many turn to alcohol and drugs to self-medicate their trauma.

Clinical studies document that victims raped by someone they know often have a more difficult psychological recovery than victims of stranger rape. Nonstranger rape victims are less likely to report the crime, more likely to blame themselves and be blamed by others, and less likely to believe themselves deserving of sympathy or professional help. Nonstranger rape victims often have difficulty forming relationships because, according to one clinical study, they have strong doubts about their ability to discern who is truly trustworthy. They tend to isolate themselves socially.

AS a victim raped by a former boyfriend related, "Every time I walk into my bedroom I see him standing over me and telling me to take off my clothes and not to say a word. I can't get it out of my head. It's as if it's happening right now."

Sources: Dean Kilpatrick et al., DRUG-FACILITATED, INCAPACITATED AND FORCIBLE RAPE: A NATIONAL STUDY (2007) at 4, http://www.ncjrs.gov/pdffiles1/nij/grants/219181.pdf; Michelle Davies, *Male Sexual Assault Victims: A Selective Review of the Literature and Implications for Services*, 7 AGGRESSION AND VIOLENT BEHAVIOR (2002) at 203l; **Lynn Hecht Schafran, *Maiming the Soul: Judges, Sentencing and the Myth of the Nonviolent Rapist*, 20 FORDHAM URBAN LAW JOURNAL 439 (1993)**; CRIME VICTIMS RESEARCH AND TREATMENT CENTER, RAPE IN AMERICA 7-8 (1992); Sally Bowie, et al, *Blitz and Confidence Rape: Implications for Clinical Intervention*, 44 AM. J. PSYCHOTHERAPY 180 (1990); Case records of Veronica Reed Ryback, Director, Beth Israel Hospital Rape Crisis Intervention Center, Boston (1992-1994).

8. Marital and intimate partner rape victims suffer particularly severe psychological injury because of the betrayal of trust by the person they should most be able to trust, and the fact that the rapes are usually repeated.

There is a myth that intimate partner rape victims are not harmed because they are used to having consensual sex with the perpetrator. Extensive research with marital and intimate partner rape victims documents that this is completely untrue. The harm is profound.

A woman whose husband subjected her to physical violence and death threats in addition to rape stated:

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> "He was sexually abusive, and I think of all of it that was probably the most painful, and still probably, the hardest to get past. [Y]ou know, when you're in a relationship with somebody that you love and they use sex forcefully, it's devastating…"

Sources: National Judicial Education Program, Web course/Resource: *Intimate Partner Sexual Abuse: Adjudicating the Hidden Dimension of Domestic Violence Cases: Module I: Victims and Offenders*, (2008), www.njep-ipsacourse.org; RAQUEL BERGEN, WIFE RAPE (1996); DAVID FINKELHOR & KERSTI YLLO, LICENSE TO RAPE (1985). Quotation drawn from U.S. Dept. of Justice, Office for Victims of Crime, VICTIM IMPACT: LISTEN AND LEARN (2005) DVD.

9. Victim behaviors that are commonplace during and after a rape appear counterintuitive to those not knowledgeable about sexual assault.

Not physically resisting:

At one time rape law required victims to prove they physically resisted the rapist. Although the law no longer requires resistance, the public, including jurors, still consider physical resistance and injuries as the hallmarks of "real" rape. This mindset seriously undermines the judicial process because it is commonplace for rape victims to not offer physical resistance.

There are several reasons why victims do not physically resist. Many victims freeze with fright, known as "tonic immobility." Some retreat into a mental state called dissociation in which it feels to them as if the rape is happening in a dream, as if they are standing outside their own bodies and observing the assault. Dissociation produces extreme passivity. Other victims make a strategic decision not to resist in order to avoid physical injury or death, or because they are protecting someone else, for example, a sleeping child in another room, or a family member the rapist has threatened to rape if the victim does not comply. Acquiescence out of fear is not consent.

Source: **David Lisak, *The Neurobiology of Trauma* reprinted in NATIONAL JUDICIAL EDUCATION PROGRAM, UNDERSTANDING SEXUAL VIOLENCE: PROSECUTING ADULT RAPE AND SEXUAL ASSAULT CASES (2000); Lynn Hecht Schafran, *Writing and Reading About Rape: A Primer*, 66 ST. JOHN'S L. REV. 979 (1993) at 988.**

Delayed reporting:

Among the few victims who do report, victims of stranger rape tend to report very close to the time of assault whereas victims of nonstranger rape tend to delay. There are many reasons for this delay including:

- Not immediately recognizing the assault as rape (especially in the case of nonstranger rape)
- Fear of retaliation
- Fear of being disbelieved or blamed
- Fear of loss of privacy
- Fear of the criminal justice system
- Denial/Suppression

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- Psychogenic Amnesia (i.e., loss of memory of part or all of an assault)

Below is a victim's explanation of why she delayed reporting:

> "I can't believe this happened to me. It still doesn't seem real. It's taken me a week to report it to the police – I can't remember the exact details of what happened. I guess I'm afraid that people won't believe me." *–Maria, a high school senior, raped by a classmate with whom she was studying for final exams*

Sources: Dean Kilpatrick et al., DRUG-FACILITATED, INCAPACITATED AND FORCIBLE RAPE: A NATIONAL STUDY, 48 (2007), http://www.ncjrs.gov/pdffiles1/nij/grants/219181.pdf; Crime Victims Research and Treatment Center, RAPE IN AMERICA: A REPORT TO THE NATION 5 (1992); **Lynn Hecht Schafran, *Writing and Reading About Rape: A Primer*, 66 ST. JOHN'S L. REV. 979, 1013 (1993)**; Mary P. Koss et al., *Stranger and Acquaintance Rape*, 12 PSYCHOL. OF WOMEN QUART. 1 (1988); Quotation drawn from the case records of Veronica Reed Ryback, Director, Beth Israel Hospital Rape Crisis Intervention Center, Boston (1992-1994).

Post-Assault Contact with Attacker:

Another misconception is that "real" victims would never initiate contact with their attacker after the assault. In fact, in nonstranger cases post-assault contact between the victim and offender is not unusual. Victims who make post-assault contact with the offender are seeking a way to understand exactly what happened – "how could someone I thought was a friend turn on me?" – and as a way to take control and normalize the assault.

10. Expert witness testimony is often essential to enable jurors to understand a sexual assault case.

Jurors often have profound misconceptions about rape victims, offenders, and rape itself. Expert witness testimony may be needed to explain that, for example, absence of injury and delayed report are not inconsistent with sexual assault. Expert testimony may be essential to challenge rape myths in the courtroom and uphold fairness for the victim.

Experts qualified to testify in sexual assault cases include both those with academic credentials and those with extensive direct experience with victims, such as police officers or professionals at victim advocacy organizations.

Judges need accurate factual information about sexual assault in order to evaluate the qualifications of experts and the soundness of their proposed testimony.

Note: Experts may not testify that they believe there was a sexual assault. They may testify as to the common behaviors of victims with whom they have worked and as described in the literature.

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Source**: Hon. Richard T. Andrias, *Rape Myths: A Persistent Problem in Defining and Prosecuting Rape*, CRIMINAL JUSTICE, Summer 1992 at 2.**

11. Traumatic memories are developed, stored and retrieved differently than non-traumatic memories.

Just as brain chemistry dictates the "frozen fright" response to a traumatic event described in #9 above, it also dicates the way traumatic memories are laid down and recalled. People assume that a person subjected to a traumatic event will remember every detail and be able to recount it perfectly on demand. However, because of the effects of trauma on brain chemistry, many victims forget all or parts of the assault or recount the assault differently at different times. Traumatic memories are actually developed, stored and retrieved differently than non-traumatic memories. The fact that a victim recounts the assault somewhat differently from one retelling to the next should **not** be assumed to mean she is lying.

Source: **David Lisak, *The Neurobiology of Trauma*, reprinted in NATIONAL JUDICIAL EDUCATION PROGRAM, UNDERSTANDING SEXUAL VIOLENCE: PROSECUTING ADULT RAPE AND SEXUAL ASSAULT CASES (2000).**

12. It is not unusual for a sexual assault victim to display a flat affect while testifying.

Many people assume that a "real" rape victim will display a certain type of behavior while testifying. She must not cry too much lest she be labeled hysterical. But if she displays a flat affect, others may assume that nothing happened to her. Victims' behavior during trial varies widely according to their personality, stage of recovery, life circumstances and other factors. Some testify in a "controlled style," which means they hide their feelings and appear calm or emotionless. Others testify in an "expressive" style in which they cry, sob, smile, act restless and tense. Some victims display anger which is a good thing from a recovery point of view but juries do not like it. Flat affect often results from the fact that the victim has had to repeat her account to so many people. Some victims rein in their emotions because they do not want the perpetrator to have the satisfaction of knowing how much he has harmed them. An expert witness may be necessary to help the jury understand that flat affect is not inconsistent with a sexual assault.

Source: **Lynn Hecht Schafran, *Maiming the Soul: Judges, Sentencing and the Myth of the Nonviolent Rapist*, 20 FORDHAM URBAN LAW JOURNAL 439, 450-451 (1993).**

13. On occasion a sexual assault victim, female or male, will have a physical response during the attack, but this is not a sexual response in the sense of desire and mutuality.

Victims who have a physical response during a rape are likely to have their assault perceived as being either consensual or merely "bad sex." To the contrary, this response does not in any way signify enjoyment or consent. Rather, it is an entirely physiological response. The human genital system is designed to respond to friction, no matter the source. This automatic response is true for male as well as female victims.

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Sources: TIMOTHY BENNEKE, MEN WHO RAPE 133-34 (1982); Michelle Davies, *Male Sexual Assault Victims: A Selective Review of the Literature and Implications for Services*, 7 AGGRESSION AND VIOLENT BEHAVIOR 203 (2002); Roy J. Levin & Will Van Berlo, *Sexual Arousal and Orgasm in Subjects Who Experience Forced or Non-Consensual Sexual Stimulation – A Review*, 11 JOURNAL OF CLINICAL FORENSIC MEDICINE, 82-88 (2004).

14. The widespread belief in rampant false allegations of rape is erroneous.

It is widely and erroneously believed that many if not most sexual assault allegations are false. In an article in the journal *Violence Against Women*, Dr. David Lisak and his colleagues review the six most methodologically sound studies of false allegations and detail the results of their own new study of sexual assaults reported over ten years at a major northeastern university. The findings of these six studies ranged from 2.1% to 10.9% reported false allegations. The new study found that 5.9% of the cases were false allegations.

Source**: David Lisak, et al, *False Allegations of Sexual Assault: An Analysis of Ten Years of Reported Cases*, 16, VIOLENCE AGAINST WOMEN 1318 (December 2010) and FALSE ALLEGATIONS OF RAPE: FACT SHEET (2010).**

OFFENDERS

15. The typical rapist is neither a brutal stranger nor a "good guy" who had a bit too much to drink one night. Rather, he knows his victims, premeditates, uses little overt violence and is a serial offender.

The misconceptions about rape that can undermine the judicial process include two equally false stereotypes about who typically commits rape: The Brutal Stranger and the Nice-Guy-Who-Drank-Too-Much.

Until recently it was believed that rapists were overtly violent men who attacked strangers, used weapons, and inflicted brutal injuries. As awareness of the nonstranger rapist grew, and the trivializing terms "date rape" and "acquaintance rape" became popular, the stereotype evolved of a "nice guy" who drank too much, had some miscommunication with his date, did not premeditate a rape, and would not do it again. Moreover, the myth evolved that victims of nonstranger rape were not as harmed as victims of stranger rape.

We now have extensive research with incarcerated stranger and nonstranger rapists, as well as men in the general population who freely acknowledge committing acts that meet a conservative definition of rape and attempted rape – all against women they knew. Most of these rapes were never reported. These men feel free to acknowledge their acts because they do not consider themselves rapists -- they are not violent men in ski masks.

It is clear that these undetected nonstranger rapists comprise the vast majority of rapists and they have typical characteristics. As Dr. David Lisak, an internationally known researcher in this field writes in a short paper on the Resources CD, ***Understanding the Predatory Nature of Sexual Violence:***

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> "In the course of 20 years of interviewing these undetected rapists, in both research and forensic settings, it has been possible for me to distill some of the common characteristics of the modus operandi of these sex offenders. These undetected rapists:
>
> - are extremely adept at identifying "likely" victims, and testing prospective victims' boundaries;
> - plan and premeditate their attacks, using sophisticated strategies to groom their victims for attack, and to isolate them physically;
> - use "instrumental" not gratuitous violence; they exhibit strong impulse control and use only as much violence as is needed to terrify and coerce their victims into submission;
> - use psychological weapons – power, control, manipulation, and threats – backed up by physical force, and almost never resort to weapons such as knives or guns;
> - use alcohol deliberately to render victims more vulnerable to attack, or completely unconscious;
> - are as likely to be serial and multi-faceted offenders as are incarcerated rapists."

As a consequence of these rapists' *modus operandi*, the strategies they use to groom their victims and make them vulnerable often look like ordinary social interactions. It is only by looking carefully at the way these offenders operate, for example strategically and repeatedly maneuvering their victims into an isolated situation where no one will intervene, that the pattern and premeditation become clear.

Sources: **David Lisak, *Understanding the Predatory Nature of Sexual Violence* (2008)**; David Lisak & Paul M. Miller, *Repeat Rape and Multiple Offending Among Undetected Rapists*, 17 VIOLENCE AND VICTIMS 73 (2002).

16. Like stranger rapists, most nonstranger rapists are serial offenders.

With respect to serial offending, in l987 Dr. Gene G. Abel and his colleagues published a landmark study in which 561 nonincarcerated, self-reported adult male sex offenders were given complete immunity to disclose all their offenses to researchers. The offenders who perpetrated adult victim rape disclosed an average of 7.2 completed rapes each.

Dr. David Lisak and his colleagues have conducted several studies of what he calls "the undetected rapist," described in Point 15, above. Their findings on the serial nature of nonstranger rape perpetration are captured in the following paragraph:

> "In a study of 1,882 university men conducted in the Boston area, 120 rapists were identified. These 120 undetected rapists were responsible for 483 rapes. Of the 120 rapists, 44 had committed a single rape, while 76 (63% of them) were serial rapists who accounted for 439 of the 483 rapes."

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The researchers calculated the percentage of rapes documented in this study and concluded that 91% were committed by serial rapists.

The Abel and Lisak findings were most recently corroborated in a study of newly enlisted male Navy personnel. The researchers surveyed 1,146 men. Thirteen percent (13%) had committed a completed or attempted rape since the age of 14. Of the rapes documented in this study, 95% were committed by serial rapists.

Sources: Gene Abel, et al, *Self-reported Sex Crimes of Non-Incarcerated Paraphiliacs*, 2 JOURNAL OF INTERPERSONAL VIOLENCE 3 (1987); **David Lisak, *Understanding the Predatory Nature of Sexual Violence* (2008)**; David Lisak & Paul M. Miller, *Repeat Rape and Multiple Offending Among Undetected Rapists*, 17 VIOLENCE AND VICTIMS 73 (2002); Stephanie K. McWhorter, et al, *Reports of Rape Reperpetration by Newly Enlisted Male Navy Personnel*, 24 VIOLENCE AND VICTIMS 2004 (2009).

17. Most sex offenders are crossover offenders, committing a variety of sex crimes as well as other interpersonal offenses against adults and children.

"Crossover" denotes sexual offending or interests outside the parameters of the offense for which an offender was arrested or came to the attention of authorities or researchers. It was once thought that sex offenders specialized in sex crimes only, and within that category, committed only one type of sex crime, e.g., voyeurs were thought not to commit rape. It is now known that sex offenders tend to commit a spectrum of sex crimes and other interpersonal offenses against related and unrelated adults and children.

The Abel study cited in Point 16 above that gave immunity for full disclosure to 561 nonincarcirated adult males, found a high percentage of crossover sexual offenses:

> "Specifically, 66% of intrafamilial child molesters concurrently sexually assaulted children outside the home. Twenty-three percent of child molesters who were convicted of sexually molesting female children also sexually molested male children, and 63% of child molesters who sexually molested males also admitted to sexually molesting females. Forty percent of child molesters admitted to sexually assaulting an adult, and 50% of rapists admitted to molesting a child."

The Lisak/Miller study cited in Points 15 and 16 above found that:

> "These 76 serial rapists [who had committed 439 rapes] had also committed more than 1,000 other crimes of violence, from nonpenetrating acts of sexual assault, to physical and sexual abuse of children, to battery of domestic partners."

With respect to sex offenders' battery of domestic partners, as discussed in Point 4 above, there is a high incidence of sexual abuse and assault in domestic violence cases, with important implications for risk assessment.

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Many of the undetected crimes committed by sex offenders have been discovered through polygraph testing, the most effective way to obtain admissions respecting repeat and crossover sex offenses. In one study of crossover offending utilizing polygraphs "On average, offenders revealed three additional categories of sexual assault types that had not been identified in official records." Polygraph testing reveals that sex offenders are most often repeat sexual offenders who have a variety of prior sexual offenses that may or may not have been reported. These studies demonstrate that the more previous sex offenses someone has committed, the more likely the person will commit another offense in the future.

The findings about crossover offending are extremely important in considering the risk to children of a sex offending parent. It cannot be assumed that offenders arrested for incest are not a danger to the community, or that offenders arrested for the rape of adult victims or the molestation of unrelated children are not a danger to their own children.

Sources: Gene Abel, et al, *Self-Reported Sex Crimes of Non-Incarcerated Paraphiliacs*, 2 JOURNAL OF INTERPERSONAL VIOLENCE 3, 14 (1987); David Lisak & Paul M. Miller, *Repeat Rape and Multiple Offending Among Undetected Rapists*, 17 VIOLENCE AND VICTIMS 73 (2002); National Judicial Education Program, Web Course/Resource: *Intimate Partner Sexual Abuse: Adjudicating the Hidden Dimension of Domestic Violence Cases*, www. njep-ipsacourse.org; Peggy Heil, Sean Ahlmeyer & Dominique Simons, *Crossover Sexual Offenses*, 15 SEXUAL ABUSE: A JOURNAL OF RESEARCH AND TREATMENT 5 (2003); Daniel T. Wilcox & Daniel E. Sosnowski, *Polygraph examination of British sexual offenders: A pilot study on sexual history disclosure testing*; 11 JOURNAL OF SOCIAL AGGRESSION 3 (2005).

18. When evaluating sex offender risk, actuarial assessments are more accurate than clinical assessments.

It was once believed that the most effective way to assess sex offenders' risk was to ask the clinicians working with them in sex offender treatment. We now know this belief to be erroneous. Much more accurate are actuarial assessments that evaluate offenders based on objective factors independent of clinical judgment. These factors include the offender's age when the present offense was committed, the sex and age of the victim, and the number, sex and age of prior victims. These data are placed on a grid and scored by specialists trained to utilize these instruments.

A difficulty with all current assessment instruments is that they are normed on offenders who were reported and adjudicated. Given that only a small fraction of rapes are reported and adjudicated, it is likely that when a previously undetected nonstranger rapist is adjudicated and assessed, he will appear less dangerous on conventional instruments because the static factors, such as previous convictions, do not apply as well to this population.

For a detailed discussion of actuarial instruments now in use, their limitations and suggestions for how to evaluate an evaluator's report, see **David Lisak, *A Judge's Guide to Evaluation Instruments* (2010)**, on the Resources CD.

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19. Sex offender treatment is rigorous and specialized. Traditional outpatient psychotherapy is NOT appropriate for these types of offenders.

It is essential that judges imposing treatment as a sentencing condition require specialized, rigorous sex offender treatment. Optimally, this treatment should be coupled with incarceration. Traditional, individual, insight-oriented counseling is never appropriate for sex offenders. This type of therapy aims to make individuals feel good about themselves. The therapist is used to dealing with people who want to change and may be unaccustomed to the capacity for total denial and manipulation that characterizes sex offenders. The result is that sex offenders treated with traditional psychotherapy by nonspecialists emerge even more rooted in denial and other thinking errors than when they began. Nonspecialized treatment does not create victim empathy or teach the offender to understand his own cycle of deviance and how to stop himself when he begins to relapse into that pattern.

Psychopaths should never be considered for any kind of treatment as it only makes them more skilled at offending.

The effectiveness of specialized sex offender treatment is a subject of much debate. Current research indicates that it may reduce recidivism in the motivated offender. However, since very few rapes are reported, this data must always be questioned.

Source: Kurt Bumby, Center for Sex Offender Management, UNDERSTANDING TREATMENT FOR ADULTS AND JUVENILES WHO HAVE COMMITTED SEX OFFENSES (2006), available at http://www.csom.org/pubs/treatment_brief.pdf

JURIES

20. Because of the high incidence of child and adult sexual victimization among women and men in the population at large, sexual assault case jury pools will almost always include victims – often a surprising number – and require special treatment.

- Call for a larger jury pool than usual to allow for high attrition and challenges for cause**.** Individuals who have been sexually victimized, or whose family members or close friends have been victimized, often feel they cannot be impartial in a sexual assault case. Even victims willing to serve are usually presumed by counsel to be incapable of impartiality and are challenged for cause.
- Use confidential questionnaires and private interviews in chambers to identify victims and discuss their possible service with maximum privacy and minimum retraumatization. [**Note:** Observe your jurisdiction's practice for protecting juror confidentiality. Some jurisdictions use juror numbers and some jurisdictions seal the questionnaires entirely.]
- Be able to direct individuals who disclose victimization to counseling services. Some of those who disclose have never told anyone before and the disclosure is traumatizing. Even survivors who have disclosed in the past may be deeply upset by confronting this again.
- Be sure potential jurors understand that a sexual victimization counts for purposes of jury selection even if it was never reported. A Wisconsin sexual assault case had to be retried because during deliberations a juror said she believed the victim because something similar

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happened to her. When asked to explain why she did not disclose this during *voir dire*, she said it was never reported and so she thought it did not count as a crime.

- Jury questionnaires should also be crafted to identify those who have perpetrated or been accused of perpetrating sexual assault.

On the Resources CD there are two examples of jury questionnaires:

- **Hon. William Hughes, *Jury Questionnaire*, NATIONAL JUDICIAL EDUCATION PROGRAM, UNDERSTANDING SEXUAL VIOLENCE: THE JUDICIAL RESPONSE TO STRANGER AND NONSTRANGER RAPE AND SEXUAL ASSAULT (2005).**

- **Hon. Richard J. Couzens & Hon. Tricia Bigelow, *Jury Questionnaire*, CALIFORNIA BENCHBOOK: THE ADJUDICATION OF SEX CRIMES 122-124 (2006).**

When Judge Hughes began using a questionnaire the number of potential jurors self-identifying as victims of child or adult sexual violence rose by 20.3%.

21. A thorough *voir dire* that includes questions about the rape myths relevant to the case at bar is essential to seating an impartial jury.

> "The more participants endorsed rape myths, the less credible…and more blameworthy…they found the [victim]."

Source: Sarah Ben-David and Ofra Schneider. "Rape Perceptions, Gender Roles Attitudes, and Victim-Perpetrator Acquaintance." 53 SEX ROLES 385, 399 (Sept. 2005).

Seating an impartial jury in a sexual assault case is a challenge. Large-scale research with rape case jurors has repeatedly shown that they often ignore the facts and law and decide cases based on their beliefs about how "real" victims should behave, their assessments of victims' lifestyle and character and their own psychological needs to deny their own vulnerability or past offending. A study involving 90 minute interviews with 331 individual rape case jurors found they were less likely to believe in the defendant's guilt when the victim knew the defendant, reportedly drank or used drugs, or engaged in sex outside marriage. Many jurors define rape in terms of what they perceive as the victim's assumption of risk. For example, a Colorado juror speaking at a judicial education program about sexual assault in his state explained the "not guilty" verdict in the case on which he sat this way:

> "The fact that she testified that she was a lesbian who did not have sex with men was not relevant. She willingly consented to go to their apartment. Having placed herself in this situation, she [sic] was guilty of something." And, "When she got in their truck she gave consent."

Thanks to the "CSI" effect, jurors expect DNA evidence even in cases where the victim and defendant were closely acquainted or married. Misconceptions regarding victim behavior during trial frequently come into play. Another Colorado rape case juror said of the victim, "She did not show the emotion a victim should show." With respect to the public from which rape case

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jurors are drawn, opinion polls and research have documented adherence to rape myths, "assumption of risk," and ideas such as "A man has the right to have sexual intercourse against the women's consent if they are married."

To try to identify potential jurors who cannot listen and deliberate impartially, some judges permit the prosecution and defense an expanded *voir dire*. Some judges, if they believe key questions are not being asked, will direct counsel to ask them or will pose them themselves. Arizona Judge Ron Reinstein observes:

> "Note that many potential jurors will be reluctant to talk about their sexual history or views as it may pertain to sexual assault, such as the victim 'invited' the assault, that the word 'no' invites the perpetrator to be more aggressive because the victim 'really wants it' (even where violence is used—this has been seen in both male and female jurors)—So it's often useful to use a short questionnaire dealing with accusations of uninvited sexual contact and the like—follow-up questions based on their answers should be done in chambers when you sense a potential juror may have issues one way or another."

Sources**: Hon. Richard T. Andrias, *Rape Myths: A Persistent Problem in Defining and Prosecuting Rape*, CRIMINAL JUSTICE, Summer 1992 at 2**; Gary La Free, RAPE AND CRIMINAL JUSTICE: THE SOCIAL CONSTRUCTION OF SEXUAL ASSAULT (l989), at 217-218, 222; Harry Kalven & Hans Zeisel, THE AMERICAN JURY 254 (1966); National Judicial Education Program, Understanding Sexual Violence Program for Colorado Judges (1997).

EVIDENCE:

22. Do not let counsel equate the Rape Shield Law and Prior Bad Acts evidence.
In cases where the defense wants evidence admitted under an exception to the Rape Shield Law and the prosecution wants to admit Prior Bad Acts evidence, defense attorneys often assert that these rules of evidence are related, arguing that if the Rape Shield Law evidence does not come in, the Prior Bad Acts evidence may not be introduced. Not so. These evidentiary rules are independent of one another.

Rape Shield Laws:

Rape shield laws bar questioning victims about their prior, consensual sexual history apart from specified exceptions. While these laws vary from state to state, all allow judges discretion to admit aspects of a complainant's sexual history, such as evidence that someone other than the defendant is the source of an injury. The defendant must make an offer of proof demonstrating why this evidence is relevant and necessary to a fair trial and the prosecution must have the opportunity to challenge that claim.

Rape Shield Laws came into existence nationwide beginning in the l970s because evidence that should have been excluded as irrelevant was routinely admitted, turning rape trials into a character assassination for the victims, making convictions all but impossible and persuading other victims that it would be folly to report and engage with the criminal justice system. In most rape cases the issue is whether the complainant consented to sex with a specific person on a specific occasion. Who she had consensual sex with on prior occasions does not answer that

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question. In the past, courts assumed that a woman who had said "yes" to any man other than her husband after their marriage would say "yes" to every man at any time, thus it was appropriate to cross-examine an alleged rape victim about her entire sexual history. This 1955 holding by the Georgia Supreme Court was typical.

> "In prosecutions for rape, the defense may introduce evidence tending to prove the previous unchaste character of the female; this evidence is admissible for two purposes: one, to discredit her as a witness, and the other to disprove the charge that the intercourse was forcible and against her consent." *Frady v. State*, 90 S.E. 2d 664, 665 (Ga. 1955).

Rape shield laws were enacted to provide sex offense victims with heightened protection against surprise, harassment and unnecessary invasions of privacy, and to encourage victims to participate in legal proceedings to hold offenders accountable.

Prior Bad Acts Evidence:

Defendants must be convicted on the evidence respecting the particular crime with which they are charged, not on their propensity to commit this type of crime as evidenced by their criminal history. Thus, the circumstances under which defendants' "prior bad acts" may be admitted are limited.

Despite law reform efforts, rape complainants are still viewed with unique skepticism, making it difficult to secure a conviction on the testimony of one victim alone. Recognizing that, Congress, as part of the 1994 Violence Against Women Act, amended the Federal Rules of Evidence to provide that, "In a criminal case in which the defendant is accused of an offense of sexual assault, evidence of the defendant's commission of another offense or offenses of sexual assault is admissible and may be considered for its bearing on any matter to which it is relevant." (FRE 413). Many states have followed these changes in the Federal Rules and become more open to admitting evidence of prior sexual assaults, whether or not the victim reported to the police, if the judge is satisfied that the claims are credible and admitting the evidence would be "more probative than prejudicial." If a state does not have a rule of evidence analogous to FRE 413, prior bad acts evidence may be admitted to show common scheme or plan and to refute defenses of consent or lack of intent. In deciding whether to admit Prior Bad Acts evidence it is essential to make clear in the record that this evidence is being admitted for a permissible purpose, not to allow the jury to make the prohibited inference that because the defendant did it before, he did it this time, too.

Careful Analysis is Necessary with Respect to Admitting Both Rape Shield Law Evidence and Prior Bad Acts Evidence:

In determining whether to admit either Rape Shield Law or Prior Bad Acts evidence, careful analysis of the offer of proof is necessary. For example, if the defense claims that someone other than the defendant is the source of injury, consider the age of the victim, the nature of the injury, and when the defense claims that the injury for which the defendant is blamed actually happened. Both consensual and non-consensual intercourse can result in small, internal genital tears, but in

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a young woman tears of that kind heal quickly. Is the defense wanting to admit evidence that she had intercourse with her boyfriend the morning of the alleged assault or two weeks before?

With respect to Prior Bad Acts, note the commentary from Dr. David Lisak in #15, above. Nonstranger rapists' common scheme and plan often look like ordinary social activity, and it is only by taking the proffered prior bad acts apart bit by bit and seeing the *modus operandi* repeated that the premeditation and intent emerge. For example, a fraternity party at which a woman drinks too much and ends up in bed with someone seems, on the face of it, unexceptional. But when investigation reveals that each week the defendant joins his fraternity brothers in scouting the campus for naïve young women to invite to their weekend parties, and that at these parties the men get these women drunk as fast as possible with sweet-tasting punch and then take them to designated rooms stripped of all identifiable furnishings, the intent, motive and/or common scheme and plan emerge.

Sources: Harriet Galvin, *Shielding rape victims in state and federal courts: a proposal for the second decade,* 70 MINN. L. REV. 763 (1986); National Judicial Education Program, *Understanding Sexual Violence: The Judge's Role in Stranger and Nonstranger Rape and Sexual Assault Cases*, DVD, Prior Bad Acts Unit, available at http://www.legalmomentum.org/our-work/njep/njep-sexual-assault.html.

PROCEDURES:

23. Scheduling and continuance decisions in rape cases can have a significant impact on victims' recovery.

As the Illinois Task Force on Gender Bias in the Courts observed, "[c]ontact with the criminal justice system acts as a reminder of the sexual assault during the recovery process and reliving the event can cause emotional turmoil for the victim. The protracted [trial] process and repeated continuances are a primary reason why victims fail to follow through." The longer a trial date is postponed, the greater the emotional distress for the victim. Testifying in court reawakens painful feelings associated with the trauma and increases symptoms of Posttraumatic Stress Disorder. Delays persuade the victim that she is better off dropping out of the justice system. A rape victim whipsawed by the constant scheduling and rescheduling of her case said,

> "I finally went crazy…I called the victim witness office out of the D.A's office and I said, 'I'm not coming in. You can send a police car for me. I'm not coming in….I was under control for the attack, but the system made me crazy."

Sources: 1990 REPORT OF THE ILLINOIS TASK FORCE ON GENDER BIAS IN THE COURTS 120 (1990); Case records of Veronica Reed Ryback, Director, Beth Israel Hospital Rape Crisis Intervention Center, Boston (1992-1994).

24. Be prepared for the rape case defendant who demands to appear *pro se*.

Some rape case defendants choose to represent themselves in an attempt to cross-examine and intimidate the victim. To contain this but retain balance, set strict guidelines for both sides, such

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as requiring that all questions be asked from a counsel table or a podium rather than allowing counsel for either side to have the run of the courtroom. Advise the defendant in advance that he will not be allowed to have his standby attorney take over the case after the cross-examination, which *pro se* defendants in these cases typically try to do. British courts have a rule prohibiting *pro se* counsel in a sexual assault case from cross-examining the victim. At least one U.S. state legislator has submitted a bill to establish a similar rule in his jurisdiction. Consider permitting the defendant to submit questions to the standby counsel to pose, thereby preventing a direct encounter between the defendant and the victim.

25. Always expect the unexpected – these cases can be fraught with peril for the trial judge.

- A judge needs to be clearly in control of the potential for misconduct by anyone and everyone.
- If court personnel are new to sexual assault cases, take time to prepare them and remind them of the need for impartiality and good conduct, e.g., watch your body language.
- Don't assume jurors have a grasp of the terminology used (e.g., cunnilingus, fellatio).
- Let the attorneys know their boundaries when asking permission to approach a witness.
- Judge and court staff should closely monitor the defendant, his friends and family for any hostile or intimidating looks or gestures.
- Some jurors will have a difficult time hearing the details of a sensitive case. The court should offer jurors resources for post-verdict counseling.
- At sentencing, be prepared for a victim too overcome to express herself. Allow a victim advocate, friend or relative to read a written victim impact statement while standing next to the victim.

SUGGESTIONS FROM JUDGES NATIONWIDE:

1. Among the items on the Resources CD is **NATIONAL JUDICIAL EDUCATION PROGRAM, UNDERSTANDING SEXUAL VIOLENCE: THE JUDICIAL RESPONSE TO STRANGER AND NONSTRANGER RAPE AND SEXUAL ASSAULT - *Participating Judge's Recommendations.*** These suggestions were developed by judges from more than twenty-five states who attended National Judicial Education Program's two-day *Understanding Sexual Violence* program. During these programs, judges were asked how they would incorporate the material they explored with the expert faculty into their role as judges in the pre-trial, trial and sentencing phases of an adult victim sexual assault trial, and as leaders in the criminal justice system and the community. Their responses are summarized in this *Recommendations* document. See also on the Resources CD, **Lynn Hecht Schafran, *Writing and Reading about Rape: A Primer*, 66 ST. JOHN'S LAW REVIEW 979, 1026 *et seq* (1993).**

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Human Trafficking and Domestic Violence: A Primer for Judges

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By Dorchen A. Leidholdt

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When Kika stood in family court and asked the judge for an order of protection against her husband Arnie, she seemed like any victim of domestic violence. Her husband's attorney raised an issue, however, not usually raised in domestic violence cases. "Your Honor," he said, pointing to Kika, "this woman was a prostitute." When the judge inquired if this was true, Kika acknowledged that she had three convictions for prostitution. The court immediately turned over to Arnie, later revealed to be her batterer and a regular prostitution buyer, custody of their two little girls. It took many months—and the work of an astute forensic psychologist—before custody of the girls was returned to Kika.

The criminal court judge chastised Kenya as she stood beside her defense attorney at arraignment. "You have 24 prostitution convictions. You're a beautiful young woman. Can't you see that your bad choices are ruining your life!" Little did the judge know that the attorney representing Kenya was hired by the pimp who had brutally enslaved her. Kenya did what the attorney directed, pled guilty, and walked out of the courtroom, back into the clutches of her trafficker.

When Chantal took the stand in the disposition phase of the neglect case against her, the judge could barely conceal her contempt. "You left your little boy with a neighbor while you walked the streets," she opined witheringly. "That's inexcusable." She barely glanced at the little boy's father, John Sr., who stood in the courtroom across from Chantal, glaring menacingly at her. The judge never learned that John Sr. was a brutal pimp who went by the name "Obsession" and that he had battered Chantal and trafficked her into prostitution.

Every day trafficking victims, many of whom are simultaneously victims of domestic violence, appear in courtrooms throughout the United States. Rarely are they identified as victims of domestic violence and even less frequently are they recognized by judges and court personnel as the victims of sex or labor trafficking that they are.

What is the connection between human trafficking and domestic violence? Are there telltale signs that the litigant in your courtroom is a victim or perpetrator of human trafficking and domestic violence? What can be done to accurately identify cases of human trafficking, especially when they dovetail with cases of domestic violence? How can you help protect victims and hold their abusers accountable? This article will explore these questions.

Traffickers or Batterers?

The simplest and one of the most prevalent connections between domestic violence and human trafficking is when they completely overlap, as they did in Kika's and Chantal's cases. Especially in cases of sex trafficking, traffickers and intimate-partner abusers are often one and the same. In fact, sex trafficking is often an extreme form of intimate-partner violence in which traffickers are pimps and batterers rolled into one. Kika's and Chantal's cases are prototypes of this kind of trafficking.

Kika was a young mother living in Venezuela and working as an accountant when she met Daniel, a fellow employee at a Caracas hotel. He began to ask her out on dates, romanced her, and always

seemed to place her needs above his own. He even offered to give her daughter, born out of wedlock, his last name, a gift beyond measure in Venezuela's conservative society. Deeply in love, Kika agreed to follow him to the United States, only to encounter a very different Daniel once she arrived. Here, Daniel, together with his cousin Sandra, monitored her every move, confiscated her savings and passport, and demanded that she pay off an ever-growing debt. Finally Kika, succumbing to Daniel's pleas and Sandra's threats, went to the brothel managed by Sandra. The first night she provided sexual services to 19 buyers. Daniel was simultaneously Kika's abusive intimate partner and the agent of a family-based sex-trafficking ring preying on young women in Venezuela. Kika was not his first victim, nor would she be his last.

Chantal fell in love with John, a young man living in her inner-city neighborhood, after he told her how much he wanted a family too. Once she became pregnant by him, John turned abusive. Shortly after the birth of John Jr., Chantal fled into a domestic violence shelter. Two years later, a struggling single mother, she ran into John on the street. He begged Chantal's forgiveness for mistreating her and promised never to lay a hand on her again. He vowed that he was now ready to be a father to their son, a statement that meant the world to Chantal, who had been raised without a father and always longed for one.

Soon John moved into Chantal's apartment and began to shower expensive presents on her and John Jr. Although John did not physically abuse Chantal, he was controlling and critical of her. He was especially critical of her job as a supermarket cashier. "You're only making minimum wage," he kept telling her. "You could make so much more if you used your best assets." He finally explained why he had so much cash. He was working as a pimp. He began to pressure Chantal to enter "the life." He promised her that it would be "just for a little while," to earn money to buy the house she had always dreamed of. Little by little John broke down Chantal's resistance. Soon she was walking the track. When she refused to go out at night after the murder of another prostituted woman, John beat her.

Daniel and John, like so many other traffickers, initially held themselves out as devoted boyfriends. All over the world pimps, a subset of traffickers, have learned that the best way to recruit vulnerable women and girls into prostitution is through love and romance. Often these traffickers are part of organized rings that train young men in the time-honored tactics of successful pimping. Their techniques of manipulation and control are especially effective with girls and young women who have grown up in conditions of poverty, who have lacked supportive fathers in their lives, and/or who have survived abuse at the hands of a family or community member. Already traumatized, these girls and women are often susceptible to revictimization.

The modus operandi of intimate-partner traffickers is usually a mixture of rewards and punishments—gifts and protestations of love followed by verbal slurs and beatings. These traffickers convince their victims that they are outside the law and can never seek protection from the police. They reinforce their victims' sense of exclusion from society by remaking their identities, often giving them new names and provocative attire and sometimes branding them with tattoos to demonstrate their status as chattel. Isolated from their families and communities, subjected to psychological and physical coercion by men they love and depend on, victims are gradually stripped of their sense of self and seasoned into new identities. Frequently the trauma they sustain as a result of this brutal, dehumanizing treatment—psychological torture as defined by Amnesty International—leads them to view their tormentors as their protectors. Once called Stockholm Syndrome, "traumatic bonding" is the name mental health professionals use to describe the condition of psychological enslavement not uncommon in cases of victims of intimate-partner sex trafficking.

Domestic Violence As Entry into or Exit from Trafficking

Human-trafficking experts often talk about push and pull forces: conditions that propel or lure vulnerable people into situations of prostitution or forced labor. Domestic violence often serves as a push or pull force. People at risk, usually women and girls, often fall under the control of traffickers while attempting to escape intimate-partner abuse. Conversely, they frequently inadvertently become ensnared in abusive intimate-partner relationships trying to escape sex or labor trafficking. Usually lacking economic resources and family support, victims are easy marks for intimate-partner predators. Desperate to leave intolerable conditions, they fail to see that the person offering refuge and protection is himself an abuser. The narratives of two Sanctuary for Families clients—Olga, a victim of labor trafficking, and Kika—illustrate this pattern.

Olga, a young mother living in Ukraine, was regularly beaten by her husband. She had no hope of extricating herself and her two little girls from his abuse: There were no domestic violence shelters in her village and no services for victims, and police were notorious for sending battered women back to their abusive spouses. Then she learned of an opportunity far away. A wealthy woman, originally from her village but now living most of the time in Brighton Beach, Brooklyn, told her about an opportunity there to make a lot of money. The woman helped Olga get a passport by bribing customs officials in Kiev. She presented Olga with tickets to Chicago. The plan was that once she arrived there, Olga would be taken by bus to New York City.

Olga did as she was instructed and all went according to plan, except that once she arrived in Brooklyn, the script had changed. Olga was expected to work around the clock in a small grocery store. Every two weeks, friends of the woman showed up and demanded Olga's paycheck. Olga had no money to send back to her family in Ukraine. She barely had enough to cover her own needs. Olga left the store and found another job, this time in a restaurant, but the friends of the woman showed up, took her by car to a secluded area, beat her, and told her that if she didn't do exactly what they ordered, they would kill her daughters and sell their organs. After that, Olga did exactly as she was told. Olga realized, to her horror, that she had exchanged one abusive situation for one that was even worse. She had escaped a battering husband only to become another kind of slave.

As detailed above, Kika was pulled into trafficking by an intimate partner who unbeknownst to her was working for an international trafficking ring as a recruiter. Just as intimate-partner abuse was her path into trafficking so it was her exit route, leading her from one form of violence and exploitation to another. The only way that Kika could find out of the brothel, where she was forced to provide sexual services to a dozen or more men a night, was by marrying one of those customers, Arnie. Kika had few illusions about Arnie, who carried a gun and once had put it to her head, but could see no other way to escape her traffickers. The two little girls she had with Arnie gave her life meaning but also intensified her fear; the more they matured, the more Arnie treated them the same way he treated her, as possessions to be guarded and controlled. When one of the girls reported to her teacher that her father had thrown her mother to the ground, the teacher told Kika that if she didn't leave him, she would have to call the child welfare authorities. A chain of events was set in motion that led to Kika's appearance in family court and her temporary loss of her daughters.

Dynamics of Power and Control

The hallmark of intimate-partner violence and of human trafficking is the perpetrators' deliberate and concerted deployment of tactics of power and control against their victims. This fact is underscored by the universally accepted definition of human trafficking, enshrined in the UN Trafficking, or Palermo, Protocol, adopted by the United Nations General Assembly in 2000 and ratified by the United States in 2005. The protocol defines trafficking, at a minimum, as the "abuse of power or of a position of vulnerability" in order to induce an individual into sexual exploitation or forced labor. These tactics are remarkably consistent, whether used in cases of domestic violence or human trafficking. Dynamics of power and control are pervasive even in those cases of human trafficking that do not appear to be about gender—cases in which the victims and perpetrators are men and trafficking is into male-dominated occupations like construction work and farm labor. It is important to note that the tactics are often less about overt violence and more about psychological abuse and methods of control. Anti-trafficking experts have taken the power and control wheel, a tool developed by domestic violence victim advocates, and adapted it to reflect the specific forms of abuse used by human traffickers against their victims.

Emotional Abuse

The first of these tactics is emotional abuse, which often starts slowly and sporadically and escalates over time. Often this starts out, as it did in the cases of Kika, Kenya, and Chantal, with the trafficker/pimp making protestations of love and devotion, followed by demands that the victim reciprocate through blind obedience. First, she is expected to surrender her identity and make herself over in the guise he foists upon her, usually one the trafficker determines will make her a more marketable commodity. For example, Obsession gave Chantal the moniker "Foxy" and insisted that she dress in tight, skimpy outfits and wear stiletto heels all the time. Then he insisted that she prove her love by walking the street. Kenya's trafficker told her that he was the only one who cared about her and told her to call him "Daddy." He gave her the new name "Naomi" and told her that the test of her love for him was whether she would prostitute herself

as an “escort.” Kika’s traffickers marketed her as the girl from the Philippines and convinced her that they were helping her by enabling her to discharge her debt to them.

Isolation

The traffickers’ control over their victims is intensified by isolating them, just as batterers isolate victims of domestic violence. Kenya, Chantal, and Kika were monitored at all times by their traffickers or other women working as their traffickers’ agents. All three women were forbidden to contact friends and family and were frequently moved to keep them from developing relationships with people who might help them escape. Kika’s traffickers used her status as an undocumented immigrant to further isolate her, confiscating her passport and telling her that the police would hand her over to immigration authorities if she sought their help. Roberto, a young labor-trafficking victim from Mexico, was subjected to tactics similar to those used by Kika’s exploiters. He fell under the control of a construction boss who forced him to work without pay by confiscating his identity documents, threatening him with deportation, and imprisoning him in a trailer on a construction site.

Sexual Abuse

It is well known that intimate-partner abusers often subject their victims to sexual abuse as a tactic of power and control. Traffickers often initially secure their victims’ compliance by raping them or having others do so as a deliberate strategy to break them down psychologically. Sexual abuse is used by traffickers as both an end and a means: as an end to reap the maximum amount of money possible from the commercial sexual exploitation of their victims and as a means to keep them in such an acute condition of trauma that they cannot mobilize themselves to escape. Victims experience the act of prostitution not as sex but as rape. They often adapt to their circumstances of being raped multiple times each day by using the psychological defense of dissociation, mentally projecting themselves out of their bodies, and often becoming seemingly detached spectators to their own violation. While dissociation can serve as a coping mechanism for victims during their captivity, it can make it impossible for them to enjoy a healthy sexuality once they have escaped their traffickers.

Using Family Members

In cases of domestic violence, batterers often use victims’ own family members, most often their children, as a tool of power and control. Threats to take victims’ children from them are ubiquitous, as are filing custody actions to make good on that threat after victims have fled. Traffickers also exploit their victims’ love for their family members as a tool of control but typically it takes the form of threats to harm them, as we saw in Olga’s case, where her traffickers threatened to kill her daughters. Because traffickers often are members of their victims’ communities, they have access to their victims’ loved ones and can make good on their threats. Frequently trafficking victims want to cooperate with law enforcement but are unable to do so until their family members are no longer at risk of retaliation.

Victims of trafficking are often dutiful daughters and sons from socially conservative communities in which prostitution is deeply stigmatized. Traffickers exploit these circumstances, first by inducing their victims into prostitution, causing them to experience deeply disturbing feelings of shame and self-hatred, and then intensifying their control by threatening to expose their victims’ exploitation in prostitution to their family and community members. Not infrequently traffickers take pornographic photographs of their victims and threaten to send them to their families or post them on the Internet. Just like batterers, traffickers humiliate their victims while simultaneously shifting responsibility for their humiliation onto them. As a consequence, rather than blaming their abusers and exploiters, victims often blame themselves.

Physical Abuse

Like physical abuse in domestic violence, physical abuse in human trafficking takes myriad forms. Slapping, hitting, punching, kicking, choking, dragging by the hair, throwing against furniture—all the different kinds of physical abuse that batterers inflict on their victims are inflicted by traffickers on theirs. But often the techniques of physical abuse employed in trafficking are more frequently seen in the context of political torture, such as beatings with wire coat hangers, deliberately breaking a victim’s bones, or pulling out her fingernails. One of Kenya’s traffickers was known as a gorilla pimp, which meant that he specialized in such extreme forms of physical torture.

Some traffickers, however, pride themselves on not having to resort to such extreme forms of violence, which in their minds not only show a lack of finesse but can damage the value of the merchandise. Keeping a victim in a state of exhaustion and debility from having to "work" throughout the night and plying her with drugs and alcohol to induce addiction and numb her to the horror of her reality also are common methods of physical abuse, although they may not be recognized as such.

Economic Abuse

While economic abuse—forbidding a victim to work or forcing her to do so and confiscating her wages, for example—is a common tactic of perpetrators of domestic violence, economic abuse is a core element, indeed the raison d'être, of the crime of human trafficking. The purpose of trafficking is the economic gain of the trafficker; the psychological gratification obtained from exerting power and control over the victim is a side benefit. In addition to confiscating all or almost all the money earned by the victim from prostitution or forced labor, the trafficker often finds other ways to cash in, such as charging the victim for expenses he incurs but she is responsible for—transportation to and from "dates," lodging, and the cost of food and clothing. Typically these expenses are inflated and the cost is added to her constantly escalating debt burden, which furthers the trafficker's control. In Kika's, Kenya's, and Chantal's cases, even the fees of the lawyers hired by the pimps to feign representation in court after the women were arrested for prostitution (in reality, these lawyers were acting in the interests of the traffickers) were added to their debt.

Coercion and Threats

All the tactics described above are forms of coercion regularly employed by traffickers against their victims. Indeed traffickers demonstrate the infinite variety that forms of coercion can take. Confiscating an immigrant victim's travel documents, often ostensibly as security for an invented or inflated debt, is one example. For native-born victims, traffickers often confiscate their Social Security cards, driver's licenses, and other forms of identification, making it impossible for them to engage in ordinary daily transactions necessary for survival.

Like the batterers of undocumented immigrant victims, traffickers often threaten to turn undocumented victims into the police or immigration authorities for detention and deportation. Even girls and women with immigration status aren't immune from threats involving law enforcement. Traffickers remind these victims that they're engaged in activity that is illegal and are at risk of arrest and prosecution. The frequent arrest of trafficking victims for prostitution reinforces traffickers' threats and intensifies victims' dependence on their exploiters.

Intimidation

Like victims of domestic violence, trafficking victims are often hypervigilant and anxiously watch their abusers for signs of anger and aggression. Once traffickers have obtained physical and psychological dominance over their victims, they rarely need to resort to force; an expression of annoyance or gesture of disapproval will often suffice. Nonetheless, traffickers frequently use force as a tool of intimidation; often it has an even greater effect on the victim if it is not directed at her but at another woman or girl. From time to time, Kenya's pimp would beat another young trafficking victim in his "stable" in the presence of Kenya, who was forced to watch helplessly. The purpose of the public beating was not only to punish the victim for her supposed disobedience but also to terrorize Kenya and display his power over her. Kenya knew that she easily could have been the target of the pimp's wrath; the random, arbitrary nature of the punishment made it even more frightening. Unable to intervene to protect the young woman being beaten, Kenya experienced the abuse vicariously while feeling complicit because she could not stop it.

Traffickers' Family Values

Traffickers replicate the hierarchical structure and dynamics of an abusive family as a tool of control. The trafficker positions himself as the head of the household, the paterfamilias who is in charge of the other family members, who take the roles of subordinate wife and children. These roles are reinforced by the traffickers' terminology: Victims are instructed to call their pimps "Daddy" and their fellow victims "wife-in-laws." Asian trafficking victims are often instructed to refer to their traffickers respectfully as "older brother" or "older sister." Violence and verbal abuse are justified as the patriarch's prerogative, indeed his duty, to discipline a disobedient spouse and unruly children. Not only do traffickers frequently make their victims

their lovers, showering on them all of the trappings of romantic seduction, in a number of instances they have been known to marry their victims in order to cement their control. When arrested for running a sex-trafficking ring out of Mexico, the Carreto brothers insisted that they couldn't be their victims' pimps because they were their husbands.

Just as batterers woo their victims by appealing to their longing for a family of their own, traffickers seduce their victims into prostitution by urging them to sacrifice themselves for the good of "the family." Sometimes that family is the unit established by the trafficker: the pimp and the women in his stable. Kenya's pimp drummed it into her head that she had to prostitute herself in order to help support "Daddy" and her "wife-in-laws." Like so many inner-city young women, Chantal was desperate to have a family with a father for her children and entered prostitution, at Obsession's urging, in the hope of fulfilling that dream.

In other instances, the family the traffickers evoke is the victim's own natal family. Asian trafficking victims are told that earning money in prostitution, money they never will see, will help them send their younger brothers and sisters to school. Latin American victims are promised that their exploitation in prostitution is just temporary, just long enough to raise funds to build a home for their family. Kika was kept in prostitution for three long years after being coerced into it by Daniel and Sandra not only by the debt bondage they placed her in and her severe trauma but also by her fear of bringing shame on her natal family and her hope of eventually being able to send money back home to support her left-behind daughter. Traffickers are notorious for cynically exploiting the concept of family values, and few demonstrate as much genuine devotion to family values as their victims.

Services for Victims

Understanding the domestic violence–trafficking connection is not only useful to judges and court personnel in identifying victims and understanding the nature and effects of their ordeal. It can also be valuable in understanding the kind of assistance victims need and where help is available. Courts increasingly are taking steps to ensure that victims obtain assistance and are referring them to service providers. Questions they frequently ask are, what kinds of services are needed and where are they available?

Human-trafficking victims, who often are simultaneously victims of intimate-partner violence, need the same multidisciplinary and holistic services as victims of domestic violence: a safe place to live; counseling and psychological services for treatment of trauma; health care; legal representation in family law, criminal, immigration, and public-benefits cases; and economic empowerment assistance. Increasingly, domestic violence service providers are realizing that they are uniquely equipped to assist this high-needs population and are opening their doors to trafficking victims. Other legal and social service providers with a holistic approach and expertise in trauma may also be well suited to addressing victims' needs.

This does not mean that trafficking victims' needs precisely dovetail with those of other victims of intimate-partner violence and that domestic violence service providers do not need to take their special circumstances and challenges into consideration. Without training and sensitization, staff at domestic violence programs may not be equipped to address the high level of traumatic symptoms trafficking victims present and may display insensitive, victim-blaming attitudes, especially toward trafficking victims who have been subjected to prostitution. Without education and awareness raising, clients at domestic violence organizations may also exhibit bias toward trafficking victims who have been prostituted. Before making referrals, courts and court personnel would do well to inquire about an organization's experience with and awareness of the special needs of trafficking victims.

http://www.americanbar.org/publications/judges_journal/2013/winter/human_trafficking_and_domestic_violence_a_primer_for_judges.html

The Local Face of Human Trafficking……

July 8th, 2004, the US House Subcommittee on Human Rights and Wellness held a Hearing on Trafficking. One of the witnesses was Michele Clark, the co-director of The Protection Project, a human rights research institute located at the Johns Hopkins University School of Advanced International Studies. The Protection Project focused on documenting and analyzing the complex dimensions of human trafficking in the Unites States and around the world.

In her testimony, Ms. Clark read a letter she had received from a trafficking victim that makes it clear that trafficking is not only an international problem, but a local problem as well.

Dear Michele:

I wanted to talk to you, to impress upon you that there are a lot of American women who are also in the same predicament [as women who are trafficked from overseas.] Pimps buy and sell women all the time, between themselves, the clients, etc. You can sell one white blonde girl in Mexico and get three Mexican girls in return. A girl who makes good money on the street can sell for $10,000 or more to another pimp. Often, pimps make sure that they have sisters or friends, and split the girls up. If one acts up or tries to escape, the other will be punished.

I tell you these things from my own experience. I was bought and sold between men in the US. I am a white female, born here. My daughter was held hostage so that I could work. One year, I saw her for one day. My mother, who is now 77, was beaten several times because of me. I have seen many of my girlfriends killed. It is often easier to kill yourself than to know you will be tortured all night when you get home and are not able to sleep before you must go back to work. By torture, I mean beatings, strangling, being cut, thrown out of the windows, etc. I have been tossed out of a third story window. I have had 81 broken bones, including my nose being broken three times, my jaw fractured, my ribs have had 28 separate

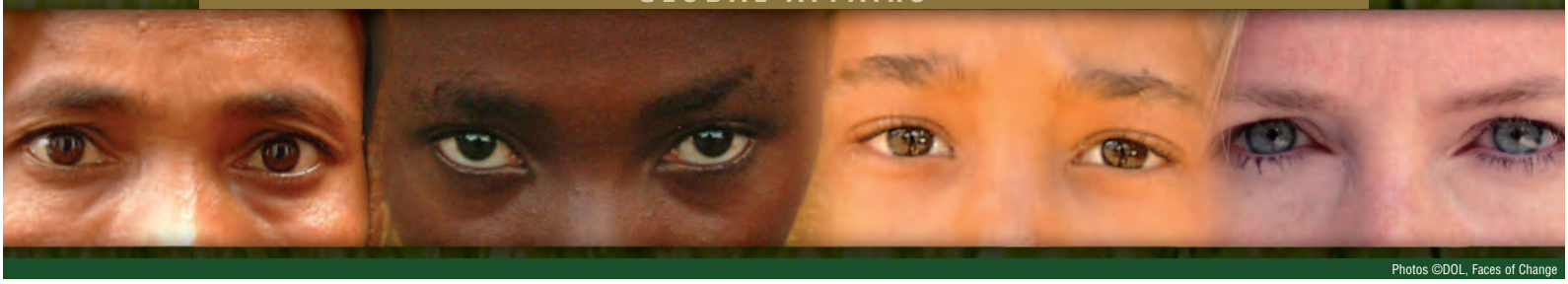
breaks. I have had my feet broken so that I could not leave.

The "houses" in Vegas are used by pimps to train girls they do not want to deal with. They take girls there for months at a time. The girls are not allowed to leave without the pimp coming to get her. When he does, the house gives him her cash. They cannot keep money on them in the room. They are let out for a week or two at a time, the pimp spends some time with her, buys her clothes and such. Then the pimp signs the girls back in for another stint.

I know that trafficking is bad from other countries. I used to know Chinese restaurants and massage parlors in Phoenix that would bring girls in who only spoke Chinese. They were allowed to see only Chinese men. They were not allowed to talk to anyone else. They are not allowed out and are locked up when the owner of the store leaves. There are no phones, no way to communicate. I know this because I used to know a Chinese motel owner and his wife who were friends with the owner. He was over often and the wife would tell me how sad she was for the girls. But she could not say anything because of her husband. It goes on.

Just please do not forget the American girls. There are girls here who have no one to turn to either. They are exploited, abused, and used. They are bought and sold and beaten or raped by men, even their own, daily.

They need you too.



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The Link Between Prostitution and Sex Trafficking

The U.S. Government adopted a strong position against legalized prostitution in a **December 2002 National Security Presidential Directive** based on evidence that prostitution is inherently harmful and dehumanizing, and fuels trafficking in persons, a form of modern-day slavery.

Prostitution and related activities—including pimping and patronizing or maintaining brothels—fuel the growth of modern-day slavery by providing a façade behind which traffickers for sexual exploitation operate.

Where prostitution is legalized or tolerated, there is a greater demand for human trafficking victims and nearly always an increase in the number of women and children trafficked into commercial sex slavery.

Of the estimated 600,000 to 800,000 people trafficked across international borders annually, 80 percent of victims are female, and up to 50 percent are minors. Hundreds of thousands of these women and children are used in prostitution each year.

© AP/Wide World Photo

Moldovan and Romanian trafficking victims freed after a raid of a Bosnian brothel.

Women and children want to escape prostitution

The vast majority of women in prostitution don't want to be there. Few seek it out or choose it, and most are desperate to leave it. A 2003 study first published in the scientific *Journal of Trauma Practice* found that 89 percent of women in prostitution want to escape.[1] And children are also trapped in prostitution—despite the fact that international covenants and protocols impose upon state parties an obligation to criminalize the commercial sexual exploitation of children.

© AP/Wide World Photo

Women and girls rescued from brothels in Indian cities line up to identify an alleged trafficker at a shelter in Nepal.

Prostitution is inherently harmful

Few activities are as brutal and damaging to people as prostitution. Field research in nine countries concluded that 60-75 percent of women in prostitution were raped, 70-95 percent were physically assaulted, and 68 percent met the criteria for post traumatic stress disorder in the same range as treatment-seeking combat veterans[2] and victims of state-organized torture.[3] Beyond this

shocking abuse, the public health implications of prostitution are devastating and include a myriad of serious and fatal diseases, including HIV/AIDS.

A path-breaking, five-country academic study concluded that research on prostitution has overlooked "[t]he burden of physical injuries and illnesses that women in the sex industry sustain from the violence inflicted on them, or from their significantly higher rates of hepatitis B, higher risks of cervical cancer, fertility complications, and psychological trauma."[4]

State attempts to regulate prostitution by introducing medical check-ups or licenses don't address **the core problem: the routine abuse and violence that form the prostitution experience** and brutally victimize those caught in its netherworld. Prostitution leaves women and children physically, mentally, emotionally, and spiritually devastated. Recovery takes years, even decades—often, the damage can never be undone.

Prostitution creates a safe haven for criminals

Legalization of prostitution expands the market for commercial sex, opening markets for criminal enterprises and creating a safe haven for criminals who traffic people into prostitution. Organized crime networks do not register with the government, do not pay taxes, and do not protect prostitutes. Legalization simply makes it easier for them to blend in with a purportedly regulated sex sector and makes it more difficult for prosecutors to identify and punish those who are trafficking people.

© DOS Photo

A brothel where the borders of Paraguay, Argentina, and Brazil meet, creating a hub for human trafficking.

©AP/Wide World Photos

Suspected leader of sex trafficking in Macedonia.

The Swedish government has found that much of the vast profit generated by the global prostitution industry goes into the pockets of human traffickers. The Swedish government said, "International trafficking in human beings could not flourish but for the existence of local prostitution markets where men are willing and able to buy and sell women and children for sexual exploitation."[5]

To fight human trafficking and promote equality for women, Sweden has aggressively prosecuted customers, pimps, and brothel owners since 1999. As a result, two years after the new policy, there was a 50 percent decrease in women prostituting and a 75 percent decrease in men buying sex. Trafficking for the purposes of sexual exploitation decreased as well.[6] In contrast, **where prostitution has been legalized or tolerated, there is an increase in the demand for sex slaves**[7] **and the number of victimized foreign women**—many likely victims of human trafficking.[8]

Grant-making implications of the U.S. government policy

As a result of the prostitution-trafficking link, the U.S. government concluded that no U.S. grant funds should be awarded to foreign non-governmental organizations that support legal state-regulated prostitution. Prostitution is not the oldest profession, but the oldest form of oppression.

For more information, please log on to the Web site of the State Department's Office to Monitor and Combat Trafficking in Persons at www.state.gov/g/tip.

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[1] Farley, Melissa et al. 2003. "Prostitution and Trafficking in Nine Countries: An Update on Violence and Posttraumatic Stress Disorder." *Journal of Trauma Practice*, Vol. 2, No. 3/4: 33-74; and Farley, Melissa. ed. 2003. Prostitution, Trafficking, and Traumatic Stress. Haworth Press, New York.

[2] Farley, et al.

[3] Ramsay, R. et. al. 1993. "Psychiatric morbidity in survivors of organized state violence including torture." *British Journal of Psychiatry*. 162:55-59.

[4] Raymond, J. et al. 2002. *A Comparative Study of Women Trafficked in the Migration Process*. Ford Foundation, New York.

[5] Swedish Ministry of Industry, Employment, and Communications. 2004. *Fact Sheet: Prostitution and Trafficking in Women*. http://www.sweden.gov.se/content/1/c6/01/87/74/6bc6c972.pdf

[6] Ekberg, G.S. 2001. "Prostitution and Trafficking: The Legal Situation in Sweden". Paper presented at Journées de formation sur la mondialisation de la prostitution et du traffic sexuel. Association québécoise des organismes de coopération internationale. Montréal, Quebec, Canada.

[7] Malarek, Victor. *The Natashas: Inside the New Global Sex Trade*. Arcade Publishing, New York, 2004.

[8] Hughes, Donna M. 2002. *Foreign Government Complicity in Human Trafficking: A Review of the State Department's 2002 Trafficking in Persons Report*. Testimony before the U.S. House Committee on International Relations. Washington, D.C., June 19, 2002.

Photos ©DOL, Faces of Change

The Facts About Child Sex Tourism

"There's a special evil in the abuse and exploitation of the most innocent and vulnerable. The victims of sex trade see little of life before they see the very worst of life — an underground of brutality and lonely fear."

— President George W. Bush before the UN General Assembly, September 2003

What Is Child Sex Tourism?

Each year, over a million children are exploited in the global commercial sex trade. Child sex tourism (CST) involves people who travel from their own countries to another and engage in commercial sex acts with children. CST is a shameful assault on the dignity of children and a form of violent child abuse. The sexual exploitation of children has devastating consequences, which may include long-lasting physical and psychological trauma, disease (including HIV/AIDS), drug addiction, unwanted pregnancy, malnutrition, social ostracism, and possibly death.

Tourists engaging in CST often travel to developing countries looking for anonymity and the availability of children in prostitution. The crime is typically fueled by weak law enforcement, corruption, the Internet, ease of travel, and poverty. Previous cases of child sex tourism involving U.S. citizens have included a former pediatrician, a retired Army sergeant, a dentist, and a university professor. Child pornography is frequently involved in these cases; drugs also may be used to solicit or control the minors.

A Global Response

Over the last five years, there has been an increase in prosecution of CST offenses. At least 32 countries have extraterritorial laws that allow the prosecution of their citizens for CST crimes committed abroad. In response to the phenomenon of CST, non-governmental organizations (NGOs), the tourism industry, and government leaders have begun to address the issue. The World Tourism Organization, the NGO *End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes* (ECPAT), and Nordic tour operators created a global *Code of Conduct to Protect Children from Sexual Exploitation in Travel and Tourism* in 1999. As of June 2005, 200 travel companies from 21 countries had signed the code (see www.thecode.org).

State Department Photo

Many governments have taken commendable steps to combat child sex tourism. For example, France's Ministry of Education and travel industry representatives developed guidelines on CST for tourism schools. State-owned Air France shows in-flight videos and allocates a portion of in-flight toy sales to fund CST awareness programs. Brazil has a national awareness campaign on sex tourism. Italy requires tour operators to provide brochures in ticket jackets to travelers regarding its law on child sex offenses. Thailand is providing victims with shelter and essential services. The

©World Vision

Gambia has a hotline which visitors can call to provide information to authorities on sex tourists. Senegal has established a special anti-CST unit within the national police force with offices in two popular tourist destinations. In India's Goa state, film developers must report obscene depictions of children to police. Sweden's Queen Silvia has made this issue a personal priority and is an effective global advocate.

What the United States Is Doing

In 2003, the United States strengthened its ability to fight child sex tourism by passing the *Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today* (PROTECT) Act and the *Trafficking Victims Protection Reauthorization Act*. These laws increase penalties to a maximum of 30 years in prison for engaging in CST. Since the passage of the PROTECT Act, there have been over 20 indictments and over a dozen convictions of child sex tourists. The Depart-ment of Homeland Security has developed the Operation Predator initiative to combat child exploitation, child pornography, and child sex tourism. The United States also is funding the NGO *World Vision* to conduct major public awareness and deterrence campaigns overseas.

To report suspected incidents of child sex tourism involving American citizens call the U.S. Immigration and Customs Enforcement tipline at: 1-866-DHS-2ICE. If immediate assistance is needed, contact the regional security officer at the local American embassy or consulate, or foreign law enforcement officials.

What Governments Can Do

Enhance Research and Coordination:

- Research the extent and nature of the problem
- Draft an action plan for addressing CST
- Designate a government point of contact

Augment Prevention and Training:

- Encourage the travel industry to sign the Code of Conduct
- Fund and/or launch public awareness campaigns
- Train and sensitize law enforcement on the issue
- Ensure that border and airport officials report suspected cases

Strengthen Legal Measures and Prosecutions:

- Draft, pass and/or enforce extraterritorial laws criminalizing CST
- Increase punishment for offenders
- Cooperate with foreign governments
- Prosecute the crime to the fullest extent possible

Assist Victims:

- Provide shelter, counseling, medical, and legal assistance to victims
- Provide reintegration assistance
- Support the efforts of NGOs working with child victims

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Carlson Companies, Inc. CEO Marilyn Carlson Nelson signs the Code of Conduct to Protect Children from Sexual Exploitation in Travel and Tourism. With her is Ambassador John R. Miller, Director of the U.S. Department of State Office to Monitor and Combat Trafficking in Persons.

What United States Citizens Can Do

- Stay informed and support the efforts of authorities and the tourism industry
- Report to the authorities abroad and/or to the U.S. Department of Homeland Security's Immigration and Customs Enforcement if you suspect children are being commercially sexually exploited in tourism destinations
- Be aware that any U.S. citizen or permanent legal resident arrested in a foreign country for sexually abusing minors may be subject to return to the U.S., and if convicted, can face up to 30 years imprisonment
- Support the efforts of NGOs working to protect children from commercial sexual exploitation

What Businesses Can Do

Travel, tourism, and hospitality companies can sign the *Code of Conduct to Protect Children from Sexual Exploitation in Travel and Tourism*, which requires them to implement the following measures:

- Establish a corporate ethical policy against commercial sexual exploitation of children (CSEC)
- Place clauses in contracts with suppliers stating a common repudiation of CSEC
- Report annually on their progress
- Train tourism personnel
- Provide information to travelers
- Provide information to local "key persons" at travel destinations

For more information, please log on to the Web site of the State Department's Office to Monitor and Combat Trafficking in Persons at www.state.gov/g/tip.

Are You Coming To The United States Temporarily To Work Or Study?

We Are Confident That You Will Have An Interesting And Rewarding Stay. However, If You Should Encounter Any Problems, You Have Rights And You Can Get Help!

You Have the Right to:

- Be treated and paid fairly;
- Not be held in a job against your will;
- Keep your passport and other identification documents in your possession;
- Report abuse without retaliation;
- Request help from unions, immigrant and labor rights groups and other groups; and
- Seek justice in U.S. courts.

These rights, and others, are explained in this pamphlet.

If you are mistreated or your rights are violated, call these toll-free numbers:

National Human Trafficking Resource Center's
24 Hour Toll-Free Hotline
1-888-373-7888

(Run by a non-governmental organization)

Trafficking in Persons and Worker Exploitation
Task Force Complaint Line

(Monday — Friday, 9am-5pm Eastern Time)
1-888-428-7581

(Run by the U.S. Department of Justice)

If you are in immediate physical danger, Call 911

For more on your rights to be treated and paid fairly at work, see page 5

For more on your right not to be held in a job against your will, see page 7

This pamphlet was created as a result of a U.S. Federal law, Public Law 110-457. The U.S. Government has issued this pamphlet to honor the rule of law and uphold the dignity of all who come to this country. The U.S. Government is committed to combating human trafficking and labor rights violations.

REMEMBER!!
There Are Ways to Protect Yourself

- Keep your passport in a safe, easily accessible place at all times;
- Keep copies of your passport, visa, and employment contract in your home country with relatives or friends;
- Always have the phone number of your home country's embassy;
- Keep this pamphlet handy so that you can refer to it once you are in the United States;
- Keep a record of all the days and hours that you work, and the amount and date of each payment that you receive; and
- **Call the National Human Trafficking Resource Center Hotline at 1-888-373-7888** (24 hours) or the **Trafficking in Persons and Worker Exploitation Task Force Complaint Line at 1-888-428-7581** (weekdays 9am-5pm Eastern Standard Time) if you need help.

An Overview of the Nonimmigrant Visa Process

What is a nonimmigrant visa?

A nonimmigrant visa is a U.S. government document that permits individuals who travel to the United States to request entry for a particular purpose; for example, to work or to study.

The nonimmigrant visa process involves two important steps:

1. Applying for the visa at the appropriate U.S. embassy or consulate abroad; and
2. Presenting the visa to an immigration inspector at a U.S. port of entry.

TIP

Before you travel to the United States, **make two copies** of all important documentation, especially your passport (with visa), your contract, and your identity documents. Give one set of these copies to someone you trust in your home country. When you arrive in the United States and receive an I-94, make one copy of the I-94 in case you lose the original. Keep these documents in a safe place.

What are the important parts of my documentation?

1. The visa. It is located in your passport and shows your picture and visa expiration date. If your visa expires, you cannot reenter the United States on that visa until it is renewed.

- If you have an employment-based visa, the visa will include the name of the employer who is sponsoring you to work in the United States.
- Your temporary work visa **does** not **give you permission** to work for **any** employer that you choose—it is permission to work **only** for the employer listed on your visa application. In rare cases, it may be possible to change employers.
- This does not mean you have to continue to work for your employer if the employer is abusing or exploiting you.

2. The I-94 Card. This is a white card provided to you when you enter the United States. Your I-94 card shows the period of time that you are allowed to remain in the United States.
   Do not lose this card!

TIP

Once you arrive in the U.S., **keep your passport and other travel documents in a safe place where you can access it at all times!** It is illegal for your employer to take your passport away from you!

Your Workplace Rights in the United States

There are several protections that are specific to the type of visa you receive. These are outlined below by visa category.

A-3, G-5, and B-1 domestic employee visas

- If you work for a diplomat (A-3 visa) or a representative of an international organization (G-5 visa), or if you are a domestic employee holding a B-1 visa, your employer must provide you with an employment contract that complies with U.S. law.
- The contract must include the following provisions:
  - An agreement by your employer not to keep your passport, employment contract, or other personal property from you;
  - An agreement by your employer to abide by all laws in the United States;
  - An explanation of how much you will be paid for your work, as well as how frequently you will be paid; and
  - A description of your work duties, weekly work hours, holidays, sick days, and vacation days.
- Make sure that you understand the terms of the contract. If you cannot understand the language in which the contract is written, ask someone you trust to read the contract to you in a language that you understand. **Do not sign anything that you do not understand!**
- When you apply for the visa, a U.S. Consular Officer will meet with you and confirm that your contract complies with U.S. law. Do not hesitate to ask the U.S. Consular Officer any questions. Your employer is not supposed to be present when you meet with the Consular Officer.
- If you sign a contract that violates your rights, or if your employer does not do what the contract says, call the hotlines listed in this pamphlet immediately. They can help you find a lawyer who can help explain your rights in this situation.

H-1B and H-1B1 visas for performing services in specialty occupations

- If you are coming to the United States to perform services in a specialty occupation or as a fashion model, please refer to www.Travel.State.gov for more information regarding your rights and ability to change employers.

H-2A temporary agricultural worker visas

- If you are a temporary agricultural worker, you must receive a written description of the terms of your employment no later than the first day of work. This document must contain detailed information about the benefits, wages, housing, work duration, and transportation benefits that your employer will

provide.

- You are entitled to payment at or above a wage that is set by the government. This rate applies whether you are paid hourly or by piece rate.
- You do not have to pay either U.S. social security taxes or fees to a labor recruiter in your home country.
- Your employer must provide clean and safe housing at no charge.
- Your employer must reimburse you for transportation costs from your country to your place of employment, but only after you complete half the contract period; and your employer must pay for your return transportation costs for your trip home after completion of the contract.
- You are entitled to guaranteed work for at least 3/4 of the number of workdays stated as the contract period unless you are displaced by a U.S. worker during the first half of the contract period.

H-2B temporary non-agricultural worker visas

- If you are a temporary non-agricultural worker, you are entitled to payment at or above the prevailing wage, which will be at least the federal, state, or local legal minimum wage, but may be higher. This rate applies whether you are paid hourly or by piece rate.
- Your employer must provide return transportation costs for your trip home if your work ends or you are dismissed for business reasons unrelated to job performance before the end of your contract.
- You are usually entitled to terms and conditions of employment that are normal for similarly employed U.S. workers in the area.
- You should never have to pay fees to a labor recruiter in your home country.

J-1 exchange visitor visas

- Unless your exchange program is sponsored by the Federal government, the program must be a minimum of three weeks duration. The Form DS-2019, the basic document required to apply for a J visa, reflects the category of exchange and the program dates. Depending on the category of exchange, there may be other documents and/or contracts which cover the terms of your exchange program.
- Your sponsor's advertisements must be accurate and explain all costs, conditions, and restrictions of the exchange program. Your sponsor must also give you an orientation and provide you with information about:
  - the J-1 program and a description of the specific program in which you are participating and its rules;

- travel and entry into the United States;
- housing;
- fees, and costs, including living expenses, healthcare, and insurance costs;
- life and customs in the United States;
- local resources;
- your sponsor's address and the name and phone number of the person responsible for you in the United States;
- contact information for the Exchange Visitor Program Services of the Department of State; and
- The Department of State's Exchange Visitor Program brochure;

- If you are entering on a Summer Work Travel program and do not have pre-placed employment, your sponsor must assist you in locating employment if you have not found employment within the first week following your arrival, and insure that you receive pay and benefits commensurate with those offered to your American counterparts.
- If your J-1 visa is for a training and internship program:
  - Your sponsor must interview you in person, by telephone or by web camera;
  - Your sponsor must have a Training/Internship Placement Plan (Form DS-7002) in place before your visa paperwork is submitted. This Form includes a written statement of any stipend you will be paid, and a summary of the training objectives of the program.
  - Your sponsor must give you a written statement of the costs and fees you will have to pay, and an estimate of living expenses in the United States.
  - Your training/internship must be at lease 32 hours per week; and
  - If your training/internship is in agriculture, your working conditions and wages must meet strict federal requirements for agricultural workers.
- Your sponsor must assure that you have medical insurance coverage, though your sponsor need not provide or pay for this coverage.
- If you work in the United States, you should apply for and receive your own Social Security number, and your employer must report all tax withholdings using this number.
- If you are bringing your spouse or minor children with you on a J-2 visa, they may apply for work authorization only if the income is not necessary to support you.

For more information on visa categories and U.S. entry procedures, see the Web site of the U.S. Department of State:

www.Travel.State.gov

Your Rights Regardless of Visa Status

There are also many rights you have regardless of your visa status. If any of these rights are violated, you can report the violations to a government enforcement agency. In most cases, you can also bring a lawsuit to attempt to recover your losses, without fear of being punished.

1. Your Right Not to Be Retaliated Against

- It is unlawful for your employer to try to punish you, for example, by threatening to report you to immigration or the police if you try to enforce your rights! If your employer threatens you at any time, **seek help immediately. Remember, your safety comes first!**

2. The Right to Be Paid

- You have the right to get paid for **all work you do, in the same manner as U.S. workers.**
- You have the right to earn at least the federal legal minimum wage $6.55 per hour, and $7.25 per hour starting on July 24, 2009, in the same manner as U.S. workers. Also check
  - The minimum wage for the **state** in which you work. If that wage is higher, you have the right to be paid the higher amount.
  - Your employment contract, which may obligate your employer to pay a higher amount.
- Most workers in the United States are entitled to overtime pay of one and a half times the amount of their wage for any hours worked over 40 hours per week. For example, if your regular wage rate is $10 per hour, your employer may be required to pay you $15 for each hour you work above 40 hours in a single week.
- If your employer takes money from your paycheck, this is called a deduction. Many deductions are illegal if they diminish your legal wage rate. For example, an employer usually may not deduct for housing (with some visa classifications, housing must be provided free of charge), most uniforms, safety equipment, or recruitment fees.

TIP

Make sure to keep a written record of **all the time that you work.** Get a notebook and write down all of the days and hours that you worked, how much you were paid, the days you received a payment, any deductions taken from your paycheck, and the reasons for those deductions.

3. Your Right Not to be Discriminated Against

- As an employee, you have the right to not be treated differently or badly at work

because of your gender, race, national origin, color, religion, or disability.

- Your employer should pay the same amount to each worker for the same work and offer each worker the same job opportunities no matter what the worker's gender, race, national origin, color, religion, or disability.
- Your employer can't make you speak only in English at work unless there is an important business reason to require English.

4. Your Rights as a Woman Worker

- Your employer **MAY NOT** treat you differently or badly because you are a woman or you are pregnant – this is sex discrimination. Whether you are a woman or a man, your employer **MAY NOT** sexually harass you. Your employer should never:
  - Demand that you perform sex acts;
  - Touch you in a sexual manner; or
  - Say or yell sexual or offensive comments.

TIP

Keep a detailed record of every inappropriate comment and/or action your employer takes against you and write down the names and phone numbers of any witnesses.

5. Your Right to a Healthy and Safe Workplace

- All employees have a right to safe and clean working conditions:
  - **Housing**: If your employer provides housing, it should be clean, safe, and in a sturdy structure.
  - **Bathrooms**: Bathrooms should be clean and accessible.
  - **Potable Water**: If you work in agriculture, in most cases, you have the right to receive clean water to drink and to wash your hands.
  - **Illness or Injury on the Job**: If you are injured or get sick at work you may seek medical treatment. In most cases, you will receive free medical treatment and part of the wages lost while injured.
- If you are working with or around **pesticides or dangerous chemicals:**
  - You have a right to wash your hands in clean water after handling the pesticides/chemicals. You are entitled to training on pesticide safety during the first 5 days of work.
  - Your employer must tell you where and when pesticides were sprayed to avoid accidental exposures. Workers and others must not be in an area where pesticides are being applied.

CAUTION!

Your employer cannot force you to do something or go somewhere, even back to your home country, by withholding your pay.

  - If you mix or apply pesticides that require you to use protective equipment (like coveralls or a mask or respirator), your employer must give you equipment that is clean and in good condition.
- **Medical Emergencies**: In the case of an emergency, call **911** and ask for an ambulance.
  - Your expenses may be paid for, so you should tell your employer as soon as possible so the employer can file the necessary paperwork.
  - When you are at the doctor or clinic, ask for copies of the paperwork regarding your illness or injury.

6. Your Right to Join a Union and Bargain Collectively

- With few exceptions, all workers in the United States have a right to form and join a union, regardless of their immigration status under federal law. Your employer cannot take action against you for doing so. This means you can:
  - Join with other workers to improve wages and working conditions;
  - Attend public speeches, rallies, and demonstrations; and
  - Join a union or other worker organization.

7. Your Right to More Protections Under State Law

- Call the hotlines listed in this pamphlet for a referral to organizations that can tell you about your rights in the state where you are working.

8. Your Right to Leave an Abusive Employment Situation

- You do not have to stay in your job if your employer is abusing you.
- But, if you came to the United States on an employment-based visa and you leave your employer, your visa status will no longer be valid. However, depending on the type of visa you have, you may be able to change visa categories or employers. You may also be able to remain in the United States legally to pursue a legal claim.
- You may also make a formal complaint or file a lawsuit against your employer while you are still working. There are severe penalties for an employer who tries to punish workers because they pursue their rights.
- If you are experiencing problems with your current employer, contact the hotlines listed in this pamphlet. They will be able to connect you with a local organization that can speak with you about your options.

TIP

You have rights in the United States and no one can take those rights away from you. There are hundreds of organizations that can help. Don't be afraid to ask for help to protect your rights.

Human Trafficking

1. What is human trafficking?

Human trafficking is among the most terrible workplace abuses that an individual in the United States could encounter. Human trafficking occurs whenever a person is recruited, transported, or kept against his or her will for purposes of exploitation. For a full definition of human trafficking, please see www.state.gov/g/tip (see Legislation—Trafficking Victims Protection Act). The following are some warning signs that may indicate human trafficking:

Threats and Fear:

Employers, and people who help employers, may use threats and other intimidating acts to make you and other workers feel too afraid to try to leave. For example:

- Beatings, physical abuse, or sexual abuse;
- Threats of beatings, physical abuse, or sexual abuse;
- Locking in or restraining a worker;
- Threats of harm to the worker or the worker's family if the worker tries to leave, complain of mistreatment, report the situation to authorities, or seek help;
- Threats of being deported or arrested, or of being turned over to police for trying to leave, complain, report, or seek help for the worker's situation;
- The employer, or someone working with the employer, has harmed or threatened other workers who have tried to leave, complain, report, or seek help; or makes threats that any worker who tries to escape will be found and brought back.

Rules and Controls:

Employers, and people who help them, may use rules and controls to make it harder for you and other workers to leave, complain about mistreatment, or seek help. For example:

- Rules against leaving the workplace, or strict rules about where you can go when not working;
- Rules against holding onto your own passport, visa, birth certification, or other identification documents;
- Denial of adequate food, sleep, or medical care; or
- Preventing or restricting you from communicating freely with family, other workers, or others outside the workplace.

Deception and Lies:
Employers, and people who help them, may also use deception and lies. For example:

- False promises about working conditions, living conditions, or pay;
- Telling you that you have no rights;
- Telling you that you will not be believed if you try to seek help; and
- Instructing you to lie about their identity.

TIP

Before leaving for the United States, talk with migrant worker organizations or former migrant workers for names and numbers of persons or organizations you can contact if you have problems or questions when you are in the United States.

2. What should I do if these things are happening to me?

- If any one of these things is happening to you or you are in a dangerous situation, **get help immediately** by calling 911, the National Human Trafficking Resource Center (1-888-373-7888), or the Trafficking in Persons and Worker Exploitation Task Force Complaint Line (1-888-428-7581). They can help refer you to a local organization that help victims of human trafficking in your area.
- If you are in physical danger, you should call **911** to reach the Police. If you call the police, show them this pamphlet and tell them about the abuse that you have suffered.

3. Will I be deported if I report the abuse?
There are programs to protect people who report abuse. You should not be afraid to seek help even if you have immigration concerns. You should consult with an immigration attorney who does not work for your employer. The hotline can help you find someone to consult.

- If you believe you may be a victim of human trafficking or of another serious crime, including rape or sexual assault, you may be entitled to a different nonimmigrant visa, like a T visa (for trafficking victims) or a U visa (for victims of other serious crimes). These visas were created to provide protection for certain crime victims worried about their immigration status. Many people are unfamiliar with these visas and you may need to tell people assisting you about them.

4. What services are available for victims of human trafficking?

- If you are a victim of trafficking in the United States, you may be eligible for benefits, services, and immigration remedies under federal or state programs.
- Many organizations can help you access these services, which include medical care, mental health care, housing, dental care, legal advocacy for immigration and other legal needs, employment assistance, and public benefits.

Know Your Rights

Call one of the hotlines listed in this pamphlet if you need help

You are receiving this pamphlet because you have applied for a nonimmigrant visa to work or study temporarily in the United States. The purpose of this pamphlet is to help you understand your rights when you arrive in the United States. Even though you will be living in the United States only temporarily, you will still have many of the basic workplace rights that U.S. citizens and residents have.

This pamphlet gives an overview of your basic workplace rights. Understanding your rights will help you to protect yourself from abuse. Keep this pamphlet with you in the United States in case you need to reach someone for help.

This pamphlet was also created to help you protect yourself against the most serious abuses, such as human trafficking. Human trafficking is a form of modern-day slavery where an employer or other individual, through physical or psychological abuse, causes an individual to feel that he or she is not free to leave the situation. **Recognizing that you are in an abusive employment situation is the first step toward getting help.**

If you arrive in the United States and have problems at work, you should seek help immediately. Do not believe your employer if he or she says that you do not have legal rights in the United States. Do not accept legal advice from your employer, contractor, or recruiter. Only an attorney representing you should give you legal advice.

If you believe your rights are being violated, the hotlines listed in this pamphlet can help you reach local organizations that can provide further assistance. **Do not be afraid to contact these organizations! They are here to help you.**

This pamphlet is not a substitute for legal advice. There are many different types of temporary work and educational visas, and you should not be afraid to ask for more information about your visa.

IF YOUR RIGHTS ARE VIOLATED, CALL THESE TOLL-FREE NUMBERS:

National Human Trafficking Resource Center
1-888-373-7888
(24 hours)

Trafficking in Persons and Worker Exploitation Task Force Complaint Line
1-888-428-7581
(Monday — Friday, 9am-5pm Eastern Time)

Faculty Biographies

Claudia J. Bayliff is an attorney and educator with twenty-five years of experience working on issues related to sexual assault. She is currently serving as the National Judicial Education Program's (NJEP) Project Attorney, developing judicial educational materials and educating judges nationwide about sexual assault. She has a broad range of experience on the issue of sexual violence, from volunteering as a hotline crisis counselor to serving as the first Chief of the United States Air Force's worldwide Sexual Assault Prevention and Response Program. She has also consulted with the Department of the Navy, the Navy, the Marine Corps and the Army to help them develop their sexual assault prevention and investigation strategies. Ms. Bayliff served as the Assistant Director of the Boulder County Rape Crisis Team. She also taught classes on women and the law at the University of Colorado in Boulder and Denver.

Ms. Bayliff is a nationally recognized expert on sexual violence. She has extensive experience in policy analysis and development, research, and curriculum development for civilian, military and tribal communities. She has also presented at conferences and professional organizations throughout the United States, Canada and Europe about sexual violence and the intersection of sexual and domestic violence.
Contact: cjbayliff@cox.net

Sarah Buel has spent the past 35 years working with domestic violence, child abuse, sexual assault, human trafficking, juvenile justice, and human rights matters. Currently, Ms. Buel is a Clinical Professor of Law, previous director of the Ruth McGregor Family Protection Clinic, and founding director of the Diane Halle Center for Family Justice at the Sandra Day O'Connor College of Law at Arizona State University, where she also teaches *Domestic Violence and the Law*, *Criminal Law*, *Evidence*, and *Human Trafficking*. She is the faculty advisor to the student groups APADV, Community Advocacy Project, Street Law, Women Law Students' Association, '13' (Anti-Human Trafficking Group), and Minority Women in Science.

She came to Arizona after 14 years as a clinical professor at the University of Texas School of Law, having started, then co-directing their Domestic Violence Clinic. Additionally, Prof. Buel taught *Domestic Violence and the Law*, *Criminal Law*, *Torts*, and *Public Education, Civic Engagement & Policy* courses, and was co-founder of the U.T. Voices Against Violence program and the U.T. Institute on Domestic Violence and Sexual Assault that focuses on research, pedagogy, and direct services. Professor Buel has served as Special Counsel for the Texas District and County Attorneys Association, providing domestic violence training, technical, and case assistance to prosecutors throughout Texas. For six years she was a prosecutor, most of that time in Boston and Quincy, MA., helping to establish their award-winning domestic violence and juvenile programs. Previously, Prof. Buel was a victim advocate, state policy coordinator, and legal aid paralegal.

As a domestic violence survivor, Prof. Buel has been committed to improving the court and community response to abuse victims. She was a welfare mother for a short time before working full time in the day and going to school at night for seven years to obtain her undergraduate degree in 1987. She then graduated *cum laude* from Harvard Law School in 1990, where she founded the

Harvard Battered Women's Advocacy Project, the Harvard Women in Prison Project, the Harvard Children and Family Rights Project, was a member of the *Harvard Women's Law Journal*, and for two years was an active member of the Harvard Legal Aid Bureau. Since its inception in 1994, she has been a member of the American Bar Association's *Commission on Domestic Violence*, and from 2006 to 2012, co-chaired the ABA Criminal Justice Section's *Women in Criminal Justice* Committee.

Prof. Buel has published more than 35 articles and book chapters, and written amicus briefs to the U.S. Supreme Court and the Inter-American Commission on Human Rights. She is currently writing a book for NYU Press, RETHINKING ABUSE: A POSITIVE RIGHTS APPROACH TO GENDER-BASED VIOLENCE. She narrated the Academy Award winning documentary, *Defending Our Lives* and is involved in human rights and anti-trafficking projects in Cambodia, China, Kenya, and the U.S. Although Prof. Buel has received over 35 awards (including the 2013 *ASU Centennial Professor Award*), she is most proud of her son, Jacey, a lawyer who is education director for a youth entrepreneurship center where he teaches indigent, high risk youth how to start and run their own businesses as a means of increasing their high school graduation rates and success thereafter. Contact: Sarah.Buel@asu.edu

Michelle Garcia is the Director of the Stalking Resource Center of the National Center for Victims of Crime. The mission of the Stalking Resource Center is to enhance the ability of professionals, organizations, and systems to effectively respond to stalking. The Stalking Resource Center envisions a future in which the criminal justice system and its many allied community partners will effectively collaborate and respond to stalking, improve victim safety and well-being, and hold offenders accountable.

Prior to joining the National Center, Michelle was a Program Specialist with the U.S. Department of Justice Office for Victims of Crime. She has twenty years experience working with victims of stalking, sexual assault and domestic violence and advocating for victims' rights on a local, state, and national level. Ms. Garcia has trained internationally on various topics, including stalking, sexual assault, domestic violence, dating violence, and dismantling oppression. She received her Master of Public Policy degree from the University of Chicago. Contact: mgarcia@ncvc.org

Honorable Judy Harris Kluger is Chief of Policy and Planning for New York State's Unified Court System. Since her appointment as Chief in March 2009, she has been responsible for working with judges throughout the state to study and develop policies and strategies to improve the delivery of justice in New York. In addition to her role in system-wide court reform and policy development and implementation, Judge Kluger oversees Problem-Solving Courts around the state. Problem-Solving Courts in New York State include more than 300 Integrated Domestic Violence Courts, Drug Treatment Courts, Domestic Violence Courts, Mental Health Courts, Sex Offense Courts and Veterans Courts. Since 2010, Judge Kluger has been managing the administration of a three million dollar federal grant awarded to the New York State Courts to collaborate with judges, hospitals and the bar to reduce the costs of medical malpractice litigation. Judge Kluger is also responsible for foreclosure procedures throughout the state and the development of the Adolescent Diversion and Human Trafficking Intervention Parts.

From 2003 to 2009, Judge Kluger served as Deputy Chief Administrative Judge for Court Operations and Planning (DCAJ). As DCAJ, Judge Kluger initially oversaw statewide implementation of Integrated Domestic Violence Courts (IDV). The Integrated Domestic Violence Court program is a sweeping reform of the state courts that builds on a one family-one judge model for domestic violence cases. Prior to her appointment as Deputy Chief Administrative Judge, Judge Kluger was the Administrative Judge of the New York City Criminal Court from 1996 to 2003. In that capacity, she oversaw all aspects of court operations at seven locations in the five boroughs of New York City. Judge Kluger developed specialized approaches for domestic violence and drug cases and brought a problem-solving and innovative approach to court operations and administration. Prior to that, she was a key member of the development team at the Midtown Community Court, the nation's first community court, where she presided from 1993 through 1996. This court received national acclaim for its innovative handling of quality of life crimes and began an era of development of problem-solving courts throughout the country.

Judge Kluger was recently appointed Executive Director of Sanctuary for Families where she will begin her duties in January 2014.

Judge Kluger is an active member of numerous professional associations, committees and advisory boards and is a frequent speaker and panelist. In 1999, Judge Kluger received an award from the Mayor of the City of New York for outstanding leadership in breaking the cycle of domestic violence. In March of 2004, she was honored by the Lawyers Committee Against Domestic Violence with the In the Trenches Award. In October 2004, she received the Abely Award for Leading Women and Children to Safety. In January 2013, she received the Award for Excellence in Public Service from the New York State Bar Association.

Lisa Young Larance, MSW, LCSW, LMSW founded the Vista and RENEW Programs which provide gender-responsive intervention, advocacy, and support for women who have used force in their relationships. Her work focuses on meeting the needs of marginalized women and their families. She co-created *Meridians for Incarcerated Women*, a prison-based curriculum, in addition to launching and moderating the international "W-Catch22" listserv which provides resource sharing opportunities for advocates, members of the judiciary, practitioners, probation agents, and researchers. Ms. Larance's current work and publications address the critical need for context when understanding and addressing women's use of force. Ms. Larance and Shamita Das Dasgupta coedited a 2012 *Violence Against Women* special issue on battered women's use of non-fatal force which won the 2012 *Violence Against Women* Best Article Award. Contact: llarance@csswashtenaw.org

Dorchen A. Leidholdt, Esq. serves as the Director of the Center for Battered Women's Legal Services at Sanctuary for Families in New York City. The largest dedicated legal services program for victims of domestic violence and human trafficking in the country, the Center provides legal representation in family law, criminal, civil rights, public benefits, and immigration cases and

advocates for policy and legislative changes that further the rights of survivors of gender-based violence. In 2011, working in partnership with more than 400 pro bono lawyers, the Center provided legal assistance to more than 5,000 women, men, and children.

The Center has spearheaded state litigation establishing new legal precedent that expands the protections available to domestic violence victims petitioning for orders of protection and federal litigation preventing child protective agencies from charging battered mothers with "engaging in domestic violence." The Center has successfully advocated for laws requiring New York State courts to consider evidence of domestic violence in custody and visitation cases, adding the crimes of stalking and strangulation to the New York State penal code, enabling domestic violence victims in same sex relationships to pursue civil protective orders, and creating the felony-level crimes of sex and labor trafficking. Through its Anti-Trafficking Initiative, the Center has provided direct representation to hundreds of victims of sex and labor trafficking and has trained thousands of law enforcement personnel, judges, and legal and social service providers on understanding human trafficking and assisting victims. Currently the Center chairs and provides technical assistance to the New York State Anti-Trafficking Coalition.

Ms. Leidholdt also serves as a member of the Board of Directors of the Coalition Against Trafficking in Women (CATW), which she helped found in 1988. An umbrella of grassroots organizations around the world, CATW has regional networks in Asia, Latin America, and Africa and participated in the drafting of the Palermo Protocol.

Ms. Leidholdt has presented nationally and internationally on issues of gender violence including testifying on the economics of human trafficking before Congress; speaking on trafficking to members of the UN General Assembly; training prosecutors in the State of Sao Paulo, Brazil; presenting to anti-trafficking leaders in Seoul, Korea; providing testimony about gender violence and impunity in the French Parliament; training local and federal police on gender violence in Mexico City; and presenting on the demand for trafficking to clergy, government officials, and social justice movement leaders in Rome.

Ms. Leidholdt has been an activist and leader in the movement against violence against women since the mid-1970's, counseling and advocating for rape victims, organizing against the media's promotion of violence against women through pornography and the media, serving on the legal team for the plaintiff in a precedent-setting sexual harassment case, and representing hundreds of women victimized by practices of violence against women, including domestic violence, prostitution and trafficking, sexual assault, female genital mutilation, the threat of honor killing, and the internet bride trade. She has lectured internationally on violence against women and has published numerous articles and book chapters and an anthology she co-edited with Dr. Janice Raymond. With Jill Goodman, she edited the Lawyers Manual on Human Trafficking and the 4th and 5th editions of the Lawyers Manual on Domestic Violence. She has taught Criminal Procedure at City University School of Law and teaches Domestic Violence and the Law at Columbia University School of Law.

In 1994, Ms. Leidholdt was awarded the United Nations Capitol Association Human Rights Award; in 1999, the New York City Bar Association's Legal Services Award, the Korean-American Family Service Center's Recognition Award, and the City of New York Award for "outstanding leadership in breaking the cycle of domestic violence"; in 2000, the New York University School of Law Public Interest Law Foundation Award for "outstanding contributions in public interest law" and the Lawyers Committee Against Domestic Violence "In the Trenches" Award; in 2002, the "Women of Power and Influence" Award by the National Organization for Women—New York City Chapter; in 2007, the League of Women Voters of the City of New York "Woman of Distinction" Award; in 2008, the New York State Coalition Against Domestic Violence's "30 Years, 30 Leaders" Award; and in 2009, New York University School of Law's Alumna of the Month Award.

Ms. Leidholdt hold a masters degree from the University of Virginia and a law degree from New York University School of Law, where she was a Root-Tilden-Snow scholar. Contact: Dorchen@sffny.org

Christine Sisario serves as the Director of Technology at the Center for Court Innovation, overseeing the development and roll-out of all technology projects including custom web applications for problem-solving court case management, numerous public websites and online learning initiatives. She manages the Center's staff of application developers, project managers, and webmasters, working in partnership with the New York State Unified Court System on technology enhancements and innovations to better assist courts with data collection related to problem-solving practices. Ms. Sisario has also directly served as project manager for two computer systems used by over 80 Integrated Domestic Violence and Criminal Domestic Violence courts in New York State, focusing on the unique needs of these courts to enhance victim safety and track offender compliance with court orders.

Prior to joining the Center, Ms. Sisario worked for the New York State Office of Court Administration on statewide network design and roll-out and, in the private sector, on worldwide project management assignments. Ms. Sisario received a BA from SUNY Geneseo, and a Master of Public Administration from Marist College. In addition, she possesses a number of technical certifications and distinctions. Contact: CSISARIO@nycourts.gov

Rebecca Thomforde Hauser is the Associate Director of Domestic Violence Programs at the Center for Court Innovation in New York, NY. As the Associate Director, Ms. Thomforde Hauser assists jurisdictions nationally and in New York State to plan and implement Domestic Violence, Integrated Domestic Violence, Sex Offense and Youthful Offender Domestic Violence Courts. At the Center, Ms. Thomforde Hauser provides training to judges and court stakeholders on a variety of domestic violence issues, facilitates site visits to model courts, and provides on-going technical assistance to courts and stakeholder agencies. Additionally, Ms. Thomforde Hauser is the Batterer Accountability Coordinator for the state of Vermont, overseeing the certification process of batterer intervention programs, providing training and technical assistance to batterer programs, working with the Department of Corrections in Vermont to craft policies and procedures that enhance victim safety and offender accountability, and reporting to Vermont's Council on Domestic Violence.

Before coming to the Center, she was a Victim Witness Advocate at the Suffolk County District Attorney's Office in Boston, providing crisis intervention, case management, and court advocacy to domestic violence victims as well as other victims of violent crimes. While in Boston, she also worked at Safe Havens: The Interfaith Partnership Against Domestic Violence, creating curricula and coordinating a year-long training domestic violence education program for clergy and laity from Christian, Jewish, and Muslim congregations throughout the greater Boston area. She graduated from Earlham College, where she received a Fulbright Scholarship, and Boston University School of Theology. Ms. Thomforde Hauser lives in Vermont with her husband and their two sons. Contact: rthomfor@nycourts.gov

Deborah D. Tucker is Executive Director for the National Center on Domestic and Sexual Violence. The National Center on Domestic and Sexual Violence provides and customizes training and consultation, influences policy, promotes collaboration and enhances diversity with the goal of ending domestic and sexual violence. Visit their award winning website at www.ncdsv.org. Debby has been dedicated to ending violence against women since becoming a volunteer with the first rape crisis center in Texas in 1973. She then served as Assistant Director for ARCC and was co-founder and Executive Director of the Austin Center for Battered Women. She facilitated these two agencies combining and becoming SafePlace in 1997.

In 1982, she became the first Executive Director of the Texas Council on Family Violence. Under her leadership, the TCFV grew to be one of the largest state coalitions with over 50 staff providing training and technical assistance, public education and advocacy and initiated the National Domestic Violence Hotline, 1-800-799-SAFE. She was the founding Chair of the National Network to End Domestic Violence during its development and passage of the Violence Against Women Act in 1994. The military community has long been an area of focus for her and for NCDSV. She served as Co-Chair of the U.S. Department of Defense Task Force on Domestic Violence.

Ms. Tucker received the National Network to End Domestic Violence's *Standing in the Light of Justice Award*, *The Sunshine Peace Award* from Doris Buffet and was awarded the Marshall's *Domestic Violence Peace Prize*. She has been honored by the National Association of Social Workers and the National District Attorneys Association. In 2012, the National Association of Schools of Public Affairs and Administration presented Debby with the Alfred M. Zuck Public Courage Award. Contact: dtucker@ncdsv.org

Mike Williams serves as the Chief Clerk of the Bronx County Family Court. His previous titles include Court Clerk Specialist for the Office of the Self Represented in Kings County Family Court, Assistant Deputy Chief Clerk of Self Represented Services in Kings and Queens Counties (2001 - 2010). Mr. Williams commenced his career as a Court Officer in 1989. He is a Brooklyn College Alum. He was co-author the online DIY Child Support Modification Petition Program for New York Family Courts; one of the most utilized forms on LawHelp Interactive, Mr. Williams was the recipient of the UCS Merit Performance Award and the NYC BAR's Kathryn A. McDonald Award. He lives in

New York and is the married father of two beautiful children Kaitlin (14) and Jonathan (10). Contact: mwilliams@nycourts.gov