

DV 101:

A Crash Course

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The Prevalence of DV

In the U.S., over a quarter of a million people receive emergency room treatment for domestic violence-related injuries every year.

On average in 1997, more than one woman a day was shot and killed by her husband or intimate acquaintance during an argument.

Nearly one-third of all women murdered in the U.S. in 1997 were slain by a current or former intimate partner.

75% of rapes and assaults against adult woman are committed by intimate partners.

In nearly 50% of DV cases, the violence takes place in a home in which children under 12 live.

KCPAO Response to DV

- Specialized DV units for both misdemeanor and felonies
- Misdemeanors: 4 attorneys, 6 staff, 2 specialized courts
- Felonies: 15 attorneys, 14 staff.

PART I:

What is Domestic Violence?

- The Legal Definition
- The Bigger Picture

The Legal Definition

- The definition of “Domestic Violence” includes (per RCW 10.99.020)
 - Just about any crime committed by one family or household member against another
 - Assault, VNCO, burglary, MM, animal cruelty, sex crimes, CT, TMV, etc.

The Bigger Picture

The use of **physical, sexual, and/or emotional abuse** by one person in a current or former intimate relationship in order to maintain power and control over the other person.

Who are the Perpetrators?

- Found in all socio-economic groups
- No one, simple predictive profile of a batterer
- Primary characteristic is to avoid taking responsibility for behavior
- Often have a different public and private persona
- Objective is power and control

Why do Batterers Behave This Way?

- Learned behavior
- They want power and control in the relationship.

Misconceptions About Domestic Violence

- Drugs/alcohol cause the violence.
- Stress/unemployment cause the violence.
- If the woman would change, the battering will stop.
- The victim can just leave.

Abuser Tactics

- Abusers utilize many methods in establishing power and control over their victims
- In many abusive relationships, few if any of the actions are illegal

❖ Emotional Abuse

- Making her feel bad about herself
- Name calling
- Mind games, “crazy-making”
- Humiliating her
- Making her feel guilty

❖ Isolation

- Restricting contact with family/friends
- Restricting telephone use
- Prevent her from learning English, getting a job

❖ Using Children

- Subtle threats to harm children
- Using visitation to harass her
- Threatening to take the kids
- Guilt about “breaking up the family”

❖ Minimizing and Blaming

- Shifting responsibility for abuse to external factors
- Blaming the Victim
- Making light of abuse, not taking her concerns seriously

❖ Sexual Abuse

- Making her do sexual things against her will
- Much harder for someone to talk about this form of abuse
- Research shows that it happens MUCH more than is reported

❖ Economic Tactics

- Preventing her from getting/keeping job
- Making her ask for money; allowance
- Taking her money
- Keeping her from continuing her education or getting job training

❖ Coercion and Threats

- Direct threats to hurt her
- Threats to hurt others
- Threats to report her to CPS or INS
- Threats to commit suicide

❖ Intimidation

- Looks, gestures, actions
- Destroying property
- Abusing pets
- Displaying weapons

Cycle of Violence -Coping Strategies So Why Doesn't She Just Leave?

- Denial
- Fear of escalation of violence
- Perceived welfare of kids
- Nowhere to go
- Financially dependent
- Depends on abuser for citizenship status
- Pressure to stay from family, friends
- Cultural beliefs, religious values
- Overt or implied messages it's her fault
- Shame
- Hope that abuser will stop
- Anxiety/ Overwhelmed/ Ambivalence

Victims of Domestic Violence Often Don't Assist Prosecution.

~75% Do not Assist

WHY?

❖ Fear

- Risk of retaliation
- She gets blamed for consequences
- She gets pressured from family/friends not to support
- INS implications
- Easier to deal with the predictable than to face uncertainties

- ❖ **Crisis Phase May Have Passed**
 - Police intervention may have been enough
 - CJS involvement often intensifies effect of “Honeymoon” Phase
 - Hopes that “Honeymoon” promises are kept
- ❖ **Not Ready To Leave**
 - May not be aware of options
 - May believe abuse normal part of life
 - Loves him
 - Cultural influences, religious beliefs
 - *Leaving can be dangerous*
- ❖ **May Be Avoiding CJS**
 - Warrants
 - INS and CPS issues
 - May believe that evidence in the DV case will be used to find her in violation of probation or face prosecution herself
- ❖ **Simple Human Emotions**
 - Shame
 - Guilt
 - Embarrassment
 - Still feels for abuser

How is a Victim’s Unwillingness to Assist Manifested?

- Recantation
- Avoidance
- Anger
- Take the blame
- Put on a show in court in front of Abuser to avoid retaliation

If She Won't Protect Herself, Why Should We Bother?

- Simply put, violence is wrong
- Helping those who cannot help themselves
- Why reward the proficient batterer?
- Effect on children/perpetuating the violence
- DV has greater reaching effects than just the pain felt by a victim

Portrait of a Recantation

- October, 2004: Defendant held gun to victim's head and threatened to kill her
- Victim called Brother in Florida and told him this time she was sure defendant was really going to kill her
- Brother called 911
- Victim gave a statement detailing the threat
- October, 2004, next day.
- Defendant arrested, said his wife was crazy
- No contact order issued
- Defendant placed several calls to the victim in violation of the order
- Two days later, victim recanted, said no threats, no fear, did not want no contact order.
- October – November, 2004.
- Victim wrote several letters and made notarized statement recanting
- Victim made repeated calls to the prosecutor's office recanting
- Demanded NCO be lifted
- Case set for trial
- November, 2004 – February 2005
- Victim called DV supervisor repeatedly insisting that KCPAO is ruining her life
- Said that she is only a victim of system, not the defendant.
- Victim's anger with KCPAO increased

- V's family reported fear that D will kill V if/when released
- March 28, 2005
- Victim e-mailed Norm Maleng
- Claimed KCPAO does "everything in their power to hurt victims"
- Demanded that charges be dropped, NCO lifted
- March 31, 2005 followed up noting her "increasing frustration" with our "incompetent" office
- April 1, 2005 KCPAO replies politely that dismissal is not appropriate resolution
- April 3, 2005 V replies that KCPAO is "disgusting" and chief is "Sorry excuse for a human being"
- KCPAO is "purposely withholding the truth" and is "absolutely despicable"
- Should change job to "waste management"
- Late April, 2005: Defendant pleaded guilty as charged
- V called prosecutor the "lowest form of human being" or "not even human"
- KCPAO is "purposely withholding the truth" and is "absolutely despicable"
- V appears at sentencing and continues the diatribe, "I don't need the NCO"
- May 8, 2005
- Victim e-mailed Norm Maleng
- "Huge apology" and "very sorry"
- "Your office did exactly as they should have and I did not"
- I know "how lucky I am to be alive"
- Is there anyway to make sure the NCO remains in place?

DV Case Approach: “Victimless” Prosecution

- **Proceeding Without the Victim:**
 - Many Impediments to Victim Cooperation
 - Can absolve victim of responsibility for case outcome
 - ~75% of cases lack victim cooperation
- **We take the Heat**
 - May absolve victim of responsibility for case outcome
 - Message to Abuser: it’s not victim’s decision

When Dealing With a DV Case, Remember.

- Recanting/minimizing is normal and often a survival technique
- Certain members of audience may be impacting ability to speak freely
- We will probably never understand the motivations/situations of either perpetrator or victim

ADVOCATES: What They Do

- Support victim throughout proceedings
- Initiate and maintain contact
- Safety assessment and planning
- Provide input to DPA
- Victim’s Rights (RCW 7.69.030)
- Speak on victim’s behalf in court
- Refer to resources
- Protection Orders

Different Charges/Legal Issues That You May Want to Know About DV Cases

Charging: Violation of a “No Contact Order”

- Is a misdemeanor unless
 - The violation is an assault or reckless endangerment
 - The defendant has two prior convictions for VNCO

Limitations on Contact with Victim or “NCO’s”

- No contact orders
- Protection orders
- Restraining orders
- Anti-harassment orders
- Issued in Criminal Proceedings
 - Pre-Trial
 - Condition of Sentence

No Contact Order: Pre-Trial Orders

- Arrested DV Offense
 - Hearing day after offense
 - Judge may issue NCO
 - Not dependent on filing of Charges
 - Expires 3 Judicial Days
 - Charges filed remains until arraignment

No Contact Order: Arraignment

- Arraignment within 14 days of filing
- Court considers NCO @ Arr
- Termination of Arr NCO
 - Dismissed
 - Acquitted

No Contact Order: Condition of Sentence

- Issued part of Sentence
- Duration of Order
 - 2 year max in District or Municipal Court
 - Statutory Max on Felony Sentencing

Interpreting NCO

- On Record
 - sign as interpreter
 - entire document
- Read to Defendant
 - sign as interpreter
 - read entire document

Protection Orders

- Civil - authorized RCW 26.50
- How to Obtain
 - Petition the court
 - supported by an affidavit

Temporary Protection Order

- Valid 14-24 days depending service
- Punishment
 - knowledge of order
 - contents

Permanent Protection Order

- If restrains contact minor children
 - one year maximum
- If does not restrain respondent's children
 - may exceed one year
 - may be permanent

Restraining Orders

- Dissolution & Separation Proceedings
 - Ex parte Temporary Restraining Order
 - Restraining Order
- Penalty
 - Gross Misdemeanor
 - Felony

Anti-Harassment Orders

- Bad Neighbor
- Non -domestic violence

Charging: Harassment

- Threats to harm victim, property, or third person
- The person must reasonably believe the threat will be carried out
- Is a misdemeanor unless
 - The threat is a threat to kill
 - The defendant has a prior conviction against same victim or her family

Batterers' Treatment

- Same as DVBT or Perpetrators' Treatment
- Year-long Program
- Group and Individual counseling
- Weekly then moving into monthly

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