

Hope For Children Foundation

Presents:

Promising Practices for Women Affected by Violence

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THE IMPACT OF DOMESTIC VIOLENCE ON CHILDREN: TWELVE PRACTICAL RECOMMENDATIONS FOR LAWYERS, ADVOCATED, JUDGES, PROBATION AND COURT PERSONNEL

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That children are adversely impacted by domestic violence² is now well documented³ and intellectually understood. Yet, attorney and court practices in some jurisdictions continue to reflect the out-dated notion that if the children have not be *physically* battered, evidence of domestic violence will be of little import in fashioning orders and agreements. Tragically, such denial places both the abused parent and children at greater risk for further harm, and all but ensures that the abuser will have further involvement with the criminal justice system.⁴ This article offers ten practical recommendations for improving our interventions in domestic violence legal matters regarding children.

Domestic violence impacts the clients of most advocates, probation officers and attorneys,⁵ but family and criminal law practitioners, in particular, are positioned to dramatically improve victim (adult and child) safety and offender accountability *if* they have learned how to intervene effectively.⁶ We must improve practices to change the current truth that it is a toss of the dice whether abuse victims and their children can access a lawyer or court that take their safety seriously. It is this chilling reality that informs the challenges to judges, lawyers and other professionals to move beyond dialogue to action, beyond victim blaming to offender accountability. Promising practices exist and will be highlighted; evidencing the many lawyers, judges and courts embracing the notion that justice is best served when *all* parties are safe.

We have learned that often the best way to protect our children is to protect their mothers, who are desperately attempting to achieve safety. Sadly, the most frequently asked question remains, “But, *why* do those battered women stay?” The on going, uninformed antipathy toward abuse victims appears based on the notion of volition; that they choose to stay with the abuser in the face of appealing options. Victims have many valid reasons for staying with or returning to the batterers, not the least of which include a lack of financial resources, no job skills, fear, low self-esteem and believing that it is in the children’s best interest to have their father or a father-figure in the home. Many victims lack knowledge of their legal and other options, thus their response could be greatly impacted by access to well-informed, zealous counsel and progressive courts.⁷

1. JUST AS UNIVERSAL SCREENING FOR DOMESTIC VIOLENCE HAS BECOME PART OF THE STANDARD OF CARE FOR MEDICAL AND MENTAL HEALTH PRACTITIONERS, OTHER PROFESSIONAL’S CLIENT INTERVIEW MUST INCLUDE INQUIRY ABOUT ABUSE.

The attorney, advocate, probation officer or other professional must *initiate* questions about abuse in the household (or relationship) during the first meeting, in order to assess the immediate safety issues, regardless of whether the client is the victim, the perpetrator or the child.⁸ With any client reporting prior or current abuse, a civil protection order should be fully discussed in the context of completing a SAFETY PLAN.⁹ In addition to screening for physical harm, advocates and lawyers should routinely ask about the psychological abuse,¹⁰ a common tactic of batterers to destroy the victim’s self-esteem. The abuser may have told the victim that no one will believe her,¹¹ that she will be found wherever she goes, that no one will want to help her and that the violence is all her fault.¹² Attorneys and advocates must tell their battered child and adult clients, “You are not to blame for the abuse,” and “What your abuser has done is wrong,” and “Help is available.”¹³

A lawyer’s silence constitutes collusion with the batterer and likely malpractice.¹⁴ The Model Rules of Professional Conduct specifies that: “(c)ompetent handling of a particular matter includes inquiry into and analysis of the factual and legal elements of the problem, and use of methods and procedures meeting the standards of competent practitioners.”¹⁵ Given the growing body of legal, psychological, and popular literature¹⁶ about domestic violence, there can be little doubt but that screening is a minimal first step. Regardless of the legal problem a client presents, the attorney must routinely screen all clients for domestic violence. Lawyers would be wise to follow the American Medical Association (hereinafter AMA) physician guidelines, starting with, “Because abuse and violence are so common in women’s lives, I’ve begun to ask about it routinely.”¹⁷ The attorney can then follow through with, “Have you been hit or threatened in this relationship? Are you afraid now? Do you want information about a protective order? What can I do to help?”

Attorneys and other professionals must learn to ask for assistance of child abuse and domestic violence victim advocates, as the case complexity means they are not often amenable to simple solutions. For example, the battered mother may also be abusing her children, but is more likely to stop when her batterer is removed from the house.¹⁸ When the victims are immigrants,¹⁹ elders,²⁰ lesbian²¹ or gay,²² handicapped, teens²³ or otherwise traditionally underserved, advocates can provide invaluable guidance. Whether offering specific resource and program referral information, or suggesting strategies with difficult victims, advocates are often able to decrease the stress of handling such cases. All intervenors must remember that when a victim recants or seeks to withdraw orders, *she is trying to stay alive*. If we become frustrated because the victim wants to dismiss the divorce or protective order, it is helpful to say the following:

- (1) I AM AFRAID FOR YOUR SAFETY.
- (2) I AM AFRAID FOR THE SAFETY OF YOUR CHILDREN.
- (3) IT WILL ONLY GET WORSE.
- (4) I AM/ADVOCATES ARE HERE FOR YOU WHEN YOU WANT TO TALK OR LEAVE.
- (5) YOU DO NOT DESERVE TO BE ABUSED.²⁴

Finally, domestic violence issues must be addressed in order to avert claim preclusion in future tort litigation against the abuser. Many states require that all related issues be handled in the divorce action, effectively precluding subsequent legal action as redress for the abuse. Thus, while victims are encouraged to detail the domestic and/or abuse in the divorce pleadings to allow the court to make the proper safety and remedial orders, such information is exactly what impedes future litigation. Especially if child and adult victims will need on-going therapy or will incur other expenses as a direct result of the abuse, it is critical to either ensure restitution and a settlement that includes future expenses, or that the final orders allow for further tort action to cover such expenses. Furthermore, most divorce decrees include language stating specifically that the parties have resolved all matters between them, with some even delineating tort claim prohibitions. If the child and/or adult victims have been emotionally traumatized, compensatory as well as the punitive damages should be sought. Attorneys will also want to consider tort litigation against other professionals whose improper interventions have harmed the child or adult victim, such as physicians, law enforcement officers or psychiatrists.²⁵

2. SAFETY PLANNING MUST BECOME AN INTEGRAL PART OF DOMESTIC VIOLENCE AND CHILD ABUSE INTERVENTION PRACTICES.

- a. *Contrary to popular belief, leaving the batterer does not ensure safety.* In fact, separation violence is likely.²⁶ Attempting to leave the batterer can cause the abuse to escalate, resulting in an increase in the likelihood of the victim being murdered.²⁷ Similarly, children and adolescents disclosing abuse will need immediate and long-term safety planning as their perpetrators often seek to retaliate, particularly if they fail to see adults protecting the victims.
- b. *Safety planning must become an integral part of every lawyer, probation officer, advocate and other professional's work with domestic violence victims and their children, whether or not the victim remains with the perpetrator.* An abused child or adult may be forced to remain with the perpetrator, yet is obviously in great need of assistance in negotiating safety. Lawyers and judges must formulate resolutions that prioritize victim safety, while fairly handling divorce, custody, visitation, support and other assorted civil and criminal matters. The adult and Youth Safety Plan brochures provide action steps to help victims stay alive, but have a more universal application. Courts can help by implementing a policy in which a protection order, family or criminal case will not be dismissed prior to an advocate completing a Safety Plan with the victim. Responsible counsel is advising their clients about the safety ramifications of their decisions, be they victim, offender or child.

3.

CULTURAL COMPETENCE MUST BE REQUIRED, WITH ON-GOING TRAINING AND GUIDANCE FOR ALL.

- a. *All employers must ensure that their staffs reflect the diversity of the communities they serve. Victims, offenders and their children have increased confidence in systems in which they are served by people who look like them and share their backgrounds. It is also important that staff and clients have access to publications coming out of communities of color to provide a more balanced view. In addition to the usual *Newsweek* or *Better Homes and Gardens* magazines, offices should add those focusing on people of color, such as *Essence*, *Jet*, *Latina*, *Hispanic*, *Asian American*, *Ebony*, *Emerge*, etc. The presence of magazines from communities of color can help send the message that your office embraces diversity and is committed to being educated about how to improve its practices.*

in the same room or hearing it.³⁹ They are traumatized by seeing their parent harmed, and furious with the abuser, while others are upset with the victim for not being able to protect the abused parent. Some children are furious with the abuser, while others are upset with the victim for not figuring out how to leave and protect her and the children. After age five or six, some children may disrespect the victim for her perceived weakness, and identify with the batterer.⁴⁰ Still other children risk injury when intervening to try to protect their mother or siblings from the batterer.⁴¹ Children who witness domestic violence demonstrate the same symptoms as physically or sexually abused children, including psychosomatic, psychological and behavior dysfunction.⁴²

- d. *Courts should presume that a batterer is not fit to be the sole or joint custodian of the children.*⁴³ Just such a presumption was *unanimously* passed by Congress in 1990, in response to the realization that too many batterers were able to present well in court and obtain custody of the children.⁴⁴ Most states now require, as does Texas,⁴⁵ that courts just consider evidence of domestic violence in making custody determinations.⁴⁶ In fact, Texas case law has created a *preference* that the non-violent parent be appointed managing conservator (sole physical custodian).⁴⁷ However, too often the courts have minimized or rationalized the abuse, as well as its impact on the children.⁴⁸ Thus, family advocates applaud Louisiana's 1992 amendment to its custody code, which includes the above-referenced presumption against custody to the batterer, but also specifies that the abusing parent can only obtain supervised visitation *and* must successfully complete a batterer's intervention program.⁴⁹ The "best interest of the child" standard requires that abusers *not* receive joint or sole custody of their children.
- e. *Contrary to popular belief, most fathers who attempt to gain custody of their children do so successfully.*⁵⁰ Certainly, in some of those cases the father was the more fit parent. However, in other instances the battered mother lost custody of her children because she had no access to legal counsel and did not know how to defend herself against the well-financed attorney of the batterer.⁵¹ One reason this fact should scare us is that the majority of batterers grew up witnessing their fathers beating their mothers,⁵² confirming that domestic violence is a learned behavior. Even with legal representation, it can take years for the victims to prove that the batterers used death threats, alienated the children, hid assets, and otherwise continued their pattern of total control throughout the divorce process.⁵³ In the mean time, the children are learning that violence works; it is an acceptable means to obtain what you want. Thus, the generational cycle will continue unless our children are taught, *with our actions*, that: (1) *Most men are not violent to their partners and children;* (2) *there is no excuse for domestic violence;* and (3) *the abusive behavior will not be tolerated.*
- f. *Psychologists' Child Custody Recommendations Frequently Ignore Domestic Violence.* Surveying psychologists from 39 states, researchers found that of the criteria used to make custody decisions, a history of domestic violence was seen as relevant by just 27.7% of respondents.⁵⁴ This study's findings are shocking given that over forty states' statutes *require* judges to consider domestic violence in custody decisions. Particularly disturbing were the factors that custody evaluators did believe were more important than a history of abuse. 75% of the psychologists believed that sole or joint custody should not be granted to a parent who "alienate[s] the child from the other parent by negatively interpreting the other parent's behavior."⁵⁵ For psychologists without training in the dynamics of domestic violence, the abused parent's efforts to protect herself and her children could easily be misinterpreted as intentionally alienating the batterer-parent. This in spite of the American Psychological Association's determination that there exists no scientific basis for the theory of parental alienation syndrome.⁵⁶ Surprisingly, just 54.7% stated they would recommend sole custody being given to the primary caretaker, while 25% weighed economic stability as a key factor.⁵⁷ Clearly, it is the lawyer's responsibility to identify and engage psychologists who have received training regarding domestic violence and its adverse impact on children.
- g. *Battered Mothers Frequently Make Many Courageous Efforts to Protect Their Children From the Abuse.* A 1998 shelter outreach project found that one of the issues of most concern to battered women was addressing the adverse impact of the abuse on the children,⁵⁸ yet often the victims are blamed for being unable to stop the batterer's violence. The Massachusetts' Department of Social Services (DSS) Domestic Violence Unit is to be commended for their extensive efforts to identify battered mothers and provide more appropriate interventions, in the context of child protection cases. By providing on-going training to all staff, as well as regional domestic violence advocates within DSS offices, they have been able to assist many abuse victims in accessing legal assistance and other resources. Such steps can obviate the need to remove the non-abused children, while better protecting the battered mothers.⁵⁹

- h.** *Based solely on their status as abuse victims, battered mothers should not be denied child custody.*⁶⁰ In *Lewelling*, the Texas Supreme Court was clear: “We hold that evidence that a parent is a victim of spousal abuse, by itself, is no evidence that awarding custody to that parent would significantly impair the child. Any other result is contrary to the public policy of our state . . . The legislature has also determined that removing a child from a parent simply because she has suffered physical abuse at the hands of her spouse is not in the best interests of our state.”⁶¹

6. THE CORRELATION BETWEEN FAMILY VIOLENCE AND JUVENILE DELINQUENCY INDICATES THAT EARLY INTERVENTION IS ESSENTIAL.

- a.** *Children who grow up in a violent family are more likely to abuse others or to be victims of abuse, as adolescents and adults.*⁶² Those children who do not replicate the abuse generally have had at least one adult protecting them or clearly speaking out against the violence. Children need not be directly beaten in order to take on violent and delinquent behavior: it is enough for them to witness their mother’s abuse. The Massachusetts’ Department of Youth Services found that children growing up in violent homes had a six times higher likelihood of attempting suicide, a twenty-four percent greater chance of committing sexual assault crimes, a *seventy-four percent* increased incident of committing crimes against the person, and a fifty percent higher chance of abusing drugs and/or alcohol.⁶³ Another study comparing youth who were delinquent vs. those who were non-offending found that a history of family abuse was the primary distinction between the two groups.⁶⁴ Our children are in pain and they are self-medicating in response to an adult community seemingly content to engage in denial regarding the violence in our families.
- b.** *Teen dating violence can be an early predictor of victim and offender patterns, which may continue without effective, early intervention programs.* Although one in three teenagers will suffer physical abuse in a dating relationship,⁶⁵ most schools and courts do not address the issue at all. Barrie Levy, a psychotherapist who has written three books on teen dating violence, cautions that the signs of abuse may not be easy to detect. Some warning signs include controlling behavior, extreme jealousy, withdrawal from friends and hypervigilance toward obeying the partner’s rules. Ms. Levy suggests that each partner should be approached separately if abuse is suspected, though neither partner may be willing to acknowledge the problem. Rather than trying to stop all contact, Levy cautions adults to focus on safety. For example, a teacher, probation officer, judge or advocate might say, “I understand that you love him, but I can see you’re being hurt.” A critical next step is to provide information and referrals for where the teen can get help.⁶⁶
- c.** *School based dating violence intervention programs should be implemented in collaboration with domestic violence advocates.*
- d.** Austin’s Safeplace shelter began a Teen Dating Violence Project (TDVP) in 1988, offering 24-week therapeutic peer groups in their public schools, first just for victims, but expanding to perpetrators in 1991. Barri Rosenbluth, who directs the Safeplace School Based Intervention Programs, has used the *Expect Respect* curriculum, which teaches the warning signs of batterers, including excessive use of power and control.⁶⁷ Ms. Rosenbluth explains that early on she surveyed some teen victims who reported on-going, increasingly violent behavior by their partners, but an unwillingness to break off the relationships. When asked to raise their hands if they thought all men were violent, every girl responded affirmatively. It was then that the focus shifted from simply warning the victims about abusive behaviors, to teaching them how to set limits, protect themselves and expect respect and equality in their relationships.⁶⁸ Cisco Garcia, who now heads the *Expect Respect Project*, includes gender, race, culture and other relevant topics as part of the revised curriculum.⁶⁹

7. DO ALL THAT IS POSSIBLE TO ENSURE ADEQUATE CHILD SUPPORT.

- a.** *A primary cause of child poverty in the United States is the nonpayment of child support.* More than 80% of all non-custodial parents either pay nothing or less than 15 percent of their income for child support.⁷⁰ Currently, approximately \$35 billion in child support is owed to our children.⁷¹
- b.** *The number one reason that abuse victims return to the abuser is a lack of financial resources.* Obtaining the child support not only increases the likelihood that the children will be taken out of poverty, but also that they will not be again forced to return to the violent home with their mother. For too many domestic violence victims, the child support check is all that keeps them off

welfare/TANF, for their minimum wage employment cannot sustain even a family of two. Tennessee provides just \$185 for a parent with two children and Texas allows \$201, while more than half of all states pay less than \$400 per month for a family of three.⁷² Given that the federal poverty guidelines are being revised from \$16,000 per year for a family of four up to \$19,000, it is understandable that welfare is an appealing option for domestic violence survivors.

c. *Batterers often use nonpayment of child support as a means of harassing the victim and forcing her to return.* Pennsylvania found that the most common factor among those men who did not pay child support was their shared propensity for committing domestic violence crimes.⁷³ Thus, the “get tough” approach to child support enforcement is particularly necessary with batterers because they are the most willing to use the withholding of payments to further harass, threaten and frighten their victims.⁷⁴

d. *Swift, sure sanctions for nonpayments of child support have proven quite successful.* Tulsa’s Judge Linda Morrissey reports an amazing 93% collection rate, within thirty days, for employed batterers. She says that if they do not comply with the court’s child support order within one month, they are sent to jail. For those unemployed, Judge Morrissey requires that they produce written documentation of their good faith efforts to obtain a job.⁷⁵ She argues that if court orders are not fully enforced in a timely manner, the non-paying parent rightly assumes there is no need to comply. If, on the other hand, the county jail awaits those unwilling to support their children, it is far more likely that the payments will be forthcoming.

d. *Child support enforcement agencies can do much to increase victim safety and facilitate timely collection. First, the forms package for requesting assistance in the collection of child support must be greatly simplified and standardized across the country.* The problem is exacerbated by the fact that virtually every form of public assistance also requires prolific forms, from public housing, unemployment, free/reduced lunch, W.I.C., and welfare, to day care, social security disability, Medicaid, and food stamps. One form could be used to apply for all public assistance, with *limited* additional forms added for programs needing other specific information. The forms must also be available in Spanish, and, to the degree possible, in other languages represented in the client community.

Second, when applicants for assistance call the child support enforcement agency, the recorded message could offer to send an Adult or Youth Safety Plan to anyone in need.

Third, the state agency must expedite the payment process, ensuring that they collect the money and monitor enforcement. For example, New Hampshire law allows that any party in a domestic violence case may request that the child support payments be made to the New Hampshire Division of Human Services (DHHS). Neal Carter, Supervisor of the Office of Program Support for the Claremont Office of D.H.H.S., makes it part of standard operating procedure to have payments made through their office. Mr. Carter believes this takes from the victim the possibly dangerous task of trying to collect support payments, and relieves the batterer of the temptation to further harass the victim by making late payments or none at all.⁷⁶

Fourth, client intake must include a screening mechanism to identify abuse victims and ensure they are not penalized if they are unable to disclose their batterer’s whereabouts. The intake staff must initiate questions about abuse of adults and children in the household (or relationship) during the first meeting, in order to assess the immediate safety issues. With any client reporting prior or current abuse, a civil protection order should be discussed in the context of completing a SAFETY PLAN, then referring the victim to local domestic violence programs.

Fifth, on-going client services must include safety planning. Contrary to popular belief, leaving the batterer does not ensure safety. In fact, separation violence is likely.⁷⁷ Attempting to leave the batterer can cause the abuse to escalate, resulting in an increase in the likelihood of the victim being murdered.⁷⁸ Since the child support staff may be the only person with whom the victim has outside communication, it is necessary to integrate safety planning into every contact. *Safety planning must become an integral part of every child support staff member’s work with domestic violence victims and their children, whether or not the victim later returns to the perpetrator.* Staff must have policies, which prioritize victim safety, while fairly handling the enforcement efforts. The attached Safety Plan brochures, for adults and youth,⁷⁹ provide action steps to help victims and children stay alive, but have a more universal application. Child support offices could routinely include a Safety Plan with mailings to applicants. Staff can encourage the

courts to implement a policy in which a child support order, protection order, family or criminal case will not be dismissed prior to an advocate completing a Safety Plan with the victim.

Similarly, Judge Bill Jones, one of four Domestic Violence Court judges in Charlotte, North Carolina, reports that two days per week they have a child support enforcement staff member present in their courtroom. All protection order and other cases, which will involve child support, are set for those days, thus, best utilizing all staff time. Judicial economy is achieved by freeing the judges to handle the safety and other legal matters. Paternity acknowledgment can be accomplished on the spot, with support amount determined and wage withholding forms filed. Their child support enforcement office then files that child support action as its own *permanent* case, enabling the child support order to remain in effect past the one year expiration date of the protective order. Victims appreciate the "one stop shopping" approach, allowing them to obtain child support along with the protective order and/or other civil remedies.⁸²

8. ENSURE SAFE VISITATION: CHILDREN SHOULD BE EXCHANGED AND/OR SUPERVISED AT A CERTIFIED VISITATION CENTER.

a. *Abuse victims and children often face renewed violence in the course of visitation, necessitating lawyers and judges prioritizing safety concerns.*⁸³ In recognition of the highly volatile atmosphere in visitation settings, Louisiana is to be commended for their emphasis on victim (adult and child) safety. As previously noted, Louisiana presumes that neither joint or sole custody can be awarded to a perpetrator of Adult or child abuse but requires supervised visitation until the perpetrator has successfully completed a batterer's intervention program.⁸⁴ The National Council of Juvenile and Family Court Judges also proposes that abusers should be limited to supervised visitation until they have completed a certified program and had a batterer's expert evaluate them.⁸⁵

c. *Visitation Center staff must be fully trained in the dynamics of domestic violence in order to keep the child and adult victims safe.* Well-intentioned, but ill-informed, providers can greatly endanger all parties involved. Several domestic violence victims have reported that the Kids Exchange Visitation Center allows their staff person to accompany the batterer and child *to the batterer's home* during supervised visits.⁸⁶ Not only is this practice contrary to the purpose of supervised visits (child safety), but also places the staff person at risk and unnecessarily creates liability for the Center. At the Center there should be guards or security personnel, as well as other employees, to ensure that the batterer stays within the limits of non-violent behavior. The more child-focused Visitation Centers, such as those in Houston⁸⁷, and in Brockton, Massachusetts,⁸⁸ require that all staff (including the security personnel) receive training on family violence dynamics, as well as the clear policies designed with victim safety.

d. *Where there is evidence of serious domestic violence, courts should assume that any visitation with the battering parent will be supervised.*⁸⁹ Supervised visitation must not be conducted by any relative or friend of the batterer, and any associated costs should be paid by the battering parent.⁹⁰ Further, the ABA House of Delegates on Unified Family Courts' resolution suggests that courts should: (1) ensure that children only be exchanged for visitation in protected places; (2) allow only supervised visitation (which the batterer paying the costs); (3) prohibit visitation (supervised or otherwise) unless the batterer has completed a specific batterer's intervention program; and (4) allow visitations only when the batterer has abstained from possessing or consuming alcohol or drugs for a designated time prior to and during visitations.⁹¹ Additionally, when appropriate, the courts can deny overnight visitations, mandate that abusers who have threatened kidnapping must post bond to ensure the children's return, maintain confidentiality of the victim and children's address, and be open to other creative conditions which will promote victim safety.⁹²

8. MEDIATION IS CONTRAINDICATED IN MOST CASES INVOLVING DOMESTIC VIOLENCE.⁹³

a. *Regardless of the mediator's skill, the victim is endangered for disclosing any information about the batterer's behavior.* Since there is little the victim can reveal with out fear of retaliation, the mediator's attempts to negotiate a peaceful resolution can only be viewed as disingenuous. The power imbalance between victim and offender is too great: what is the victim supposed to give in exchange for safety?⁹⁴ Custodial interference and prolonged custody battles are common tactics of batterers after separation. The victim must have a forum which will treat the renewed abuse seriously and make clear to the batterer that his behavior will not be tolerated.⁹⁵ We do not mediate

civil rights' offences because persons of color have a *right* to be free from abuse *and* the offender is to receive the unequivocal message that racist behavior will not be tolerated. If the court insists that mediation must occur, ensure that the victim and offender are not in the same room,⁹⁶ and that the parties have legal counsel present.⁹⁷

b. Batterer's experts report that most batterers will not negotiate in good faith. Mediation relies on the assumption that both parties will enter all agreements with the intention of compliance. However, since batterers operate on the premise that they are *entitled* to use violence to achieve their goals, mediation is an inappropriate venue to attempt resolution of domestic violence.⁹⁸ Given that most mediators are not familiar with the complex dynamics of family violence and the batterer's relentless persecution of the victim, without sufficient, on-going training mediators cannot be expected to effect safe resolutions.⁹⁹

c. State Alternative Dispute Resolution Statutes should be amended to prohibit mediation in cases involving domestic violence, subsequent to confidential screening of in-coming cases. A case in point is the policy statement of the Texas Alternative Dispute Resolution Statute, which rightly encourages amicable resolutions of disputes, with particular emphasis placed on conservatorship, possession and child support matters.¹⁰⁰ Yet, there exists no provision for abuse victims to opt out, thus leading most courts to assume they need only refer contested family matters to mediation.¹⁰¹ While Texas mediators must complete a 40-hour training, with an additional 24 hours of instruction for those dealing with family cases,¹⁰² "domestic violence" is not a required component. Further, since there is not now an entity to certify completion of the trainings nor to accredit the training programs, one should be designated with input from experienced domestic violence case practitioners.

d. For all the same reasons listed in a, b and d, couple's counseling is also dangerous and ill advised. Battered women's advocates have long opposed mediation in domestic violence cases, largely for safety reasons.¹⁰³ It has, therefore, been difficult to understand why some legal advisors would then refer their battered and batterer clients for couple's counseling where the same power imbalance and lack of protections exist.

9. IF NEEDED, ENSURE ECONOMIC EMPOWERMENT OF THE VICTIM THROUGH REFERRALS TO GUIDANCE COUNSELORS, JOB AND EDUCATIONAL COUNSELING, JOB TRAINING AND MENTOR PROGRAMS.

a. Given that the lack of money forces many victims to return to the perpetrator, attorneys and courts must provide information about achieving economic self-sufficiency. Part of improving our interventions with abuse victims and offenders is to expand the notions of what constitutes the practice of law; to make the driving force the response to the question, "What action will increase victim safety?"¹⁰⁴ For many victims, part of that answer lies in their need for money. Thus, a critical component of safety planning is economic empowerment.

b. While domestic violence spans all income groups, fleeing it is exacerbated by lack of financial resources and job skills. Upper income abuse victims often report that the perpetrator controls all the finances, intentionally precluding access to even minimal living expenses. Without information about job and educational opportunities, too many victims are forced to return to the abuser. It is imperative that all intervenors incorporate into their practices a mechanism for asking victims about their economic status, their life plans and then, creating a step-by-step "action plan" to achieve financial independence. Children, teens and some batterers can also benefit from this process. Many professionals, such as attorneys (whether surgeons, pediatrician, obstetrician-gynecologists or other), and a range of professionals may initially think that it is beyond the purview of their job to delve into matters of economic empowerment with abuse victims or offenders. However, if like planning is the best mechanism to achieve safety, that professional then has the legal obligation to engage in such a process and make appropriate referrals.

c. Even as an emergency resource, welfare benefits are increasingly unavailable to domestic violence victims, making our efforts at economic empowerment all the more necessary. Welfare programs fail to provide enough money with which to support a family of any size, given that three-quarters of the states pay less than \$400 per month in benefits for a family of three. Additionally, when adjusted for inflation, every state has reduced their welfare benefits from 1970 to 1996, ranging from Texas slashing theirs by 68 percent to California cutting 18 percent. Currently, a family of three in

Tennessee receives just \$185 per month, Texas provides \$201 per month in welfare benefits, while the same family in Washington state would get \$546.¹⁰⁵ Not surprising, then, that for women and children, family violence is the leading cause of homelessness and poverty.¹⁰⁶ In the climate of current backlash against the poor, true reform offering meaningful job and education counseling, training and connections must be insisted upon from our government *and* the private sector. It is incumbent upon the community to ensure that the focus shifts to enable victims to *empower themselves*, utilizing the resources made available through the above initiatives, including *affordable* and safe childcare.

10. WE MUST EDUCATE OURSELVES ABOUT BATTERERS AND EFFECTIVE INTERVENTIONS PROGRAMS, IN ORDER TO HOLD PERPETRATORS ACCOUNTABLE.¹⁰⁷

Batterer's intervention programs should not be viewed as a panacea, particularly without other community support services in place. Certainly they have a greater chance of reducing recidivism if the police and courts treat domestic violence seriously and will ensure that sanctions result from violations. As a starting point, it is helpful to learn more about the perpetrators. The following "batterer profile" is not meant to describe every abuser, but rather to offer several generalized, common characteristics in an effort to provide insight, and thus, better shape the programs with which we try to help the offenders.

- a. *Batterer's public behavior is frequently quite different from their private actions.*¹⁰⁸ Many abusers are charming, charismatic and non-violent around others, and indeed, even with the victim – at first. It is important for family, friends, co-workers, judges and others to not challenge the victim's credibility based on the batterer's stature and public behavior. Experienced batterer's experts report that public behavior is not an accurate predictor of who will commit violence toward a partner.
- b. *Most batterers do not have a problem with anger or "poor impulse control", rather they exert what Dr. David Adams calls "a planned pattern of coercive control".* Since many of us were sending perpetrators to short-term "anger management" programs in the belief that we were helping, it was shocking to learn from renowned batterer's experts that most abusers are not "out of control" or angry. On the contrary, they use anger to manipulate and control their partners and children. As Paul Kivel, the co-founder of the Oakland Men's Project, says, "Anger is not the problem."¹⁰⁹
- c. *Excusing and minimizing the violent behavior is a common tactic of batterers.*
 - (1) *"I lost control."* Some abusers believe that they "lost it",¹¹⁰ but batterer's experts tell us that probably less than five percent of batterers are "out of control". By listening to perpetrators *and* examining their behavior, counselors have learned that the violent behavior is most often deliberate. While there are some batterers who exhibit generalized violence, most will not assault the police officer who gives them a speeding ticket or their boss who yells at them for being late to work. Indeed, most abusers with a criminal record have either assaulted other intimate partners or been convicted of drunk driving or substance abuse offenses.¹¹¹
 - (2) *"She drove me to it" is an excuse of batterers who are intent to blame others for their violent behavior.*¹¹² Dr. Adams explains that those abusers who have not been held accountable are quick to divert attention from their crimes by claiming to be the real victim. Too often, he says, the focus becomes the victim's behavior, which "is a disservice to the abuser because it reinforces his denial of responsibility."¹¹³
 - (3) *"I was drunk so you should forget it" ranks high among the abuser's excuses.* In spite of the high correlation between substance abuse and domestic violence,¹¹⁴ batterers experts report that, while the alcohol or drugs might act as a disinhibitor, they do not cause the violence. Therefore, it is imperative that abusers who exhibit both violence and substance abuse, have two separate problems for which they must be held accountable and get help.¹¹⁵
- d. *The batterer's manipulation of the children frequently increases after separation ranging from direct threats to forcing their collusion in further harassment of the battered victim.*¹¹⁶ Batterers may demand that the children spy on their mother, then report any interactions with males or behavior he considers suspicious. In the presence of the children, cursing, name-calling, threats and excessive criticism of the victim are also common. Particularly when a protective order

prohibits direct contact, many abusers use the children to relay their terrifying messages or pleas to return to the house.¹¹⁷

- e. *In order to reduce recidivism, batterer's intervention programs must be long-term,¹¹⁸ culturally competent,¹¹⁹ and behavior-based¹²⁰, with community support to provide sanctions for new incidents¹²¹ and on-going partner contacts.¹²² Former batterer Hamish Sinclair runs an excellent batterer's intervention program, called Man Alive in San Francisco, Sacramento and Marin Counties in California, as well as in the California Prison System. Man Alive is a three year program, designed to allow successful participants to act as co-facilitators in their last year. Mr. Sinclair states that his program's success is due in part to its length, but also to the fact that participants are taught both that their violence is inexcusable and that they can go back to their communities to teach others to be non-violent.¹²³*
- f. *Ensure that adolescent batterers' programs have an intervention methodology and curriculum that focus on victim safety and offender accountability. The Massachusetts Department of Public Health has promulgated *PILOT PROGRAM SPECIFICATIONS for Intervention with Adolescent Perpetrators of Teen Dating and Domestic Violence*. The eleven-page outline provides guidelines for establishing such a program, complete with sections addressing 3.3 Minimum Qualifications For Program Staff, 4.0 Intervention Methodology, 4.1 Inappropriate Methods, 4.2 Educational Component (with ten suggested topic areas), 5.0 Client Intake, 5.1 Evaluation (of batterers) and various other necessary sections.¹²⁴ Nashville's *TeenPEACE* (Project to End Abuse through Counseling and Education) provides intensive group sessions for adolescent males who have assaulted a female and are on probation. Through the juvenile court, the 12-week program intervenes with at-risk youth. "Through knowledge attainment, skill building and attitude changes, *TeenPEACE* helps participants end domestic violence in their relationships and in their community. *TeenPEACE* helps participants identify the abusive or controlling behaviors they use and teaches them abstinence based skills for solving conflicts and handling disappointments in a positive and non-abusive manner."¹²⁵*
- g. *Ensure that prevention programs are undertaken in the schools to teach our youth non-violent tactics for problem solving. Since 1989, Austin's *Expect Respect* program has provided a stellar model of school based intervention and education, operating in elementary middle and high schools. In addition to classroom presentations, they offer support groups, individual counseling as well as staff training and technical assistance, and evaluation. Fully administered by the *SafePlace* shelter, the program was able to exponentially expand as a result of their receiving a Centers for Disease Control grant.¹²⁶*
- h. *Ensure that attorneys, law enforcement and other powerful batterers are disciplined according to the law. Attorneys who batter their partners are violating the American Bar Association's Model Code of Professional Conduct, as well as state law.¹²⁷ Several states have taken such cases seriously. New Jersey's Supreme Court, in *In the Matter of Lawrence G. Magid*,¹²⁸ and in *In the Matter of Salvatore Principato*,¹²⁹ ruled that these lawyers' conviction for assault against their partners constituted a violation of Rule 8.4. Not only did the Court order a public reprimand of the lawyers, but also stated: "We caution members of the bar, however, that the court in the future will ordinarily suspend an attorney who is convicted of an act of domestic violence."¹³⁰*

Similarly, anyone convicted of specific misdemeanor domestic violence crimes or while subject to a Protection Order is prohibited from possessing guns or ammunition under the 1996 amendment to the Gun Control Act of 1968.¹³¹ This law, also known as the Lautenberg Amendment (so named for the bill's sponsor, Frank Lautenberg (D-N.J.), applies to law enforcement officers, as well as all other citizens.

II. ALL RELEVANT PLAYERS SHOULD PARTICIPATE IN THEIR LOCAL FAMILY VIOLENCE COUNCIL TO ENSURE ON-GOING EFFORTS TO IMPROVE THE LEGAL SYSTEM.¹³²

Across the country, lawyers, advocates and judges have been instrumental in starting and maintaining Family Violence Councils, found to be one of the best mechanisms for reform.

- a. *Judges and lawyers are particularly powerful systems' change agents and have the responsibility to work toward improving the courts. To address the concern of some judges that such involvement*

might compromise their obligation to maintain the appearance of neutrality, Judge Stephen Herrell¹³³ has written an article assuring them that it is, in fact, their *responsibility* to become involved in improving the justice system. Judge Herrell argues that, not only should judges serve on family violence councils, but can be instrumental in bringing together the necessary players to create an effective system.¹³⁴ Starting, chairing and/or serving on a Family Violence Council can increase the morale of judges, practicing attorneys, court staff and the myriad community players who participate.

- b. *The Family Violence Council must be multi-disciplinary, diverse and inclusive.* Not only does the Council need the court-related personnel (prosecutors, advocates, law enforcement, probation/parole, clerks and judges), but also defense and family law attorneys, child protective services, CASA's clergy, educators, legal aid, corrections, public housing staff, survivors, medical and mental health providers, business representatives, and other interested citizens. It is essential that the racial and cultural diversity of the community be reflected within the Council membership. Additionally, within each profession invited to attend, the top decision-makers should also bring their front-line staff. The police chief is wanted for his/her power to insure solid policies, but the officers who directly respond to domestic violence calls are needed, as well.
- c. *The Council should probably have rotating co-chairs, with most of the work done in committees.* All members should have an opportunity to co-chair meetings, setting the agenda, sending out notices and running the meeting. There are some rare exceptions, in which a judge or other member serving as chair is adept at keeping the momentum of the Council, while ensuring maximum utilization of all participants. Sometimes a Council can be re-energized by involving more members in the leadership roles and becoming action focused. If the Council's work is done in designated committees (maybe children/Child Protective Services issues, court issues, legislative, shelter, etc.), each committee is free to set its own agenda, recruit the needed players and avoid any one issue taking over the larger meetings.
- d. *Meetings should be held monthly, at a convenient location and with snacks.* No community is so lacking in family violence-related problems that they can afford to meet less frequently than monthly. Minimal as it may seem, refreshments can help create a positive association with Council meetings.
- e. *An action-oriented, three-pronged approach should be taken toward problem solving.* The first prong involves the Council participants honestly identifying the challenges and problems their community faces. Second, they name who is responsible for ensuring the needed changes happen. Finally, the Council must devise an action plan, utilizing their members, to bring about the reforms.¹³⁵

12. ENSURE THAT ALL EMPLOYERS, INCLUDING SHELTERS, PROSECUTORS, LAW ENFORCEMENT AND COURTS, ADOPT POLICIES TO ADDRESS DOMESTIC VIOLENCE IN THE WORKPLACE.

Employers can play a powerful role in helping stop domestic abuse and can be held liable for their failure to adequately protect victims in the workplace.¹³⁶ The family of Francescia LaRose agreed to a settlement of \$350,000 from Houston's State Mutual Life Assurance Company and the Duddleston Management Company, after Ms. LaRose was murdered at work in 1995. Ms. LaRose had requested that her employer help protect her from ex-boyfriend, Patrick Thomas, who had threatened to murder her. Sadly, her employer's response was to admonish Ms. LaRose to keep her personal problems out of the workplace.¹³⁷ Similarly, a San Francisco jury awarded \$5 million dollars to the families of a battered woman's co-workers, who were murdered at work by the woman's estranged husband. The victim's employer, the Equitable Life Assurance Society, denied assistance, thus endangering not only the victim, but her co-workers, as well.¹³⁸ Employers have a responsibility to provide all employees with a copy of written guidelines, covering treatment of victims and offenders in the workplace. At a minimum, employers should make available SAFETY PLANS and community resource information, and the National Hotline #1-800-799-SAFE.

Employers are urged to follow the Polaroid Corporation's model, which not only provides victims with company time for individual counseling and/or support groups, but also allows up to three weeks paid leave for victims to handle their affairs (go to court for a protective order or bail hearing, move, etc.), and up to one year unpaid leave with a guarantee of their present job back. Dr. James Hardeman, the manager of their employee assistance program, also meets with every

perpetrator-employee to explain that his continued employment is dependent upon not reoffending and the successful completion of a certified, one-year batterer's intervention program.¹³⁹ All employers, from police departments and hospitals, to two-person practices and courts, should have such a policy that makes victim safety a priority. If more employers adopt guidelines clarifying that we are here to help prevent further harm, many more victims and their children could be alive tomorrow. Additionally, batterers may obtain the interventions they need to avoid recidivism and possibly prison.

An outstanding model, which could be replicated in most areas, is the "Polaroid CEO Project". Polaroid's CEO Gary DiCamillo recruited about sixty other Massachusetts' corporate CEO's to enlist their company's support in "adopting" a domestic violence program (mostly shelters) or visitation center. The corporations are not asked to give large cash donations, though they are certainly free to do so. Rather, the corporations work with their adopted programs to identify needs (such as maintenance, financial planning, fundraising, etc.) for which the company could help. One of Polaroid's additional contributions was to pledge to provide job training to one hundred battered women per year, enabling them to learn valuable job skills, while gaining economic empowerment and self-esteem. This is the program through which Newton-Wesley (MA.) Hospital adopted their local shelter, providing free medical care and financial planning, among other assistance.

Conclusion

As adult and child advocates, law enforcement, probation and parole officers, social workers, counselors, attorneys, judges and other professionals, we should be celebrating that domestic violence victims and children are increasingly turning to the courts for protection from abuse. Nashville's Police Lt. Mark Wynn says we have the privilege of making the law keep its promise to abuse victims: affording them equal protection, due process and freedom from domestic tyranny. As Lt. Wynn has shown with the remarkable efforts underway in Nashville, the key is applying *gentle, relentless pressure* to achieve the protections our victims deserve. We can interrupt the intergenerational cycle of learned abuse by teaching our children that the community will not tolerate the violence. "We have a choice," Juvenile Court Judge Dale Harris says, "Will our children and their mothers have homes they can run to or homes they must run away from?"¹⁴⁰

FOOTNOTES:

1 B.A., *cum laude* Harvard Extension School; J.D., *cum laude* Harvard Law School; Clinical Professor, University of Texas School of Law (UTSL), teaching the "Domestic Violence and the Law" course and co-director of the UTSL Domestic Violence Clinic; co-founder, national Training Center on Domestic and Sexual Violence, former domestic violence, child abuse and juvenile prosecutor, and advocate for 22 years.

2 "Domestic violence: occurs when one intimate partner uses physical violence, threats, stalking, harassment, or emotional or financial abuse to control, manipulate, coerce, or intimidate the other partner. Roberta Valente, *Domestic Violence and the Law*, THE IMPACT OF DOMESTIC VIOLENCE ON YOUR LEGAL PRACTICE, THE AMERICAN BAR ASSOCIATION COMMISSION ON DOMESTIC VIOLENCE (1996).

3 See Mildred Pagelow, *Effects of Domestic Violence on Children and Their Consequences for Custody and Visitation Agreements*, 7 MEDIATION QUARTERLY (1990); Peter Jaffe, D. Wolfe and S. Wilson, CHILDREN OF BATTERED WOMEN: ISSUES IN CHILD DEVELOPMENT AND INTERVENTION PLANNING (1990); Bowker, Arbitell and McFerron, *On the Relationship Between Wife Beating and Child Abuse*, FEMINIST PERSPECTIVE ON WIFE ABUSE (1998); Peter Jaffe, et. al, CHILDREN OF BATTERED WOMEN, (1990); B. Rabin, *Violence Against Mothers equals Violence Against Children: Understanding the Connections*, 58 AL. L. Rev. 1109, 1113 (spring 1995);

4 See James Ptacek, BATTERED WOMEN IN THE COURTROOM, THE POWER OF JUDICIAL RESPONSES (1999); and David Adams, *Identifying the Assaultive Husband in Court: You Be the Judge*, BOSTON BAR JOURNAL 25 (July/August 1989).

5 See THE IMPACT OF DOMESTIC VIOLENCE ON YOUR LEGAL PRACTICE: A LAWYERS'S HANDBOOK, AMERICAN BAR ASSOCIATION COMMISSION ON DOMESTIC VIOLENCE (1996), with chapters covering the relevance for most fields of law, including Children's; Civil Rights; Contracts; Corporate; Elder; Employment Evidence; General Practice; Health Care; Government and Public Sector; Housing and Homelessness; Insurance; Judiciary; Law Firm Management; Legal Services; Mediation;; Military; Poverty; Probate; Estate and Trust; Professional Responsibility and Ethics; Real Property; Safety Planning; Screening; Sexual Harassment; Solo Practitioners; Sports and Entertainment; State and Local Government; Tax; Trial Practice and Torts; Available for \$35 from the ABA Resource Center 800/285-2221.

6 See Roberta Valente, *Addressing Domestic Violence: The Role of the Family Law Practitioner*, 29 FAMILY LAW QUARTERLY 187 (summer 1995).

7 See Sarah M. Buel, *50 Obstacles to Leaving a.k.a. Why Victims Stay*, 28 COLORADO LAWYER 1 (October 1999); Sarah M. Buel, *A Lawyer's Understanding of Domestic Violence*, 62 TEXAS BAR JOURNAL 936 (October 1999).

8 Judge Cindy Lederman of the Dade County (FL-) Juvenile Court has launched a study of their innovative protocol for screening *all* child and adults for abuse who present at their court, then providing counseling and other needed services.

9 A SAFETY PLAN is, essentially, an action plan for staying alive; walking the victim through practical steps for protecting herself during an explosive incident, when preparing to leave, at work, in public, and with the children;; a sample Safety Plan is available from the American Bar Association's Torts and Insurance Practice Section "Domestic Violence, Safety Tips For You and Your Family" at www.abanet.org/tips/publicservice/dvsafety.html. These Safety Plans are NOT copyrighted in the hope that each reader will take them home for their police, sheriff, shelter, bar association or other entity to reproduce and distribute.

10 Joan S. Meier, *Notes from the Underground: Integrating Psychological and Legal Perspectives on Domestic Violence in Theory and Practice*, 21 HOFSTRA L. REV. 1295 (1993); See also Patricia Evans, THE VERBALLY ABUSIVE RELATIONSHIP, How to Recognize It and How to Respond ("All Domestic Violence Begins With Verbal Abuse")(1992).

11 While not discounting the reality of male victims (both gay and heterosexual), the vast majority of domestic violence victims are female and the perpetrators are male. Russel Dobash, *The Myth of Sexual Symmetry in Marital Violence*, 39 SOC. PROBS. 71, 74-75 (1992); Caroline W. Harlow, U.S. DEP'T. OF JUST., FEMALE VICTIMS OF VIOLENT CRIME 1 (1991); Peter Finn and Sarah Colson, U.S. DEP'T. OF JUST., CIVIL PROTECTION ORDERS: LEGISLATION, CURRENT COURT PRACTICE, AND ENFORCEMENT 4 (1990); Patsy A. Klaus & Michael R. Rand, FAMILY VIOLENCE: BUREAU OF JUSTICE STATISTICS SPECIAL REPORT (1984), as cited in Roberta Valente, *supra* note 6.

12 Barbara Hart, *Why She Stays, When She Leaves*, STOPPING THE VIOLENCE (1990)

13 Kathleen Waits, *Battered Women and Family Lawyers: The Need for an Identification Protocol*, 58 ALB. L. REV. 1027, 1042-43 (1995).

14 The Model rules of Professional Conduct mandate that attorneys "provide competent representation to a client" which "requires the legal knowledge, skills, thoroughness and preparation necessary for the representation." Rule 1.1

15 Model Rules of Professional Conduct, Rule 1.1 cmt. 5.

16 See e.g. *supra* note e; Ann Jones, NEXT TIME SHE'LL BE DEAD (1992); George Lardner, THE STALKING OF KRISTEN (1993).

17 American Medical Association, *Diagnostic and Treatment Guidelines on Domestic Violence* (1992). See also Michael A. Rodriguez, MD MPH, Heidi M. Bauer, MD, MPH, Elizabeth McLoughlin, ScD, and Kevin Grumbach, MD, *Screening and Intervention for Intimate Partner Abuse, Practices and Attitudes of Primary Care Physicians*, 282 JAMA 468 (August 4, 1999).

18 Barbara Hart, *Children of Domestic Violence: Risks and Remedies* 1 (1992) in COURTS & COMMUNITIES: CONFRONTING VIOLENCE IN THE FAMILY Conference Manual (1993).

19 See Leslye E. Orloff, Deana Jang, and Catherine F. Klein, *With No Place To Turn: Improving Legal Advocacy for Battered Immigrant Women*, 29 FAM. LAW Q. 313 (Summer s 1995).

20 See Martha Minow, *Elder Abuse*, FAMILY MATTERS, 246-249 (1993).

21 See Ruthann Robson, *Lavender Bruiser: Intra-Lesbian Violence, Law and Lesbian Legal Theory*, 20 GOLDEN GATE U. L. REV. 567 (1994).

22 See Patrick Letellier, *Gay and Bisexual Male Domestic Violence Victimization: Challenges to Feminist Theory and Responses to Violence*, 9 VICTIMS AND VIOLENCE 95 (1994).

23 See Stacy L. Brustin, *Legal Responses to Teen Dating Violence*, 29 FAM. LAW Q. 331 (Summer 1995).

24 Based on the author's twenty-two years experience working with thousands of abuse victims in six states.

25 See David T. Austern, *Strategies For Recovery In Domestic Violence Tort Cases*, 33 TRIAL 26 (August 1997); Fredrica L. Lehrman, *Torts in THE IMPACT OF DOMESTIC VIOLENCE ON YOUR LEGAL PRACTICE*, 6-9 (1996); and Edwin J. Terry, Jr. and Kristin K. Proctor, *Infliction of Emotional Distress: No Justice in the 'Middle Ground'*, 27 TEXAS TRAIL LAWYERS FORUM 5 (1993).

26 Barbara Hart, *supra* note 6.

27 Ronet Bachman & Linda E. Saltzman, U.S. DEP'T. OF JUSTICE, NAT'L CRIME VICTIMIZATION SURVEY, VIOLENCE AGAINST WOMEN: ESTIMATES FROM THE REDESIGNED SURVEY 1.4 (1995), as cited in Deborah M. Goelman, "Safety Planning," THE IMPACT OF DOMESTIC VIOLENCE ON YOUR LEGAL PRACTICE, THE AMERICAN BAR ASSOCIATION COMMISSION ON DOMESTIC VIOLENCE, 2-11 (1996).

28 You may obtain these domestic violence community education materials easily adaptable for your area from the Family Violence Prevention Fund by calling #1-800-END ABUSE or the National Domestic Violence Hotline at #1-800-799-SAFE.

29 Det. Charles Masino, chief of the Phoenix Police Dept's Domestic Violence Unit, states that mutual combat arrests should occur in no more than 3% of the arrests, and that even that number is probably too high, and that mutual orders place the officers at greater risk because the abuser has not been given a clear message.

30 See Naomi R. Cahn, *Civil Images of Battered Women: The Impact of Domestic Violence on Child Custody Decisions*, 44 VANDERBUILT L. REV. 1041 (1991) and discussion *infra* at 5e.

31 Susan Schechter, Jon Cointe and Loretta Fredrick, *Domestic Violence and Children: What Should the Courts Consider?* in COURTS & COMMUNITIES: CONFRONTING VIOLENCE IN THE FAMILY Conference Manual, ed. National Council of Juvenile and Family Court Judges Family Violence Project (March 1993); Evan Stark and Anne Flitcraft, *Women and Children At Risk: A Feminist Perspective on Child Abuse*, 18 INT'L. J. HEALTH SVCS 97 (1988), as cited in Barbara J. Hart, *Children of Domestic Violence: Risks and remedies* (1992) in COURTS & COMMUNITIES: CONFRONTING VIOLENCE IN THE FAMILY Conference Manual (1993).

32 Suzanne H. Jackson, *Child Abuse, THE IMPACT OF DOMESTIC VIOLENCE ON YOUR LEGAL PRACTICE: THE AMERICAN BAR ASSOCIATION COMMISSION ON DOMESTIC VIOLENCE*, 5-17 (1996); Stark & Flitcraft, *Woman-Battering, Child Abuse, and Social Heredity: What is the Relationship?*, MARITAL VIOLENCE (1985).

33 R. Messinger & R. Eldridge, New York Task Force on Family Violence, BEHIND COLSED DOORS: THE CITY'S RESPONSE TO FAMILY VIOLENCE (1993); see also Mmildred Pagelow (1990) *supra* note 3, reporting that more than half of those who batter their wives also abuse their children.

34 Bowker, Arbitell, and McFerron, *On the Relationship Between Wife Beating and Child Abuse*, FEMINIST PERSPECTIVES ON WIFE ABUSE (1988).

35 L.H. Nowker, M. Arbitell, & J.R. McFerron, *On the Relationship Between Wife Beating and Child Abuse*, in K. Yllo and M. Bogard (Eds.) PERSPECTIVES ON WIFE ABUSE (1988), AS CITED IN Barbara Hart (1992) *supra* note 12.

36 *Developments in the Law - Legal Responses to Domestic Violence: Battered Women and Child Custody Determinations*, 106 HARV.L.REV. 1597, 1612 (1993); and U.S. Dept. of Justice, *Report on the Nation of Crime and Justice: The Data* (1993).

37 Robert B. Straus, *Supervised Visitation and Family Violence*, 29 FAM. L. Q. 229, 232 (1995).

38 David Adams, *supra* note 4 at 25.

39 Danielle Levine, *Children in Violent Homes: Effects and Responses*, 68 FLA. B. J. 38, 62 (Oct. 1994).

40 Laura Crites and Donna Coker, *What Therapists See That Judges May Miss: A Unique Guide to Custody Decisions When Spouse Abuse is Charged*, THE JUDGES JOURNAL (Spring 1988).

41 Davidson, CONJUGAL CRIME: UNDERSTANDING AND CHANGING THE WIFE ABUSE PATTERN (1978), p. 119, as cited in Andrea Sparks, *supra* note 2 at 3.

42 See Phillip C. Crosby, note, *Custody of Va;ughn: Emphasizing the Importance of Domestic Violence in Child Custody Cases*, 77 B.U.L. REV. 483, 500 (1997); Lynn R. Kurtz, note, *Protecting New York's Children: An Argument for the Creation of a Rebuttable Presumption Against Awarding a Spouse Abuser Custody of a Child*, 60 ALB.L.REV. 1345, 1350 (1999); Peter Jaffe, et. al, CHILDREN OF BATTERED WOMEN, (1990); B. Rabin, *Violence Against Mothers Equals Violence Against Children: Understanding the Connections*, 58 AIL.Rev. 1109, 1113 (Spring 1995); and D. Kalmus, *The Intergenerational Transmission of Marital Aggression*, 46 J. MARRIAGE & FAM. 11-19 (1984).

43 See Kurtz, *supra* note 42; and See generally, Violence Against Women Office, *Child Custody and Visitation Decisions in Domestic Violence Cases: Legal Trends, Research Findings, and Recommendations*, sec. 3 (December 2, 1999) <<http://www.vaw.umn.edu/Vawnet/custody.html>>.

44 H. Con. Res. 172, 101st Cong. (passed 9-27-90, passed unanimously 10-25-90).

45 See Texas Family Code sec. 153.004(a) mandating that the court consider evidence of domestic violence in deciding which parent should receive custody. Section 153.004(c) states: "The court shall consider the commission of family violence in determining whether to deny, restrict, or limit the possession of a child by a parent who is appointed as a possessory conservator." Thus, the statute prohibits joint, but not sole, custody to the batterer.

46 Barbara Hart, *State Codes on Domestic Violence: Analysis, commentary and Recommendations*, JUV. & FAM. COURT JOURNAL 43 (1992).

47 *Lewelling v. Lewelling*, 796 S.W.2d 164m 168 (Tex, 1990).

48 See e.g. *Pena*, 986 S.W.2d 696 (Tex, Appeals – Corpus Christi 1998) While the Court found that there was “uncontroverted testimony” concerning three incidents of physical violence against the mother by the father, these did not constitute a pattern of abuse as they are not connected. Thus, the Court allowed the batterer to obtain sole legal custody of their children. Id. At 696. But see also, *Huesers v. Huesers*, - N.W.2d – (N.D., 1997) in which the state Supreme Court set aside the trial court’s custody award to the abusive father after finding that the trial court had excused three prior incidents of domestic violence by explaining that the wife had provoked the violence; as reported in 29 JUVENILE AND FAMILY LAW DIGETS 1646 (May 1997); and based on the author’s 20 years of experience working with tens of thousands of abuse victims in the courts.

49 La. Rev. Stat. Ann. sec. 9.364.

50 Finding that seventy percent of fathers were granted custody who requested it. *Summary of findings in domestic Violence*, GENDER BIAS STUDY OF THE COURT SYSTEM IN MASSACHUSETTS, SUPREME JUDICIAL COURT 79 (1989).

51 Based on the author’s twenty years of working with abuse victims in the courts.

52 N. Lemon & P. Jaffe, *Domestic Violence and Children: Resolving custody and Visitation Disputes*, 2 (1995).

53 See e.g. *Woman Gets \$18 Million in Divorce Fraud Case*, New York Times, June 15, 1997, p. 14, col. 5, describing a jury verdict awarding Joyce Lozoya \$6 Million in compensatory damages and \$12 million in punitive damages against her ex-husband, Raymond Cohea Garcia. In 1989, Mr. Garcia was awarded custody of the couple’s four children, though he had threatened to kill his wife if she persisted in trying to obtain custody and visitation rights, and had hidden assets.

54 *Child Custody Evaluation Practices: A 1996 Survey of Psychologists*, 30 (3) FAM.L.Q. 565 (1996), as cited in Joan Zorza, *Domestic Violence Seldom Considered in Psychologists’ Child Custody Recommendations*, 2 DOMESTIC VIOLENCE REPORT 65 (June/July, 1997).

55 Zorza, Id. at 72.

56 See 1 (6) DOMESTIC VIOLENCE REPORTS 11, 12 (1996), as cited in Id.

57 Id.

58 Edward W. Gondolf, *Service Contact and Delivery of a Shelter Outreach Project*, 13 JOURNAL OF FAMILY VIOLENCE 131, 143 (June 1998).

59 For additional information, the Mass. Dept. of Social Services Domestic Violence Unit may be contacted at #617-617-626-3171.

60 *Lewelling v. Lewelling*, *supra* note 47 at 168.

61 Id. At 167-168.

62 Frederica L. Lehrman, DOMESTIC VIOLENCE PRACTICE AND PROCEDURE, 1-24 (1996).

63 Susan Guarino, *Delinquent Youth and Family Violence: A Study of Abuse and Neglect in the Homes of Serious Juvenile Offenders*, Massachusetts Dept. of Youth Services Publication #14,020-200-74-2-86-CR, pp. 5, 36 (1985). Note, the Texas Youth Commission has also conducted an unpublished study documenting the high correlation between domestic violence and juvenile delinquency.

64 G. Miller, *Violence By and Against America's Children*. 17 J. of JUV> JUSTICE DIG. 6 (1989).

65 Mary M. Harrison, *Equal Partners*, TEACHING TOLERANCE 42 (Fall 1997). Harrison, *Equal Partners*, TEACHING TOLERANCE 42 (Fall 1997).

66 Id. At 43.

67 Id.

68 Id. at 44.

69 In 1998 Safeplace received a grant for Disease Control for more than \$5000,000 to expand the program to elementary, middle and high schools in the Austin area. For further information on their program, including a copy of the Expect Respect curriculum (\$35), contact Safeplace at #512-385-5181.

70 Jessica Pearson & Esther Ann Griswold, *A Preliminary Look at Client Experiences with the Good Cause Exemption to Child Support Cooperation Requirements*, 2 DOMESTIC VIOLENCE REPORT 1 (June/July 1997).

71 Richard Wolf, *Welfare's Problem Child, The Difficulty of Tracking Down Deadbeat Parents and Enforcing Child Support is Threatening Efforts to Get Welfare Families Back On Their Feet*, USA TODAY, June 16, 1997, p. 3A, col. 2. Peter T. Kilborn, "Welfare All Over the Map," *The New York Times*, December 8, 1996, p. E3, col. 1. Note that most of the states providing higher benefits are in the north, where heating and winter-related costs negate the small differential.

72 Interview with Barbara Hart, Legal Counsel for the Pennsylvania Coalition Against Domestic Violence, October 4, 1996.

73 Id., based on the study conducted by PCADV.

74 Presentation by Judge Linda Morrissey, Oklahoma Domestic Violence Conference, May 2, 1997, Tulsa, Oklahoma.

75 Neal J. Carter, CREATING A WORKING RELATIONSHIP BETWEEN CHILD SUPPORT & DOMESTIC VIOLENCE SUPPORTIVE SERVICES, Office of Child Support Enforcement, New Hampshire Dept. of Health & human Services, Claremont, N.H., p. 2, Sept. 4, 1997.

76 Barbara Hart, *supra* note 6.

77 Ronet Bachman & Linda E. Salzman, U.S. DEPT OF JUSTICE, NAT'L CRIME VICTIMIZATION SURVEY, VIOLENCE AGAINST WOMEN: ESTIMATES FROM THE REDESIGNED SURVEY 1, 4 (1995), as cited in Deborah M. Goelman, "Safety Planning," THE IMPACT OF DOMESTIC VIOLENCE ON YOUR LEGAL PRACTICE, THE AMERICAN BAR ASSOCIATION COMMISSION ON DOMESTIC VIOLENCE, 2-11 (1996).

78 See Appendix A for the sample Adult Safety Plan and Appendix B for the sample Youth Safety Plan; Re-formatted by Melanie Kane-Gonzales for Travis County. These Safety Plans are NOT copyrighted in the hope that each reader will take them home for their police, sheriff, shelter, bar association or other entity to reproduce and distribute, as the Bexar County Women's Bar Association, the Travis County Women's Bar Association and the Dallas District Attorney's Office have all done. They are available in Spanish from any of those organizations.

79 Neal Carter, *supra* note 66 at 1.

80 Id. At 3

81 Judge Bill Jones presentation at "Effective Responses to Family Violence: National & Local Perspectives" Conference at Florida Coastal Law School, Jacksonville, FL., April 15, 1998.

82 See Mary McKernan Kay, *The Link Between Domestic Violence and Child Abuse: Assessment and Treatment Considerations*, 73 CHILD WELFARE 29 (1994) (citing W. Stacey & A. Shupe, THE FAMILY SECRET (1983).

83 La. Rev. Stat. Ann. sec. 9.364.

84 FAMILY VIOLENCE: IMPROVING COURT PRACTICE, RECOMMENDATIONS FROM THE NATIONAL COUNCIL OF JUVENILE AND FAMILY COURT JUDGES (1990), reprinted in 41 JUV. & FAM. CT. J. at 17-18 (1990).

85 Based on the author's own experience of victim's reporting.

86 For further information on their "Safe Program", run by Marinelle Timmons at the Victim Assistance Center, and their strategy of using primarily volunteers to staff the Center and structuring visits to run concurrently, call #713-755-5625.

88 For further information and information on starting a Visitation Center, contact Pat Keller, Director, Brockton Visitation Center, 180 Belmont St., Brockton, MA 02401, #508-583-5200.

89 Howard Davidson, *Custody and Visitation, THE IMPACT OF DOMESTIC VIOLENCE ON CHILDREN, A REPORT TO THE PRESIDENT OF THE AMERICAN BAR ASSOCIATION*, p. 14 (August 1994).

90 Id.

91 Id.

92 Conrad N. Hilton Foundation, MODEL CODE ON DOMESTIC AND FAMILY VIOLENCE, MODEL CODE PROJECT OF THE FAMILY VIOLENCE PROJECT, National Council of Juvenile and Family Court Judges, sec. 405 (1994), as cited in Id. (For further information on the Model Code and other issues related to Visitation, Custody and Child Protection in the context of domestic violence, contact the national Resource Center on Domestic Violence and Child Protection in the context of domestic violence, contact the National Resource Center on Domestic Violence and Child Protection #1-800-52-PEACE.); See Judith Lennett, et al., *Protecting Children Exposed to Domestic Violence in Contested Custody and Visitation Litigation*, 6 B.U. PUB.INT.L.J. 501 (Winter, 1997).

93 Jennifer P. Maxwell, *Mandatory Mediation of Custody in the Face of Domestic Violence: Suggestions for Courts and Mediators*, 37 FAMILY AND CONCILIATION COURTS REV. 335 (July 1999); and *infra*.

94 Barbara Hart, *Gentle jeopardy: The Further Endangerment of Battered Women and Children in Custody Mediation*, 7 MEDIATION Q 317, 322 (Summer 1990); Andree G. Gagnon, *Ending Mandatory Divorce Mediation for Battered Women*, 15 HARV. WOM. L.J. 272 (1992), as cited in Melanie Kane-Gonzales, DOMESTIC VIOLENCE AND MEDIATION IN TRAVIS COUNTY (April 1997), unpublished article, available at the University of Texas Law Library in Austin.

95 Id.

96 Harvey I. Hauer, *Making Mediation Work*, FAMILY ADVOCATE, American Bar Association's Family Law Section Journal, p. 27 (Spring 1997).

97 Unrepresented women tend to feel coerced and have greater difficulty participating. Eric Galton. MEDIATION: A TEXAS PRACTICE GUIDE p. 100 (Texas Lawyer Press, 1993), as cited in Melanie Kane-Gonzales, *supra* note 83 at 28.

98 David Adams, *supra* note 4.

99 Karla Fischer, Neil Vidmar & Rene Ellis, *The Culture of Battering and the Role of mediation in Domestic Violence Cases*, 46 SMU L. REV. 2117, 2131-32 (1993).

100 V.T.C.A. Civil Prac. And Rem. Code sec. 154-002.

101 See e.g. the Travis County standing order that all jury trial cases, and those non-jury matters longer than half a day, must be referred to mediation. "Order concerning mediation of Cases Set on the Merits, Travis County District Clerk's File No. 121,012 In the District Courts of Travis County, Texas, pg. 1, as cited in Melanie Kane-Gonzales, *supra* note 83 at 24; Currently 29 states allow some form of mediation in divorce cases. Rita Henley Jensen, *Divorce-Mediation Style*, 83 ABA JOURNAL 56 (February, 1977).

102 V.L.C.A. *supra* note 74 at sec. 154.052.

103 Ann W. Yellott, *Mediation and Domestic Violence: A Call for Collaboration*, 8 MEDIATION Q. 39, 44 (1990).

104 Attorney Loretta Fredrick, speaking at Minnesota Legal Services Domestic Violence Conference, August, 1994.

105 Peter T. Kolborn, "Welfare All Over the Map," *The New York Times*, December 8, 1996, p. E3, col. 1. Note that most of the states providing higher benefits are in the north, where heating and winter-related costs negate the small differential.

106 U.S. GAO, GAO/HEHS-95-28, WELFARE TO WORK 12 (1994); WASHINGTON STATE INST. FOR PUB. POLICY, OVER HALF OF THE WOMEN ON PUBLIC ASSISTANCE IN WASHINGTON STATE REPORTED PHYSICAL OR SEXUAL ABUSE AS ADULTS (1992); Jody Raphael, *Domestic Violence and Welfare Reform*, POVERTY & RACE, Jan./Feb. 1995, at 19; Joan Zorza, *Woman Battering: A Major Cause of Homelessness*, 25 CLEARINGHOUSE REV. 421 (1991); Maria Arias, *Lack of Housing for Domestic Violence Victims*, N.Y/ L.J., July 26, 1988, at 3 (reporting that between 35% to 40% of the homeless population of New York City consists of battered women and their children); see B.E. Aguirre, *Why Do They Return? Abused Wives in Shelters*, 30 SOC. WORK 350 (1985). As cited in Lynn Hecht Schafran, *There's No Accounting for Judges*, 58 ALB. L.REV. 1063, 1074 (1995).

107 Contact the Battered Women's Justice Project for information about reputable batterer's intervention programs and general information regarding batterers: #1-800-903-0111.

108 David Adams, *supra* note 49 at 23.

109 Paul Kivel, UNLEARNING VIOLENCE: A BREAKTHROUGH BOOK FOR VIOLENT MEN AND ALL THOSE WHO LOVE THEM, How to Replace Domestic Abuse With New Rules and New Roles, Real Power and Responsible Action, p. 100 (1992).

110 Id. At 119.

111 Nancy Isaac, Donald Cochran, Marjorie Brown, and Sandra Adams, *Men Who Batter, Profile From a Restraining Order Database*, 3 ARCH.FAM.MED. 50 (Jan. 1994).

112 David Adams, *supra* note 49 at 24.

113 Id.

114 Id. at 25, citing studies reporting from 48 to 70 percent correlation between substance abuse and family violence.

115 Id.

116 Id. At 24 and 25.

117 Anne Ganley, Ph.D., presentation to Washington State Judges Domestic Violence Conference, November 18, 1999 in Seattle, WA. (Dr. Ganley has 23 years experience running batterer's intervention programs.)

118 Experts suggest that a minimum of one year is essential since many batterers do not even emerge from the denial phase for about six months. At the Pivot Project in Houston, the Men's Education Network in Tyler (TX.) and Family Services of Beaumont, (TX.) Inc., batterers are encouraged to continue attending sessions after completing the standard program. As with Man Alive, some of these "graduates" are then able to confront the new batterers entering the program with a myriad excuses. At the Family diversion Network in Austin (TX.) and the women's Haven of Tarrant county batterers who have finished their program can attend a weekly support group. For more information about batterer's intervention programs, contact the Battered Women's Justice Project at #1-800-903-0111 (they are one of five national domestic violence resource centers).

119 See Oliver J. Williams and R. Lance Becker, *Domestic Partner Abuse Treatment Programs and Cultural competence: The Results of a national Survey* in VIOLENCE and VICTIMS (1994).

120 See above discussion as to the contraindication of "Anger Management" programs since domestic violence is not about the inability to control anger, but, rather is based on the abuse of power and control with violence. Thus, Dr. David Adams asserts, batterers need to be taught that they will be held responsible for their actions, just as everyone else is.

121 The Quincy (MA.) Court Probation Department's Domestic Violence Unit (Chief Andy Klein and Deputy Chief Bruce Carr) takes a tough, no-nonsense approach to batterers who violate the terms and conditions of their pre-trial release or sentences. By establishing a "revocation session" every Tuesday morning, Presiding Judge Charles Black further reinforces the message that there will be sanctions for the violation of protective or any other court orders.

122 Beth Ladoux, a survivor and veteran legal advocate, also served as the post-conviction liaison with victims at the Quincy (MA.) Court Probation Department. As a result of her on-going contacts and safety planning, the Court was able to dramatically increase the number of victims reporting violations and seeking/obtaining the help they needed to escape.

- 123 Presentation by Hamish Sinclair, Sacramento County District Attorney's Domestic Violence Conference, Sacramento, CA., May 5, 1998.
- 124 This document, dated May 14, 1999, may be obtained from the Massachusetts Department of Public Health at #(617) 624-5497.
- 125 From the *TeenPEACE* brochure, PEACE, Inc. 211 Union Street, Suite 615, Nashville, TN 32701, phone # (615) 255-0711.
- 126 From the *Expect Respect, SafePlace School-Based Services, Promoting Safe & Healthy Relationships for All Youth*, brochure and handout, dated January 14, 1999. The *Expect Respect* Curriculum is available for \$35 or a free information packet, from phone #(512) 385-0662, SafePlace attn: Expect Respect, P.O. Box 19454, Austin, TX 78760.
- 127 Rule 8.4 specifies that it is a professional misconduct for a lawyer to " (b) commit a criminal act..."; as cited in Heidi McNeil, *disciplining Attorneys Who Have Battered Their Partners*, 1 DOMESTIC VIOLENCE REPORT 1 (April/May 1996).
- 128 655 A.2d 916 (N.J. 1995).
- 129 655 A.2d 920 (N.J. 1995).
- 130 McNeil, *supra* note 130 at 2.
- 131 Gun Control Act, 18 U.S.C. 922(g).
- 132 See Leonard Edwards, *Reducing Family Violence: The Role of the Family Violence Council*, JUV. & FAM. COURT J. 1-17 (1992); Edwin Kelly, *The Judge's Role in Domestic Violence Cases*, N.H. BAR J. 37-41 (June 1994) and for packet of information call the National Council of Juvenile and Family Court Judges Family Violence Project #1-800-52-PEACE.
- 133 Judge Stephen B. Herrell is the '97-'98 President of the National Council of Juvenile & Family Court Judges. He is a judge in the Multnomah County Court in Portland, Oregon.
- 134 Stephen B. Herrell, Honorable. *The Judge as Key Player in an Effective Community Response to Family Violence*, FAMILY VIOLENCE: STATE-OF-THE-ART COURT PROGRAMS, National Council of Juvenile and Family Court Judges, (1992).
- 135 See also Sarah M. Buel, *Family Violence Council to the Rescue to Coordinate Your Resources*, THE TEXAS PROSECUTOR 12 (July/August 1997).
- 136 See e.g. *Yunker v. Honeywell, Inc.*, 496 N.W. 2d 419 (1993) for negligent responses to threats; *Degenharat v. Knights of Columbus*, 420 S.E. 2d 495 (1992) for negligent retention and supervision; *Coath v. Jones*, 419 A.2d 1249 (1980) for negligent failure to warn; *Vaughn v. Granit City Steel*, 576 N.E. 2d 874 (1991) for premises liability; and 29 U.S.C. sec. 654(a)(1) OSHA regulations with general duty to provide safe workplace. See www.cavnet.com for copy of excellent law student paper and model guidelines, *Employers Beware! Ignoring Domestic Violence Costs You Money* by Courtney McQuien (1999).
- 137 Joseph Pereira, "Employers Confront Domestic Abuse," THE WALL STREET JOURNAL, March 2, 1995, p. B1, col.1.
- 138 *Tepel v. Equitable Life Assurance Society* (1990)
- 139 To receive more information about the Polaroid Corporation Domestic Violence Guidelines and other employer assistance, you may contact the Workplace Violence Project (of the Family Violence Prevention Fund) at #415-252-8900.
- 140 Judge Dale Harris presides over the juvenile court in Lynchburg, VA.

SARAH M. BUEL

EDUCATION

J.D. cum laude, Harvard Law School, June 1990
 B.A. cum laude, Harvard University Extension School, June 1987

PROFESSIONAL EXPERIENCE

- **Clinical Professor** (1997 to present)
University of Texas School of Law Domestic Violence Clinic (founder) and two courses
- **Consultant and Trainer** (1996 to present)
The National Training Center on Domestic & Sexual Violence, Austin, TX (co-founder)
- **Consultant and Trainer** (1996-1998) Tucker, Buel & Associates, Austin TX
- **Special Counsel** (1996-1997) Texas District and County Attorney's Association, Austin, TX
- **Director/Founder, Juvenile Prosecution Unit** (1994-1996) Norfolk C. (MA) Dist Atty's Office
- **Evelyn Green Davis Scholar in Law** (1993-1994) Bunting Institute, Radcliffe College (MA)
- **Director/Founder, Domestic Violence Unit** (1992-1993) Suffolk Co. (MA) Dist Attorney's Office
- **Supervisor, Domestic Violence Prosecution** (1991-1992) Norfolk Co. (MA) Dist Atty's Office
- **Assistant District Attorney** (1990-1991) Middlesex Co. (MA) District Attorney's Office
- **Director, Domestic Violence/Child Abuse/Sexual Assault Policy and Programs** (1985-1987) Executive Office of Public Safety (MA)
- **Court Advocate & Trainer** (1984-1985) Seattle (WA) City Atty Family Violence Project
- **Senior Litigation Paralegal** (1983-1984) Holland & Hart (Denver, CO)
- **Paralegal & Director, Private Bar Project** (1980-1983) Merrimack Valley Legal Svcs (MA)
- **Paralegal & Community Education Coordinator** (1977-1979) New Hampshire Legal Asst.

TEACHING EXPERIENCE

- **University of Texas School of Law**, Adjunct, then Clinical Professor (1997-present) Domestic Violence and the Law course + Domestic Violence Clinic Course
- **Harvard Medical School**, Adjunct Professor (1992-present) Family Violence & Health Policy
- **Boston College School of Law**, Adj. Professor (1993-1995) Domestic Violence and the Law
- **Harvard Law School**, Clinical Supervisor (1991) Women and the Law Course
- **Harvard School of Public Health**, Adjunct Professor (1996) Public Health Practice
- **Boston University Medical School**, Instructor (1990-1996) Family Violence and Health Policy
- **Curry College** (MA), Instructor (1993) Domestic Violence and the Law
- **Bentley College** (MA) Instructor (1986-1992) Public Speaking, Oral Advocacy

COMMISSIONS & COMMUNITY ACTIVITIES

U.S. Justice Dept. Advisory Council on Violence Against Women	1995 – present
American Bar Association Domestic Violence Commission	1995 – present
Texas Council on Family Violence, Hotline Advisory Committee	1995 – present
Texas Women’s Advocacy Center, Board of Directors	1996 – present
Texas CASA, Board of Directors	1997 - present
Texas Health Initiative on Domestic Violence Leadership Team	1997 – present
National Criminal Justice Commission	1994 – 1996
Harvard School of Public Health, Public Health Practice Committee	1994 – 1996
Governor’s (MA) Domestic Violence Commission	1993 – 1996
R.O.S.E. Foundation, (Boston) Board of Directors	1992 – 1997
DOVE Shelter, Board of Directors	1996
Mass. Adolescent Violence Prevention Advisory Board	1991 – 1996
Natl. Council of Juvenile & Family Court Judges, Family Violence Project Advisory Committee	1992 - 1994
Mass. Domestic Violence Council, co-Founder & Member	1989 – 1996
Mass. Police Domestic Violence Policy Commission, Co-Chair	1988 – 1996
Victim Resource Center, President then Member, Board of Directors	1987 – 1993
Mass. Female Offender Commission, Co-Chair Program Committee	1987 – 1989
Various shelters, health councils and social service agencies	1977 – 1987

AWARDS

National Organization for Victim Assistance Allied Professional Award	1999
Genesis Shelter (Dallas) Jane Doe Award	1999
National Council of Juvenile & Family Court Judges Clarence and Martha Jones Humanitarian Award	1998
Texas Law Fellowships Public Service Award	1998
American College of Obstetricians & Gynecologists, Public Service Award	1997
Profiled as One of Five Most Inspiring Women in America by NBC	1996
Mass. Coalition of Battered Women Service Groups, Cindy Chin Award	1994
Top Twenty Young Lawyers Award, American Bar Assn.	1992
Outstanding Young Lawyer Award, Mass. Bar Association	1992
Boston Bar Association Public Service Award	1991
Harvard Law School, Kaufman Public Interest Fellowship	1990 & 1991
Who’s Who Among American Law Students	1989 & 1990
Names One of the 10 Outstanding Young Women in America	1987
Colorado Governor’s Award for Volunteer Service	1984

ARTICLES

- *Safety and Financial Security for Battered Women: Necessary Steps for Transitioning from Welfare to Work*, GEORGETOWN J. OF LAW & POVERTY (Spring 2000). (co-authored with Pat Cole)
- *Domestic Violence and the Law: An Impassioned Exploration for Family Peace*, 33 ABA FAMILY LAW QUARTERLY 719 (Fall 1999).
- *A Lawyer’s Understanding of Domestic Violence*, TEXAS BAR JOURNAL (October 1999)

- Fifty Obstacles to leaving a.k.a. Why Abuse Victim Stay, 28 COLORADO BAR JOURNAL 19 (October 1999)
- *Domestic Violence Pro Bono Efforts: A Menu of Options For Small Firm Lawyers*, TRIAL (August 1999)
- *Court Watches: Improving Services to Victims By Documenting Practices*, TEXAS PROSECUTOR (July/August 1999)
- *Working With High-Risk Domestic Violence Victims*, TEXAS PROSECUTOR 34 (March/April 1999)
- *The Role of Employers in Curbing Domestic Violence*, TEXAS PROSECUTOR 22 (January/February 1999)
- *The Role of Advocates in Domestic Violence Prosecutions*, TEXAS PROSECUTOR (November/December 1998)
- *Cross-Examination of a Domestic Violence Defendant*, TEXAS PROSECUTOR 36 (September/October 1998)
- *A Look At Deferred Prosecution and Sentencing in Domestic Violence Cases: Which Programs Work?* TEXAS PROSECUTOR 26 (May/June 1998)
- *Family Violence and the Health Care System: Recommendations for More Effective Interventions*, 35 HOUSTON LAW REVIEW 109 (1998)
- *How You Can Improve Medical Interventions With Victims*, TEXAS PROSECUTOR 33 (Jan/Feb 1998)
- *Family Violence Councils To The Rescue To Coordinate your Resources*, 29 TEXAS PROSECUTOR 12 (July/August 1997)
- *Improving the Responses to Children in Domestic Violence Cases*, 28 TEXAS PROSECUTOR 15 (May/June 1997)
- *How To Hold The Offender Accountable While Taking the Victim Out of the Danger Loop: Prosecute Without the Victim*, 27 TEXAS PROSECUTOR 19 (March/April 1997)
- *Investing in Family Violence Community Education Efforts Really Pays Off For Prosecutors*, TEXAS PROSECUTOR 24 (January/February 1997)
- *Family Violence Safety Planning Begins With You*, TEXAS PROSECUTOR 21 (Sept. 1996)
- *Family Violence: Practical Recommendation for Physicians & the Medical Community*, 5 WOMEN'S HEALTH ISSUES 158 (Winter 1995-1996)
- *Domestic Violence: It Can Happen To Anyone*, PATIENT CARE 63 (Nov. 15, 1993)
- *Battered Women as Defendants*, DEFENDING BATTERED WOMEN IN CRIMINAL CASES (American Bar Association, 1993)
- *Abuse Within the Nontraditional Family: Civil and Criminal Remedies*, THE BEST OF THE MCLE JOURNAL 69 (February, 1993)
- *Mandatory Arrest for Domestic Violence*, 11 HARVARD WOM. LAW J 213 (1988)

PUBLICATIONS

- U. of TX. DOMESTIC VIOLENCE CLINIC MANUAL & CURRICULUM (1999)
- INDIVIDUAL & COMMUNITY SAFETY PLANNING: OUR ROLE IN KEEPING VICTIMS ALIVE (National College of District Attorneys Resource Manual, 1997 and 1998)
- EFFECTIVE PROSECUTION OF DOMESTIC VIOLENCE CASES (National College of District Attorneys (NCDA), 1995, 1996)
- PROSECUTING DOMESTIC VIOLENCE CASES (NCDA, 1994)
- FAMILY VIOLENCE DYNAMICS AND CASE STRATEGIES FOR PROSECUTORS (NCDA, 1993)
- HARVARD LAW SCHOOL BATTERED WOMEN'S ADVOCACY PROJECT RESOURCE AND TRAINING MANUAL (1st ed. 1987, 2nd ed. 1991, co-author)
- TORT LITIGATION AGAINST ABUSERS (co-author (Boston Bar Assn., 1989)
- CRIMINAL JUSTICE RESPONSES TO FAMILY VIOLENCE: A TRAINING CURRICULUM AND GUIDE FOR PROBATION OFFICERS (Mass. Trial Court, 1987)
- AN INTEGRATED RESPONSE TO FAMILY VIOLENCE: RECOMMENDATIONS FOR THE CRIMINAL JUSTICE SYSTEM (Mass. Trial Court, 1987)
- DOMESTIC VIOLENCE: A CURRICULUM FOR LAW ENFORCEMENT INTERVENTION (Mass. Criminal Justice Training Council, 1986)

Sarah M. Buel

Sarah Buel has spent the past 22 years working with battered women, abused children and juveniles within the legal system. Currently, Ms. Buel is a Clinical Professor at the University of Texas School of Law, having started and now co-directing their Domestic Violence Clinic. She co-founded and now provides training with The National Training Center on Domestic and Sexual Violence. For six years she was a prosecutor, most of that time with the Norfolk County district Attorney's Office in Quincy, MA., helping to establish their award-winning domestic violence and juvenile programs. Previously, Ms. Buel served as a victim advocate, state policy coordinator and legal aid paralegal.

As a domestic violence survivor, Ms. Buel has been committed to improving the court and community response to abuse victims. She has helped start shelters, emergency food programs and legal clinics, as well as draft significant domestic violence legislation and regulations. Sarah was a welfare mother 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.

Ms. Buel has written extensively on family violence issues and is completing a book on model community interventions. She is a member of the American Bar Association's Domestic Violence Commission, the Dept. of Justice Advisory Council on Violence Against Women, The Texas Council on Family Violence Hotline Advisory Committee, the board of Directors of Texas CASA, the Texas Women's Advocacy Project, the Texas Health Initiative on Domestic Violence Leadership Team, and numerous other boards and commissions. She is currently an adjunct professor at Harvard Medical School.

In 1991, Ms. Buel received the Boston Bar Association's Public Service Award; and in 1992 she received both the Mass. Bar Association's Outstanding Young Lawyer's Award and the American Bar Association's Top Twenty Young Lawyer's Award. She narrated the 1992 Academy Award winning documentary "Defending Our Lives" and in 1996 was profiled by NBC as one of the five most inspiring women in America. In 1997 Ms Buel was awarded the American College of Obstetricians and Gynecologists' Public Service Award. In 1998, she was given The University of Texas Law Fellowships Public Service Award, the National College of District Attorneys' Lecturer of Merit Award, and the National Council of Juvenile and Family Court Judges' Humanitarian Award. In 1999, Ms. Buel was given the national Organization of victim Assistance (NOVA) Allied Professional Award.

She is most proud of her son, Jacey, who is now a Juvenile Court Victim Advocate.