



# Representing Victims of Domestic Violence

Breaking the Silence  
**JOURNEYS OF HOPE**

Guide to Community Outreach



For Immediate Help Call the  
National Domestic Violence Hotline  
1-800-799-SAFE or 1-800-787-3224 TTD

**If a victim decides to leave her abuser, her attorney must be prepared to help her address her needs and concerns through client-centered lawyering and appropriate referrals.** She will have to establish herself in a new life, often with dramatically reduced financial resources and a pressing need for shelter, food, and clothing. She will need assistance in obtaining protective orders and, if married, obtaining a divorce. Victims may also need counseling services or therapy for themselves and their children.

As a lawyer, your first concern is to provide your client with legal information and representation. Remember also to take the time to listen to the victim's story, her concerns, and her needs. Explain to your client her options, the possible outcomes, and legal risks. Familiarize yourself with other community resources, including domestic violence crisis lines, which can support and provide referrals to victims about their other needs.

### Working with Victims of Domestic Violence

- ◆ **Your client's safety is your top priority.** Victims are up to 75% more likely to be murdered when they flee or have fled. Expressing concern about your client's safety is appropriate and necessary. The client may not have had experience or advice in safety planning. Make sure your client has carefully worked through a safety plan and discuss the safety ramifications of her legal decisions. Update safety plans with your client as needed to address changing circumstances or new concerns.
- ◆ **Expect a range of emotional responses,** from anger to guilt to despair to hope that things will change.
- ◆ If issues have been raised during the course of the client interview and you sense that your client is minimizing the danger, there are **four key statements** you can make to help clients consider the gravity of their circumstances:
  1. **I am concerned for your safety.**
  2. **I am concerned for the safety of your children.**
  3. **The law provides for legal remedies.**
  4. **There is community support for you and your children.**
- ◆ **Maintain contacts with and refer your client to appropriate services,** including domestic violence counseling, shelters or other housing programs, medical services, job training services, TANF/welfare offices, and crisis lines. Participate in or work to organize a multi-disciplinary Family Violence Council for your community.

- ◆ **Be clear about the legal process and the necessary procedures your client will have to follow.** Also be clear when defining the scope of your representation.
- ◆ **Make your office environment as welcoming as possible.** Try to reflect the diversity of the clients you serve in the magazines and materials displayed in your office and among your office staff.

### Sample Interview Questions

There are two issues to consider prior to an initial interview with a new client. The first is how you conduct the interview. What questions should you ask and how should those questions be phrased? The second is how to prepare for the interview. You must consider where interviews should take place, how to present appropriate, non-judgmental responses, and how to deal with ethical dilemmas.

Sample questions for a client interview include:

- ◆ Everyone argues or fights with their partner now and then. When you argue or fight at home, what happens? Do you ever change your behavior because you are afraid of the consequences of a fight?
- ◆ Do you feel your partner treats you well? Is there anything at home that makes you feel afraid for yourself or your children?
- ◆ Is there anything your partner does that makes you uncomfortable?
- ◆ Has your partner ever hurt or threatened you or your children? Has your partner ever put his hands on you against your will? Has your partner ever forced you to do something? Does your partner criticize you or your children often?

- ◆ Has your partner ever threatened to take the children away?
- ◆ Have your children ever been exposed to physical contact or to materials such as books, videos, or magazines that you found inappropriate or that made you feel uncomfortable?
- ◆ Has your partner harmed or threatened to harm a pet? Destroyed or threatened to destroy property?
- ◆ Has your partner ever tried to keep you from taking medication that you need?
- ◆ How dangerous would you say your partner is? Does your partner have a weapon? Has he ever used it or threatened to use it against you or your children?
- ◆ Is your partner over-controlling or impulsive?
- ◆ Does your partner have a history of mental illness? Of alcoholism or substance abuse?
- ◆ Have you ever called the police about your partner? Has he ever been arrested?
- ◆ Have criminal charges for domestic violence ever been filed against your partner?
- ◆ Have you ever filed for a restraining or protective order? Did your partner obey it?
- ◆ Have you ever tried to leave? What happened?
- ◆ Do you have any evidence of the abuse you have suffered? Photos? Police reports? Medical reports? Torn clothing? Weapons? Statements of your family, friends, neighbors, or co-workers?
- ◆ What is your financial situation? Does your partner withhold information about finances? Do you have access to the finances or does he control them?
- ◆ Does your spouse or partner make it hard for you to get or keep a job?
- ◆ Do you know the type of legal action you would like to take—criminal, divorce, damage action, agency complaint?
- ◆ Where are you staying right now? Are you able to return home safely? If not, what circumstances would ensure your safety?
- ◆ If you are unable to return home safely, where do you plan to live?

- ◆ What is your immigration status? Is your partner a legal resident or citizen?
- ◆ Are you aware of services for victims of partner abuse, child abuse, or elder abuse?

## Legal Considerations

- ◆ **Never agree to a mutual protection order in an effort to reach a settlement**, even if your client is reluctant to force the abuser to prove his case in court. Mutual protection orders can have far-reaching, negative ramifications in other legal proceedings. For example, if your client is a non-citizen, issuance of a mutual protection order or any protection order against your client poses a serious risk of deportation, as violation of a protection order is a deportable offense. Issuance of any protection order against a battered client should be vigorously protested.
- ◆ **Resist any effort to award the batterer joint or sole custody of the children.**
  - ◆ Men who batter their partners are likely to abuse their children, and children who grow up in a violent family are more likely to abuse others or be victims of abuse.
  - ◆ Contrary to popular belief, most fathers who attempt to gain custody of their children do so successfully.
  - ◆ Remember that psychologists' child custody recommendations frequently ignore domestic violence. In a 1996 survey of psychologists from 39 states, a history of domestic violence was seen as a relevant criterion in child custody decisions by just 27.7% of respondents.
- ◆ **Do all that is possible to ensure adequate child support and spousal support.** A lack of financial resources is the number one reason why abuse victims return to the abuser.
  - ◆ Strive to have provisions for and a specified amount of child support included in the protective order.
  - ◆ Encourage a "get tough" approach to nonpayment of child support in your jurisdiction. Batterers often use nonpayment as a means of harassing the victim and forcing her to return.
  - ◆ If the parties reside together, try to get exclusive use and possession of the home for the victim.

## ◆ Ensure safe visitation.

- ◆ Where there is evidence of serious domestic violence, courts should require that any visitation with the battering parent will be supervised.
- ◆ Supervised visitation must not be conducted by any friend or relative of the batterer, and any associated costs should be paid by the battering parent.
- ◆ Visitation or visitation exchange centers can provide a safe and structured environment in which visitation can take place.

## ◆ As a general rule, **resist mediation** in cases involving domestic violence. The power imbalance between victim and offender is typically too great in domestic violence cases, and there will be little the victim can reveal without fear of retaliation. However, mediation may be the better option for a victim depending on a number of factors:

- ◆ Is the mediator trained in domestic violence issues?
- ◆ Can the victim have an advocate present at all times during the mediation?
- ◆ After thorough consultation with your client, do you believe she would she feel comfortable in a mediation?
- ◆ Are security measures in place where the mediation would occur?
- ◆ Can the victim safely end the mediation if she needs to?
- ◆ Are “shuttle” or “caucus” techniques available?

## Remember

*Congratulate* yourself. You are to be commended for stepping forward to work with victims of domestic violence.

- ◆ Stay safe.
- ◆ Help your client stay safe.
- ◆ Maintain your objectivity.

*Adapted from a forthcoming article by Sarah Buel and Representing Victims of Family Violence: Lawyer's Guide, a publication of the Colorado Bar Association's Family Violence Program.*

## NATIONAL RESOURCES

American Bar Association,  
Commission on Domestic Violence  
[www.abanet.org/domviol/](http://www.abanet.org/domviol/)

Department of Justice,  
Violence Against Women Office  
202/307-6026 or 202/307-2277 (TTY)  
[www.ojp.usdoj.gov/vawo/](http://www.ojp.usdoj.gov/vawo/)

Family Violence Department of the National  
Council of Juvenile and Family Court Judges  
800/52-PEACE (800/527-3223)  
[www.nationalcouncilfvd.org](http://www.nationalcouncilfvd.org)

NOW Legal Defense and Education Fund  
212/925-6635  
[www.nowldef.org](http://www.nowldef.org)

National Coalition Against Domestic Violence  
303/839-1852  
[www.ncadv.org](http://www.ncadv.org)

Resource Center on Domestic Violence and Child  
Protection and Custody  
800/527-3223  
<http://ncjfcj.unr.edu>

Battered Women's Justice Project  
800/903-0111

National Resource Center on Domestic Violence  
800/537-2238

National Domestic Violence Hotline  
1-800-799-SAFE or 1-800-787-3224 TTD

American Bar Association

Division for Public Education  
541 North Fairbanks Court  
Chicago, IL 60611-3314

Commission on Domestic Violence  
740 15th Street, NW  
Washington, DC 20005-1022

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