

1 Legal Issues, Concerns and Strategies when Addressing Domestic Violence

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2 Course Objectives

- Define domestic violence from a legal perspective.
- Explain law enforcement's response to domestic violence incidents.
- Identify at least three resources available to victims of domestic violence.
- Construct a safe domestic violence intervention plan.

3 Defining Domestic Violence from a Legal Perspective

"You, LORD, hear the desire of the afflicted; you encourage them, and you listen to their cry, defending the fatherless and the oppressed, so that mere earthy mortals will never again strike terror" – Psalms 10:17-18

4 A Numbers Perspective on the

Crime of Domestic Violence

(*National Coalition Against Domestic Violence – www.ncadv.org*)

- 1 in 3 women and 1 in 4 men are victims of some form of intimate partner violence in their lifetimes.
- 76% of intimate partner physical violence victims are women; 24% are men.
- Is common among women aged 18-24 and 25-34.
- Nearly half of intimate partner homicides are committed by dating partners.
- Domestic violence accounts for 15% of all violent crimes in the United States.
- 66% of female stalking victims reported stalking by a current or former intimate partner.
- Since the passage of the Violence Against Women's Act in 1994, intimate partner physical abuse has declined 67%.

5 Defining Domestic Violence

(*WomenInDistress.com*)

1 • Battering

- "A pattern of behavior used to establish *power* and *control* over another person through *fear* and *intimidation*, often including the *threat* or *use of violence*."
- Battering, assault and domestic violence are *crimes*.
- Battering tends to escalate (i.e., begins with threats or name calling, violence in her presence, and damage to objects or pets. It may escalate to physical assaultive behavior).

2 • Acts of Domestic Violence

- Physical Battering – physical attacks and aggressive behavior that can range from bruising to murder.
- Sexual Abuse – forced or unwanted sexual intercourse with the abuser.
- Psychological Battering – verbal abuse, harassment, excessive possessiveness, isolating woman from family and friends, deprivation of physical and economic resources, threats to harm self or children, and destruction of personal property.

6 Defining Domestic Violence

MCL 750.81 (Assault and Battery)

- "An individual who assaults or assaults and batters his or her *spouse* or *former spouse*, an individual with whom he or she has had a *dating relationship*, an individual with who he or she has had a *child in common*, or a *resident* or *former resident* of his or her household, is guilty."

7 **Defining Domestic Violence****MCL 750.81(6)**

- "*dating relationship*" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. This term does not include a casual relationship or an ordinary fraternization between two individuals in a business or social context.

8 **Defining Assault (MCL 750.81A)**

- "Assault is an attempt or threat, with unlawful force, to inflict bodily injury upon another, accompanied by the apparent present ability to carry out the intent if not deterred by another. A threat coupled with present ability may be considered an assault."

9 **Defining Battery (MCL 750.81A)**

- "Battery is the actual physical harm."

10 **Defining Domestic Violence****MCL 750.81**

- Punishments
 - 1st offense = 93 day misdemeanor.
 - 2nd offense = 1 year misdemeanor.
 - 3rd offense = 2 year felony.
 - Aggravated Assault
 - 1st offense = 1 year misdemeanor.
 - Previous conviction = 2 year felony.
 - Felonious Assault = 4 year felony.
 - AWITDGBH = 10 year felony
 - Murder = up to life.

11 **Stalking****MCL 750.411h (1 year misdemeanor)**

- 1 • Two or more willful, separate and noncontinuous acts of unconsented contact with the victim.
 - The contacts would cause a *reasonable individual to feel* terrorized, frighten, intimidated, threatened, harassed and molested and *caused the victim to feel* terrorized, frighten, intimidated, threatened, harassed and molested.
- 2 • Examples include:
 - Following or appearing within sight if the victim.
 - Approaching or confronting the person in public or private.
 - Appearing at the workplace or residence of the victim.
 - Entering upon the property of the victim.
 - Contacting the victim by telephone.
 - Sending mail or email.
 - Placing an object or delivering an object to property owned or leased by the victim.

12 **Aggravated Stalking**
MCL 750.411i (Felony)

- The elements for misdemeanor stalking must occur, including one of the following:
 - Suspect had a previous stalking conviction.
 - One of the acts was a violation of court order.
 - One of the threats involved a credible threat against:
 - Victim.
 - A member of the victim's family.
 - Someone in victim's household.
- 5 year felony (unless the victim was less than 18 years of age at the time of acts and the individual is 5 or more years older than the victim which is a 10 year felony).

13 **Law Enforcement Response to Domestic Violence**

"In most circumstances, an officer should arrest and take an individual into custody if the officer has probable cause to believe the individual is committing or has committed domestic violence and his or her actions constitute a crime." MCLA 776.22(3)(i)

14 **Law Enforcement Response Process**

- Ensure safety for all persons involved and put an end to the violence.
- Restore order, separate persons involved, and deescalate the situation.
- Assess the need for medical attention and provide, if needed.
- Interview all persons involved.
- Assess the lethality indicators of the situation.
- Preserve the crime scene and collect evidence.
- Establish probable cause for the ultimate goal of prosecution.
 - Depending on the state, the arrest of the offender is either mandatory, preferred or at the officer's discretion.
- Document a thorough investigation in an incident report.

15 **Risk Factors/Lethality Assessment**

- 1
 - Threats of suicide or homicide
 - Fantasies about homicide or suicide
 - State of depression and anxiety
 - Access to weapons
 - Threats to use a weapon
 - Obsessive about partner or family
 - Accusations of infidelity
 - Attempts to control partner's daily activities
 - Job problems
 - Rage
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- 2
 - Violence outside of the relationship
 - Violent toward children

- Has injured or killed pets
- Destroyed cherished or personal items
- Drug or alcohol abuse
- Victim is currently pregnant
- Recent separation or threatened separation
- Increased frequency/severity of violence
- Has forced sex on the victim
- Access to family

16 **The Law Enforcement Response**
(*American Bar Association* – www.americanbar.org)

1 Mandatory Arrest States

- 2 • 21 states have been identified with mandatory arrest statutes for domestic violence:
- Alaska, Arizona, Colorado, Connecticut, District of Columbia, Iowa, Kansas, Louisiana, Maine, Mississippi, Nevada, New Jersey, New York, Ohio, Oregon, Rhode Island, South Carolina, South Dakota, Utah, Virginia, and Washington.

3 Pro-Arrest/Officer Discretion* States

- 4 • 29 states have been identified with pro-arrest or officer discretion arrest statutes for domestic violence:
- Alabama*, Arkansas, California, Delaware*, Florida, Georgia*, Hawaii*, Idaho*, Illinois*, Indiana*, Kentucky*, Maryland*, Massachusetts, Michigan, Minnesota*, Missouri*, Montana, Nebraska*, New Hampshire*, New Mexico*, North Carolina*, North Dakota, Oklahoma*, Pennsylvania*, Tennessee, Texas*, Vermont*, West Virginia*, Wisconsin, and Wyoming*.

17 **Impact of Law Enforcement Intervention**
(*Cho & Wilke, 2010*)

- Arrest of intimate partner batterers was effective in reducing revictimization.
- Separated and divorced women showed the highest risk of revictimization

18 **Resources Available to Victims of Domestic Violence**

19 **Addressing Domestic Violence**

- Involve the entire community around the issue including police, coalitions, religious community, and courts.
- Early intervention.
- Focus on the abuser.
- Support the victim and eliminate victim blame.
- Abuser accountability.

20 **Components of Intervention**

21 **Resources**

- Police intervention
- Safe Shelters
- Victim's Assistance Offices with the courts
- Personal Protection Orders
- Legal Aid

- Hospitals and community mental health/counseling/advocacy services
- National Domestic Violence Hotline (1-800-799-SAFE / www.thehotline.org)
- National Coalition against Domestic Violence (www.ncadv.org)
- Department of Human Services/Child Protective Services
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Constructing a Safe Domestic Violence Intervention Plan

"Slightly more than half of intimate partner physical violence is reported to law enforcement." - NCADV

23 **Intervention Effectiveness**

(Bennett, Riger, Schewe, Howard, & Wasco, 2004)

- Domestic violence programs (i.e., counseling, hotlines, brief and extended advocacy, and shelters) have been found to be effective in supporting intimate partner victims. Suggestions include:
 - Providing education about violence, as well as increase support while receiving counseling, advocacy and hotline services;
 - Empowering decision-making ability while receiving counseling and advocacy services;
 - Increasing efficacy and coping skills while receiving counseling services;
 - Shelters provide an atmosphere of safety; and
 - Counseling programs are effective.

24 **Predictors of Domestic Violence**

- Did he grow up in a violent family?
- Does he use force or violence to solve his problems?
- Does he abuse alcohol or other drugs?
- Does he have strong traditional ideas of what a man should be and what a woman should be?
- Is he jealous of your other relationships?
- Does he have access to guns, knives, or other lethal instruments?
- Does he expect you to follow his orders or advice?
- Does he go through extreme highs and lows, almost as though he is two different people?
- When he gets angry, do you fear him?
- Does he treat you roughly?

25 **How To Stop The Violence**

- 1 • Develop a personalized safety plan.
 - Educate yourself about domestic violence.
 - Challenge and change any inaccurate attitudes and beliefs you may have about battered women.
 - Let go of any expectations you have that there is a "quick fix" to domestic violence or to the obstacles the victim face.

- Emphasize that violence is against the law.
- Be supportive and empowering.
- Call the police
- File a Personal Protection Order
- 2 • Initiate talk with her in private.
- Believe her and let her know that you do.
- Listen to what she tells you.
- Build on her strengths.
- Validate her feelings.
- Avoid victim-blaming.
- Take her fears seriously.
- Offer help.
- Be an active, creative partner in a women's safety planning effort.
- Support her decisions.
- Speak up!

26 **Domestic Violence Safety/Intervention Plan**

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28 **Contact Information**

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