

From: [Family Violence Coordinating Council](#)
To: [ROACH Michelle](#);
Subject: FVCC Newsletter
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Update

Family Violence Coordinating Council Newsletter

July 2010

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Dear Michelle,

Welcome to the Multnomah County Family Violence Coordinating Council Newsletter published monthly. If you are having formatting difficulties allow photos to be displayed or add us to your safe senders list.

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Is the Domestic Violence Abuser a Gang Member?

Considerations for the Bench

By Judge Videtta A. Brown

Meeting Agenda

July 9, 2010
Portland Building,
1120 SW 5th Ave,
Room 2b

12:15-12:25
Introductions and
Announcements

12:25-12:30 Vote to adopt
the proposed 2010-12 Work
Plan

12:30-12:55 Model
Prosecution Strategies:
Report from a National
Conference

12:55 -1:30 Results of the
Courtwatch of Contested
Restraining Order Hearings

Domestic violence cases are some of the most difficult cases presented before the bench, especially when the victim is a teenager. Teenage women are becoming victims of domestic violence at an alarming rate(2). Like adult victims, teenage victims experience the same acts of abuse described in the power and control model(3). Also, like adult perpetrators, teenage abusers use intimidation, frightening gestures, and destruction of property to maintain power and control over their teenage victim (4). However, there are notable differences between teen and adult victims: teens are less mature, have fewer coping skills and fewer resources, and are afforded less legal protection than adult victims.

More recently a new victim has emerged in the teenage group: the teenage victim who is the girlfriend of a gang member(5). These teenage victims, like adult victims, often suffer serious violence during the relationship, after reporting the violence, and when attempting to leave the relationship (6). Like their adult counterparts, these teenage victims may also recant previous statements or be reluctant to testify(7) because they not only fear retaliation from the abuser(8), but also from members of the abuser's gang family(9). This new class of victim is becoming more visible to courts, prosecutors, and advocates, as are the limits on addressing these victims' needs.

To address the needs of teenage domestic violence victims whose abusers are gang members, it is important to understand the gang culture and its relation to domestic

Announcements

July Human Trafficking

Awareness: July 2010 has been named Human Trafficking Awareness Month in Multnomah County. You are invited to get involved by joining one of the various events being held this month, for additional information contact Commissioner Diane McKeel at district4@co.multnomah.or.us.

University of Michigan School of Social Work and Larry Bennett at the University of Illinois-Chicago:

You are invited to complete a brief survey designed to help researchers learn about programs that are engaged in innovative joint work in both intimate partner violence and alcohol and other drug use together. They hope to receive all responses by July 19th 2010. To request survey information contact researchers at bgr@umich.edu

Department of Defense (DOD):

the DOD released its 2009 Annual Report on Sexual Assault in the Military. There were 3,230 reports of sexual assault involving military members as either victims or subjects in Fiscal Year 2009. Read the complete report <http://www.sapr.mil/>

Note: We would like to hear about innovative domestic violence resources, new projects within your programs and updates on your existing services. Please let us know by sending your information to Update editor [Vanessa Timmons](mailto:Vanessa.Timmons) or via fax: 503-988-3710.

Quick Links

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Coordinator's Office](#)

violence. Gangs are notoriously violent and use fear and intimidation to gain power and control on the streets. While not all gang members are abusive to their intimate partners, two theories posit that a direct correlation exists between gang membership and domestic violence: (1) female victimization as part of female gang initiations and (2) gang and family influences on the development of gender ideologies (10). Physical and sexual violence are used to initiate teen girls into auxiliary gangs, co-ed gangs, and girl gangs (11). Akin to the generational violence theory,(12) gang members learn abusive behavior as a product of their "family" membership(13). If the gang supports and promotes abusive behavior against females, its individual members are more likely to do the same(14).

Gang members have an array of power and control tactics at their disposal. They use intimidation and brutal violence when the girlfriend leaves the relationship and turns toward the legal system for safety and assistance(15). Gang members are intimidation experts and their methods are broad. Gang members often attend hearings to intimidate the victim. Technology is often used as an intimidation tool because it is untraceable and difficult to prove(16). Graffiti and regular mail are used to send messages of future violence to either the victim or her family members. Gang members have the capability to exact brutal violence on a victim who decides to testify and/or leave the relationship. The acts of violence can include branding, gruesome murders, and sexual assaults(17). Teenage victims that have been or continue to be abused by their gang member boyfriend are particularly vulnerable. They cannot relocate; they cannot get a protection order in many states; mandatory arrests policies do not apply to their abuser if he is a teen; and there is no shelter to which they can escape.18 Once these victims have taken the chance on the criminal justice system, it can be detrimental if judges do not address appropriately their concerns for safety and their abusers' behaviors. To aptly address this dynamic, judges should be more informed by exploring training opportunities relating to gangs, gang intimidation, domestic violence, and the use of technology in intimidation and stalking. When presented with and addressing the domestic violence-gang dynamic in a case, the following information may be valuable: Postponements: The time between trial dates is very dangerous for a victim. Intimidation by the defendant or members of the abuser's gang family should factor into the decision to grant or deny a postponement.

Courtroom Atmosphere: To protect the integrity of the trial and the victim, close the hearing to reduce gang influence.

Stay away orders: Swift responses to all violations of protection/peace/ restraining/stay away orders are imperative when the defendant is a gang member. In some jurisdictions, third party contact can be a violation(19).

Status hearings: This is an effective tool and lets the gang member know that the court is purposely paying attention and monitoring the defendant.

Save the Date

DV &
Workplace

Judge Herrell Awards
and Multnomah County
Family Violence
Coordinating Council
Celebration on
October 8, 2010 from
12:00 to 1:30 pm.

Lethality/risk assessments: Being a gang member is not an articulated factor but the court could consider gang membership to determine dangerousness and risk of future violence to the victim at bail review, postponement requests, and sentencing.

Sentencing: One size does not fit all. Is batterer intervention appropriate for this abuser? Consider whether he is violent with only the victim, women in general, and/or the general public.

The above is not an exhaustive list of when violence and gang intimidation can be considered in a domestic violence case. The court can consider this information during forfeiture by wrongdoing(20) and 404B motions. The court's action or inaction could reduce or increase a victim's current vulnerability to the gang member and the gang. If judges do not consider the gang member's dangerousness at every stage of the case, the abuser and the gang can continue their control over the victim.

1 Hon. Videtta A. Brown is an Associate Judge of the Circuit Court for Baltimore City, Maryland. Previously, she served as the Division Chief, Domestic Violence Division, Office of the State's Attorney, Baltimore City. She is an instructor for the Domestic Violence Law Seminar at the University of Maryland School of Law. This article is an abstract of her article Gang Member Perpetrated Domestic Violence: A New Conversation, 7 U. Md. L.J. Race, Religion, Gender & Class 395 (2007) [hereinafter Original Document].

2 The National Center for Victims of Crime, Teen Dating Violence Fact Sheet, available at http://www.ncvc.org/ncvc/main.aspx?dbID=DB_DVRCFactSheets207.

3 Domestic Abuse Intervention Project, Power and Control Wheel (1984), available at <http://www.duluth-model.org/documents/PhyVio.pdf> [hereinafter Power and Control Wheel].

4 Roger Levesque, Dating Violence, Adolescents, and the Law, 4 Va. J. Soc. Pol'y & L. 339, 345 (1997); Power and Control Wheel, id.

5 Original Document, supra note 1.

6 Original Document, supra note 1.

7 A victim's reluctance to testify may be based on a number of reasons, including love, children, financial dependence, lack of trust of the judicial system, and fear of retribution and retaliation. See Sarah Buel, Family Violence, Fifty Obstacles to Leaving, a.k.a, Why Abuse Victims Stay, Colo. Law. 19, 290, 24-25 (1999).

8 Such retribution or retaliation might include intimidation, subsequent physical or sexual violence, or threats of violence. See Thomas Kirsch, Problems in Domestic Violence: Should Victims Be Forced to Participate in the Prosecution of Their Abusers, 7 Wm. & Mary J. Women & L. 383, 394 (2001).

9 Original Document, supra note 1.

10Id.

11 See generally, Cheryl Hanna, Ganging Up On Girls: Young Women and Their Emerging Violence, 41 Ariz. L. Rev. 93 (1999).

12Original Document, *supra* note 1.

13 *Id.*

14*Id.*

15 *Id.*

16 *Id.*

17 *Id.*

18 *Id.*

19 Catherine Klein & Leslie Orloff, *Providing Legal Protection for Battered Women: An Analysis of State Statues and Case Law*, 21 *Hofstra L. Rev.* 801,928-929 (1993); see also, Jeanne Suk, *Criminal Law Comes Home*, 116 *Yale L.J.* 2 ,48 (2006) (acknowledging that many criminal protection orders include no contact by third party).

20 *Giles v. California*, 128 S. Ct. 2678 (2008) (stating that "[a]cts of domestic violence often are intended to dissuade a victim from resorting to outside help, and include conduct designed to prevent testimony to police officers or cooperation in criminal prosecutions...rendering her statements admissible under the forfeiture statute").

Brown, Videtta A. , *Is the Domestic Violence Abuser a Gang Member? Considerations for the Bench, Juvenile and Family Justice Today*, Sprint 2010, Rpt. In. Update Newsletter July 2010.

Practical Implications of Current Domestic Violence Research: A study of current trends, practices, and responses to domestic violence.

The National Criminal Justice Reference Service report; *Practical implications of current domestic violence research* is a 3-part study that focuses on what the research tells law enforcement officers, Prosecution and judges about the perpetrators and victims of domestic violence, the outcomes of systems responses, and what the findings mean for practical applications within their systems.

Part I: Law Enforcement

Current research finds that law enforcement agencies must commit time and resources to domestic violence that are comparable to that allotted for any other major crime. Responding officers and investigators should be alert to possible sexual abuse as well as physical abuse in domestic violence cases.

Research suggests that arrest should be the default response for officers in all domestic violence incidents. If the perpetrator has fled the scene by the time officers arrive, finding and arresting the abuser should be a priority. If an agency's pattern of arresting both partners exceeds the national average, agencies should develop and implement primary-aggressor policies and protocols.

Other implications for law enforcement practice are drawn for the role of substance abuse, the risk for reoffending, gender

issues, the presence of firearms and other weapons, and risk markers for severe injury and homicide.

Part II: Prosecution

Among the issues addressed in the reviewed research the rate at which domestic violence reaches the courts, perpetrator and victim characteristics, risk for reoffending and homicide, whether prosecution of offenders deters re-abuse, and the current level of domestic-violence prosecutions across the country. Also discussed whether specialized prosecution units are effective and whether batterer intervention programs prevent re-abuse.

Given the severity of injuries and high risk for homicide in domestic violence cases, prosecutors must adopt policies that provide protection for victims, their children, other family members, and responding law enforcement officers, as well as to protect abusers from suicide.

Prosecutors should take all steps possible to have firearms removed by the court as soon as abusers are arrested and obtain guilty verdicts so that Federal firearm prohibitions apply. Prosecution deters domestic violence if it imposes appropriate intrusive sentences, including supervised probation and incarceration.

Part III: Judges

The research findings reviewed pertain to the prevalence of domestic violence, characteristics of perpetrators and victims, the recidivism rate, the characteristics of recidivists, characteristics of abusers at highest risk for killing their partners, whether prosecution and sentencing of offenders deters recidivism, whether aggressive prosecution and sentencing increases the demand for trials, and appropriate sentences for convicted batterers. Other research reviewed pertains to whether batterer intervention programs prevent re-abuse, the effectiveness of civil protective orders, and whether specialized domestic violence courts are effective.

This study recommends that judges identify stalking behavior and recognize the importance of affording victims maximum protection against these potentially lethal abusers. Also, judges' decisions in domestic violence cases must give priority to the protection of victims, their children, other family members, responding police officers, as well as abusers at risk for suicide. In this regard, judges must insist they receive sufficient information on any pattern of systemic, abusive behaviors that place victims at high risk.

In deciding on remedies and sentences upon conviction, judges should assume that the behavior at issue is not unique to the single case. Judges should also be aware that reducing assault charges to non-assault charges allows convicted abusers to retain firearms otherwise prohibited under Federal law. Pretrial and sentencing decisions should consider victim protection, such that abusers are controlled through incarceration or intensive supervision in the community."

Full report written by Andrew R. Klein for the National Criminal Justice Reference Service (April 2008). You can access the full report at <http://new.vawnet.org> VAWnet is the online resource for advocates working to end domestic violence, sexual assault, and other violence in the lives of women and their children.

"Qualified Alien" and "Federal Public Benefits" Clarification

DV & Workplace

TO: VOCA Administrators

FROM: Joye Frost, Acting Director, OVC

SUBJECT: Clarification regarding the applicability of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to VOCA victim compensation and victim assistance programs

The purpose of this listserv message is to provide clarification regarding the applicability of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to Victims of Crime Act (VOCA) victim compensation and victim assistance programs.

This issue has been raised in the past and has been under review for quite some time. On May 12, 2010, the Office for Victims of Crime (OVC) received the final legal opinion related to this matter, and as such we are providing this information to you.

As you may know, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 provides that an alien who is not a "qualified alien" (as defined in section 431(b) thereof) is not eligible for any "Federal public benefit." Federal public benefit, in turn, is defined in section 401(c)(1) to mean --

- (A) any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and
- (B) any retirement, welfare, health, disability, public or assisted housing, post secondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of the United States or by appropriated funds of the United States.

We have determined that neither compensation nor assistance funded by VOCA victim compensation or victim assistance grants are "Federal public benefits" within the meaning of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and therefore should not be denied to an individual on the ground that the person is not a "qualified alien" under that Act.

Visit the National Criminal Justice Reference Service online at <http://www.ncjrs.gov> to register for services or call 1-800-851-3420 (TTY 1-877-712-9279) to find out more.

Trainings

July 8th, 2010 (8:30-10:30am): Recovery Networking Breakfast For Women's Services, Multnomah County Southeast Health Clinic, 3653 SE 34th Ave., Portland OR 97202. This is a long standing opportunity for providers of and advocates for women's recovery services to partake of a hosted light breakfast, meet community partners, share information, and identify new resources. If you have questions contact Susan Montgomery at (505)988-3064 ext. 24304.

July 20th, 2010 (10:00am-12:00pm): Multnomah County Family Violence Coordinating Council, Multnomah (FVCC) County Southeast Health Clinic, 3653 SE 34th Ave, Portland OR 97202. Domestic Violence in LGBTQI relationships; this training will include: a brief overview of LGBTQI identities and how these identities are specifically impacted by DV, important considerations for working with LGBTQI survivors, strategies for making services accessible to LGBTQI survivors, and community resources available for LGBTQI individuals. Lupita Mendez, LGBTQI Advocate at Bradley Angle is our trainer. She has a Masters in Social Work and is involved in activism, outreach, support and education activities in the Portland queer community. This is a free workshop and registration is not required. For more information please contact Vanessa Timmons at 503-988-9166 ext. 26266 or vanessa.timmons@multco.us

July 21st, 2010 (6-8pm): Portland Community College, Terrel Hall, Room 122. Criminal History Checks and Their Impact on Recovery Oriented Systems of Care. Criminal history checks are required for people seeking work in a wide variety of employment settings. This community forum will provide interested persons an opportunity to talk to legislators about criminal history check policies and their impact of Oregon's workforce, including minorities, persons in recovery and survivors of domestic violence. Contact Eric@ACCBO.com for more information.

Note: Does your organization sponsor a conference or training that you would like to have listed in the Update? If so please let us know about it. Send conference/training information to Update editor Vanessa Timmons via email: vanessa.timmons@multco.us or via fax: 503-988-3710. Be sure to include registration deadline and name of person to contact for additional information.

The FVCC seeks to develop a coordinated community response that includes the domestic violence response system and community and social systems.

Newsletter feedback and article ideas are always welcome. Send comments to Vanessa Timmons

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