

**A FEW COUNTER-INTUITIVE FACTS, COMMON MISCONCEPTIONS AND IRONIES
ABOUT INTIMATE PARTNER VIOLENCE BASED ON SOCIAL SCIENCE RESEARCH**

A Presentation

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Domestic Litigation: Practical and Legal Implications
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GOOD AFTERNOON. The title of my presentation is “A Few Counter-Intuitive Facts, Common Misconceptions, and Ironies About Intimate Partner Violence.”¹ So you might notice from the title that the intent of the presentation is focused more on delivering surprising social science information about domestic violence than to presenting content targeted to the practice needs of attorneys. I do think you may be surprised by some of the findings I will be reporting. And, let’s hope we have enough time to get through the whole presentation.

I would like to begin by mentioning that I am not here in an advocacy role. I’m here in a purveyor of information role. If there is anything upsetting about the information presented, don’t get mad with the messenger, get mad with the information. Let me mention also that everything I say is fully documented in your handout.

The first thing that may be counter-intuitive, and hard for a lot of people to envision, is that males can be victimized by the smaller and weaker sex, and by a smaller and weaker sex it is said is less aggressive than men.² Thus the oft-heard question: How can a man be beaten up by a woman? Hasn’t this question at least been implied by some of the judges before whom you have practiced, by some district attorneys, or by some of your fellow practitioners?

It won’t persuade those judges, or fellow practitioners, but let’s explore this question by taking a look at men -- indeed at U.S. Army soldiers who are in their youthful years, who are in their fighting primes, and who are immersed in a culture that reveres violence. Military men must be more dangerous to their wives than men in the general population considering that the military is a regimented, male-dominated, hierarchical, macho machine, agree? How many of you know that there was a 1999 domestic violence study done on 55,000 randomly selected soldiers from 47 military installations located across the country?³ We know about this study, which the Army did everything it

¹ The studies cited herein are based on surveys of general populations, not on clinical populations of battered women being treated for abuse, or on populations of women being served in women’s shelters.

² R.L. McNeely and Coramae Mann, “Domestic Violence is a Human Issue,” Journal of Interpersonal Violence, (March) 1990: 129-132.

³ Peter H. Neidig, "Executive Summary Family Advocacy Prevention/Survey Project Update: Overview and Preliminary Findings," Behavioral Science Associates (unpublished paper for U.S. Army) Stony Brook, N.Y: 1993; R.

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could to bury, only because of journalist, Phil Cook, who had to rely on the Freedom of Information Act in order to unearth the study.⁴

So what did the study find? First, sixty-four (64%) percent of both male and female soldiers reported engaging in mutual intimate-partner violence. Male soldiers reported themselves to be the exclusive perpetrators of violence, 14 percent of the time, but female soldiers reported themselves to be the exclusive perpetrators 23 percent of the time. (*Extemporaneous*: Both males and females reported their partners to be the exclusive perpetrators of violence 23 percent of the time.) About 5.2 percent of military men reported perpetrating severe violence against intimates, but more than that, about 6.5 percent of military women reported having perpetrated severe violence against **their** intimates. Thus, female-perpetrated violence was reported to be about 25 percent higher than male-perpetrated violence. As some of you may already know, and as reported in the Wall Street Journal, and many other places, military men are not *uncommonly* stabbed or shot in unprovoked episodes of domestic violence.⁵ These data, for most people, run counter to their preconceptions.

But let's get closer to home. The home is that safe haven, or that refuge from the stark realities of an often cruel outer world, agree? It's a place where the rhythm of relationships is supposed to be smooth and harmonious. In fact, the reality of family life is that more physical violence occurs in families than in any other assessor-victim relationship. Excluding wars and riots, the family is the predominant setting for every form of physical violence, ranging from pushing and slapping to torture and murder.

Did you know that women are frequently found to perpetrate more acts of physical violence than men,⁶ and that estimates of the extent of husband-wife violence occurring during the course of a

Heyman and Peter H. Neidig, "A Comparison of Spousal Aggression Prevalence Rates in the U.S. Army and Civilian Representation Samples," Journal of Clinical and Consulting Psychology, V. 67 (2) April, 1999: 239-242.

⁴ Philip W. Cook, Abused Men: The Hidden Side of Domestic Violence, Westport, Conn: Praeger Publishers, 1997.

⁵ C. Ansberry, "Calling Sexes Equal, Article Stirs Clash Among Rights Group," The Wall Street Journal, (May 5) 1988.

⁶ Cf: Martin S. Fiebert, References Examining Assaults by Women on Their Spouses or Male Partners: An Annotated Bibliography (Monograph reviewing 175 investigations), California State University-Long Beach, Dept. of Psychology, 2005.

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marriage have ranged from about 30 percent of all marriages, to as high a figure as 60 percent of all marriages? ⁷ Whichever figure is the more accurate, the 30 percent figure, or the 60 percent figure, what we are talking about is a lot of families. And, when children also are considered as the objects of physical violence, it can be said that some form of violence is so likely as to be almost universal. If this is the case, then, as has been noted by many sociologists, it may be just as accurate to think of family life as the major arena in which physical violence occurs as it is to think of family life as an arena predicated upon love and nurturance. ⁸ Ironic?

And this counter-intuitive fact gets us to a common misconception. And that misconception is that physical abuse within families is perpetrated only by individuals who are psycho-pathologically disturbed. But when you consider that physical violence within the family is almost universal, then that would mean that virtually **all families** have psycho-pathologically disturbed members. I don't think many of us are prepared for that self-assessment.

In thinking about how we assess ourselves within the framework of domestic violence, it might be a good idea to define exactly what we are talking about. What we are talking about is physical violence of any sort that occurs in family life, which includes everything from pushing, shoving, slapping, and throwing things at spouses, to the actual use of a gun, knife or some other sort of weapon. In the life cycle of family life, some families may experience only one episode of such violence, while other families may experience it repeatedly. What we are talking about, therefore, is violence of any kind, whether or not it is repeated violence, and the evidence is that nearly all families will experience or have already experienced some form of it.

On this point I would imagine that some of you may be thinking that males are the exclusive perpetrators of the kind of repeated beatings you see in movies like "Sleeping With The Enemy" or "The Burning Bed". If that is so, you would be wrong. It has been found that about five (5%) percent of male

⁷ M. Straus and George Hotaling (eds.), The Social Causes of Husband-Wife Violence, Minneapolis, MN: University of Minnesota Press: 1980

⁸ R.L. McNeely, "Review and Synthesis of Research on Batterers and Interventions," a paper presented at the U.S. Army's Developing an Inclusive Vision in Domestic Violence Advanced Spouse Abuse (International) Training Course for Army Clinicians, April, 2006, San Antonio, TX: 23 pp.

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abusers victimize their intimates as often as once every two months, or more, but it also has been found that about 2 ½ percent of **female** abusers victimize their male intimates just as often. So, while men have been found to be twice as likely as women to be chronically aggressive batterers, they are not the exclusive perpetrators of that sort of violence. Moreover, more recent studies have found that the rate at which women **severely** assault a partner is 40 percent higher than the men's rate, but a smaller percentage of women than men actually succeed in injuring their victims (7% vs. 14%).⁹

For example, when it comes to one form of severe violence, beating up a spouse, it might surprise you to know that, on average (median rates), men who beat up women have been found to do it about 1.7 times a year, whereas women have been found to beat up men about 1.4 times a year.¹⁰ So, men are the most **frequent** perpetrators of the most injurious violence. Again, men are more likely to inflict serious injuries on their victims.¹¹ But women are hardly excluded from inflicting serious injuries, as was the case of Melissa Friedrich, a few years back, who gave her elderly husband a lethal dose of pills and then ran over him with her automobile on a deserted road.¹²

And, I might add that the issue of males being more likely to inflict serious injury is not a settled fact. One controversial finding, based on crime reports from the National Crime Survey (NCS), is that when men are victimized by women, they are more likely to be seriously injured than when women are victimized by men (but disproportionate representation of Blacks in sample).¹³ And, these

⁹ R.J. Gelles, The Violent Home: A Study of Physical Aggression Between Husbands and Wives. Beverly Hill, CA: Sage Publications, 1974; M. Straus, "Gender Symmetry and Mutuality in Perpetration of Clinical-Level Partner Violence: Empirical Evidence and Implications for Prevention and Treatment," Aggression and Violent Behavior, *In Press*. The median percentage of men who severely assault a partner is 5.1 %, for women, it is 7.1%.

¹⁰ Murray Straus and Richard Gelles, "Societal Change and Change in Family Violence from 1975 to 1985 as Revealed in Two National Surveys," Journal of Marriage and the Family, V. 48, 1986: 465-479.

¹¹ John Hamel and Tonia Nicholls (Eds.), Family Interventions in Domestic Violence: A Handbook of Gender-Inclusive Theory and Treatment, N.Y: Springer Publishing, 2006.

¹² R.L. McNeely and Phil Cook, "Notes on Newspaper Accounts of Male Elder Abuse," In J.I. Kosberg (Ed.). Journal of Elder Abuse and Neglect., V. 19 (1&2), 2007: 99-108.

¹³ Maureen McLeod, "Women Against Men: An Examination of Domestic Violence Based on an Analysis of Official Data and National Victimization Data," Justice Quarterly, V. 1, 1984: 171-193; Beth Ensminger-Vanfossen,

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conclusions are supported by studies including some from other countries,¹⁴ as well as by anecdotal evidence from emergency room physicians, who often indicate that they treat more male than female victims of domestic violence.¹⁵ One hypothesis accounting for this difference is that women are more likely to engage in severe violence because of their smaller size, and lesser strength. On this point, women have been found to be more likely than men to use an object when hitting, and they are more likely than men to kick, bite, or hit with a fist.¹⁶

But these results, showing men to be more seriously injured than women, have not consistently held up. When, for example, domestic assault patients in hospital emergency rooms have been surveyed, no statistically significant differences have been found in the numbers of men and women who are victimized. So, among those seeking emergency hospital services, women are not less likely than men to be victimized. Put differently, about equal numbers of men **and** women seek emergency room assistance following domestic quarrels. But, does this surprise you? What the finding is saying is that both men and women are deeply implicated in intimate partner violence. I might add that fully 30 percent of the women seeking emergency treatment have been identified positively as the batterers.¹⁷

But for me, there is an easy way to resolve the question as to who perpetrates the most serious violence. When you consider that males perpetrate more domestic violence homicides than females, I think you have to conclude that men are more likely than women to inflict serious injury on their victims. Anybody have any idea of the percentage of domestic-violence-connected-homicides committed by females in the course

"Intersexual Violence in Monroe County, New York," *Victimology*, V. 4 (2) 1979: 299-305.

¹⁴ R.J.H. Russell and B. Hulson, "Physical and Psychological Abuse of Heterosexual Partners," *Personality and Individual Differences*, V. 34, 1992: 457-473; J. Archer and N. Ray, "Dating Violence in the United Kingdom: A Preliminary Study," *Aggressive Behavior*, Vol. 15, 1989: 337-345.

¹⁵ Letter to the Editor, *Time Magazine*, January 11, 1988, p. 12.

¹⁶ Murray Straus and Richard Gelles, "Societal Change and Change in Family Violence from 1975 to 1985 as Revealed in Two National Surveys," *Journal of Marriage and the Family*, V. 48, 1986: 465-479.

¹⁷ S.V. McLeer and R. Anwar, "A Study of Battered Women Presenting in an Emergency Department," *American Journal of Public Health*, V. 79 (January) 1989: 65-66; W. Goldberg and M. Tomlanovich, "Domestic Violence Victims in the Emergency Department," *Journal of the American Medical Association*, V. 251 (June 22-29), 1984: 3259-3264.

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of a year? Currently, females perpetrate somewhat more than one-third of all domestic-violence-connected homicides, according to some estimates, and about 20 percent, according to other estimates.¹⁸ So, the upshot of all of this is that females perpetrate more acts of domestic violence than males, but males perpetrate the most injurious acts of domestic violence. That said, the point should be reiterated that females, nonetheless, are deeply implicated in the perpetration of domestic violence. (*Extemporaneous*: Domestic violence homicide rates before 1975; 51% for Black women in 1985-87 - Straus)

And knowing that males are more likely than females to perpetrate the most serious violence, it goes without saying that males are more likely than females to brutalize and savage their children, correct? If you answered in the affirmative, you would be wrong or, put differently, guilty of another common misconception. Women are more likely than males to brutalize children, especially if those children are boys. Mothers have been found to commit child abuse about 62 percent more often than fathers, with male children being twice as likely as girls to be physically injured.¹⁹ One reason given for the greater propensity of women to victimize children is that they spend more time with the children, meaning that they have greater time at risk. But did you know that women are about twice as likely as men to assault an elderly spouse?²⁰ And, when it comes to child homicides, or filicide, mothers, too, are involved, in brutal homicides, with most using their hands and feet as the murder weapons.²¹ Also, according to research done in this area, it is impossible to distinguish between the intentions of mothers, versus fathers, who kill children,²² meaning that women are no less mean-spirited than men. Does this knowledge shake up any preconceptions?

¹⁸ Jon Aerts, "Male Victims Get Lost in Domestic-Abuse Data," The Seattle Times, December 25, 2010; M. Straus, "Gender Symmetry and Mutuality in Perpetration of Clinical-Level Partner Violence: Empirical Evidence and Implications for Prevention and Treatment," Aggression and Violent Behavior, In Press; *Interestingly, U.S. Bureau of Justice data indicate that male and female rates of IPV perpetrated homicides were about equal until 1975. Noted in the instant Straus article: Black females were still perpetrating 51% of Black IPV homicides as late as 1985-87.*

¹⁹ Suzanne Steinmetz, The Cycle of Violence: Assertive, Aggressive and Abusive Family Interaction, New York, N.Y.: Praeger, 1977.

²⁰ Sally L. Satel, "It's Always His Fault," The Women's Quarterly, V. 12 (Summer) 1997: 4-10; For some actual case accounts, Cf: R.L. McNeely and Philip Cook, "Notes on Newspaper Accounts of Male Elder Abuse," In J.I. Kosberg (Ed.), Journal of Elder Abuse and Neglect, V. 19 (1&2) 2007: 99-108.

²¹ Coramae Mann, "Maternal Filicide of Pre-Schoolers," Pp: 227-246 in A.F. Kuhl (Ed.), The Dynamics of the Victim-Offender Interaction, Cincinnati, OH: Anderson, 1990.

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Speaking to preconceptions, you might be saying that although we know that females are more likely than males to engage in intimate partner violence,²³ the motivations of females are different than the motivations of male abusers, yes? Well, if you said this, wrong again! Or, put differently, you were victimized by another common misconception. Not only are women no less inclined than men to use violence in domestic relations, according to studies conducted here **and** overseas, women have the same intentions as do men when using violence. These intentions are to get the attention of the other spouse, or to inflict physical injury, and/or to control the behavior of the other spouse.²⁴ As noted by Calvert County Maryland, state's attorney, Laura L. Martin, referring to female perpetrators: "It's about control, dominion, power."²⁵

Additionally, would you believe that men are **more likely** than women to be the victims of violence in dating relationships? That's what research performed in 32 countries tells us.²⁶ Succinctly put, men are more likely than women to be victimized in spousal and intimate partner relationships, and in dating relationships,²⁷ also. And, again, they are more likely than men to hit a partner with an object,

²² Leslie Mitchel, Child Abuse and Neglect Fatalities: A Review of the Problem and Strategies for Reform, Working Paper 838. Monograph of the National Center on Child Abuse Prevention Research, National Committee for the Prevention of Child Abuse, Chicago, Illinois, 1987.

²³ "Intimate Partner Violence" = 1. Threw something at spouse; 2. Pushed, grabbed, shoved; 3. Slapped spouse; 4. Kicked, bit, or hit with fist; 5. Hit, tried to hit w/ something; 6. Beat up spouse; 7. Threatened w/ a knife or gun; 8. Actually used a knife or a gun.

²⁴ M. Carrado, Malcolm. J. George, E. Loxam, L. Jones and D. Templar, "Aggression in British Heterosexual Relationships: A Descriptive Analysis," Aggressive Behavior, V. 22, 1996: 401-415; Suzanne Steinmetz, "The Battered Husband Syndrome," Victimology, V. 2, 1980: 499-509; Suzanne K. Steinmetz, "Women and Violence: Victims and Perpetrators," American Journal of Psychotherapy, V. 34, 1980: 334-350. Suzanne K. Steinmetz, The Cycle of Violence: Assertive, Aggressive, and Abusive Family Interaction, New York, N.Y: Praeger: 1977.

²⁵ Jon Aerts, "Male Victims Get Lost in Domestic-Abuse Data," The Seattle Times, December 25, 2010.

²⁶ Murray Straus, "Dominance and Symmetry in Partner Violence by Male and Female University Students in 32 Nations," Children and Youth Services Review, V. 30, 2008: 252-275 (**Convenience sample** of 13,601 students enrolled in 68 schools.)

²⁷ Joan Arehart-Treichel, "Men Shouldn't Be Overlooked as Victims of Partner Violence," Psychiatric News, V. 42 (15) 2007:31-33; D.J. Whitaker, T. Haileyesus, M.H. Swahn and L. Saltzman, "Differences in Frequency of Violence and Reported Injury Between Relationships With Reciprocal and Non-reciprocal Intimate Partner Violence. American Journal of Public Health, V. 97, 2007: 941-947.

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and more likely than men to kick, bite, or hit with a fist.²⁸ One explanation for this is that women resort to these tactics to neutralize the greater size and strength of men. (But think about it. In perpetrating numerically more acts of violence, women expose themselves to more risk of harm.)

I should mention that there is another side to the spectrum of studies reporting females to be more likely than males to perpetrate domestic violence. Some studies report the contrary finding, that women are more often victimized than men. The National Violence Against Women Survey, for example, found that 64% of the victims of partner violence are women, and 36% are men.²⁹ But the study also asked this question:

"Has a man or boy ever made you have sex by using force, or threatening to harm you, or someone close to you? Just so there is no mistake, by sex we mean putting his penis in your vagina."

Some critics say that when you include the crime of rape into your domestic violence data, women will be over-represented in that statistic, compared to men, and because of this, the study unfairly minimized men's victimization. For one thing, the question does not distinguish between stranger versus non-stranger rape. Also, the study did not include questions specifically focused on men, such as asking if an intimate intentionally launched a kick to the groin, for example. But, we don't need to go there. Let's say we accept the 64% and 36% figures. That still means that there is a lot of victimization going on, and both genders are deeply implicated in this violence.

But why is it that so much violence occurs within our families? As I said before, home life is supposed to be that place offering gentle nurturance from the harsh realities of an outer world, correct? The actual reality of family life is that the nuclear family contains a number of features that actually enhance the potential for violence. These factors are built into the structure of the nuclear family, itself. Now I'm going to talk about one or two of those, in a minute, but it might be a good idea to talk

²⁸ Murray Straus and Richard Gelles, "Societal Change and Change in Family Violence from 1975 to 1985 as Revealed in Two National Surveys," *Journal of Marriage and the Family*, V. 48, 1986: 465-479.

²⁹ Patricia Tjaden and Nancy Thoennes, *Extent, Nature, and Consequences of Partner Violence: Findings from the National Violence Against Women Survey* (Monograph), National Institute of Justice, 2000 (July): 57 pp.

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about broader factors for just a bit. So now I am talking about some of the non-psycho-pathological factors associated with domestic violence.

Everyone agrees that we are living in pretty grim economic times. Well, one's employment has a lot to do with things. For example, when the resources of a spouse are low, as is the case when the spouse has a low-status position in the occupational world, the chances are higher that he or she will resort to violence in marital quarrels. Even when spouses are not in low-status positions, and are provided reasonable pay, if they are dissatisfied, or alienated from their work, they are more likely than those satisfied with their jobs to engage in physical violence in the home.³⁰ I might ask you, how many people do you know who are really satisfied with their jobs? Research also has identified a key factor in explaining abuse against children. The key factor, found in a national child abuse study, was long-term unemployment in the year preceding the abuse.³¹

So, if you think about this, we arrive at another counter-intuitive fact. Violence in the family often tends to derive from those very same outside factors from which the home is supposed to provide a gentle, nurturing refuge. Here the outside factors are grim economic times, or grim workplace conditions.

And, if we talk of children in a family, an ironic fact of life is that children learn that the people who love them the most are also the people who are most likely to hit them, thereby justifying the use of violence. And because children learn that the people who love them are the most likely to hit them, love and violence become associated in the minds of most of us from a very early age.

³⁰ Cf: Christina M. Gibson-Davis, et al., "Employment and the Risk of Domestic Abuse Among Low-Income Women," Journal of Marriage and the Family, 67 (5) December 2005:1149-1168. Greer L. Fox, et al., "Economic Distress and Intimate Violence: Testing Family Stress and Resources Theories," Journal of Marriage and the Family, Vol. 64 (August) 2002: 793-807. J. O'Brien, "Violence in Divorce-Prone Families," Journal of Marriage and the Family, V. 33, 1971; W.G. Dyer, "Family Reactions to the Father's Job," in Blue Collar World: Studies of the American Worker, Shostak and Gomberg (Eds.), Englewood Cliffs: N.J. Prentice-Hall, 1964.

³¹ Leslie Mitchel, Child Abuse and Neglect Fatalities: A Review of the Problem and Strategies for Reform, Working Paper 838. Monograph of the National Center on Child Abuse Prevention Research, National Committee for the Prevention of Child Abuse, Chicago, Illinois, 1987.

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Indeed, another irony is that while the marital dyad is the most intimate relationship, it is also the most unstable social relationship. Yet another irony is the fact that spouses in marriages lasting over time often have experienced a decline in companionship, affection, and in common values and beliefs. Thus, we have the paradox that, as couples become more familiar with each other, they also tend to become more estranged from one another. On this note, which marriages do you think are most divorce-prone, those that are characterized by high happiness and passion, or couch potato marriages that are characterized by comparatively low happiness and low affection? It surprises many people to learn that marital stability often is associated with low happiness.³² Ironically, volatility and instability characterize high happiness/high-passion relationships. In other words, low-passion couch potatoes are less violent and more likely to stay married than highly romantic, active, lovers.

But, also, there are a number of fundamental contradictions built into the fabric of family life that enhance the potential for violence. We don't have time to go through them all but one of them has to do with the fact that you don't have a natural majority in a family. Disputes must be settled by the two antagonists, themselves. In other situations, disputes can be settled by a majority vote which serves the purpose of relieving tensions associated with being on the losing side of an argument. And, especially if one spouse tends repeatedly to dominate the other in making decisions, then you have a power pattern of dominance versus submission, and this pattern is implicated deeply in familial violence. It leads to dangerous emotions of hostility, anger and resentment, building up over time. Bear in mind that our nuclear family system tends to insulate family members from the mediating assistance of third parties in resolving family conflict. We're less likely now, for example, than in the past, to have multi-generational households. (*Extemporaneous*: In a multigenerational household, the presence of an audience witnessing childish behavior can step into the breach, isolating the aggressor. E.g., Refusing to communicate in face of repeated demands to take out the garbage.)

³² Sharon K. Houseknecht and Anne S. Macke, "Combining Marriage and Career: The Marital Adjustment of Professional Women," Journal of Marriage and the Family, Vol. 43 (August) 1981:651-661.

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A second factor has to do with the **extensive knowledge** spouses have of each other's **social biographies**. Spouses usually have substantial knowledge of each other's personal histories, their strengths and vulnerabilities, their abilities and shortcomings, their likes and dislikes. As a result, spouses have information that can support and empower the other spouse because each knows the things that matter to the other.

But this same knowledge can be used to damage the identity of the other spouse. In other words, spouses know how to press each other's "buttons" better than anyone else. Notice here the irony? The same feature that leads to intimacy in a marital union also provides the pathway to humiliation, retaliatory anger and, ultimately, to physical aggression, when intentional violations take place. But, sometimes a spouse **unintentionally** violates the identity of the other spouse. But having not known any better may still be regarded as insulting, by the violated spouse, because the offending spouse should have known better. (*Either you knew, or should have known, better.*) Ordinarily, we don't hold others with whom we spend a lot of time, such as co-workers, to such a high standard. So another big irony is that, in nuclear families, features that are intimacy-provoking also can be violence-provoking. Stated in the alternative and, again, ironically, the potential for spousal violence diminishes as partners become less intimate, i.e., less passionate, less affectionate, and more estranged.

This information should help us in our efforts to understand why it is that people who are not psychopathologically impaired may revert to the use of violence in family relations.

[There are at least six other factors imbedded into the structure of the nuclear family itself but, again, we don't have time to talk about these (time-at-risk, range of activities, intensity of interfacing, age and sex differences, involuntary membership, right to influence)].

Some things are not counter-intuitive or misconceptions, they're just worrisome and confusing. Here's an example. Everyone knows that Wis. Stats. 968.07 mandates non-discretionary arrests whenever there is evidence of injury in a domestic violence situation, yes? That policy is based on

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research done which showed that mandatory arrest was the most effective deterrent to future violence by perpetrators.³³

But subsequent research has shown that arresting offenders helps in the short run (less than six months) but that some of those arrested initiate double the rate of violence over the course of one year.³⁴ It also shows that states with mandatory arrest laws have intimate partner homicide rates that are about fifty (50%) percent higher than the intimate partner homicide rates in states that do not have mandatory arrest laws.³⁵ Generally speaking, the research has found that arrest does not exert a significant deterrent effect on domestic violence.³⁶ And it turns out that mandatory arrest has contradictory effects on different kinds of domestic violence offenders, causing less violence among employed men, especially if they are married, but doubling the frequency of violence among men without jobs, especially if they are single. Interestingly, fifty (50%) percent of offenders do not re-offend regardless of whether they were arrested.³⁷ And, neither race, nor a record of prior offenses, conditions the effect of arrest on subsequent domestic violence.³⁸

³³ Lawrence W. Sherman and Richard A. Berk, "The Specific Deterrent Effect of Arrest for Domestic Assault," American Sociological Review, V. 49 (April) 1984:261-272; Cf: Lawrence W. Sherman and Richard A. Berk, The Minneapolis Domestic Violence Experiment, A Police Foundation Reports Monograph, Wash., D.C., April, 1984.

³⁴ Janell D. Schmidt and Lawrence W. Sherman, "Does Arrest Deter Domestic Violence?," American Behavioral Scientist, V. 36 (May) 1993: 601-609.

³⁵ Radha Iyengar, "The Protection Battered Spouses Don't Need," Op Ed piece appearing in The New York Times, August 7, 2007.

³⁶ J. David Hirschel and D.J. Dawson, Violence Against Women: Synthesis of Research for Law Enforcement Officials, A Monograph of the U.S. Dept. of Justice, September, 2003: 34 pp.

³⁷ Christopher Maxwell, Joel Garner, and Jeffrey Fagan, The Effects of Arrest on Intimate Partner Violence: New Evidence from the Spouse Assault Replication Program, A Monograph of the National Institute of Justice, July 2001. Key findings included (1) There is only a modest reduction in repeat offending associated with arrest compared to the reductions in repeat offending associated with the perpetrator's age and past criminal record; (2) More than half of all perpetrators did not re-offend during the follow-up period regardless of whether they were arrested; and (3) a minority of perpetrators re-offend regardless of whether they were arrested, counseled, or separated from the victim.

³⁸ Lawrence W. Sherman and Douglas Smith, "Crime, Punishment and Stake in Conformity: Informal Control of Domestic Violence," American Sociological Review, V. 57 (5) (October) 1992: 680-690.

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And, speaking of race, we all know that African-American males are more likely to perpetrate domestic violence than European-American males, correct? Turns out that this is another misconception, at least if you take social class into account. Indeed, some research has reported that middle-class African American females experience comparatively less domestic violence than their European-American counterparts,³⁹ and other research has reported that, at the least, the aggregated differences between the races are greatly diminished once social class is taken into account.⁴⁰

Hey, have you ever had a Black person come to your office and fail, or even refuse, to look you in the eye? We all know that we are supposed to look people in the eye, don't we? And if someone doesn't look you in the eye, that gives rise to legitimate speculation that the person is trying to hide something. Or is being deceitful, or is intentionally being rude, or at the least, is not particularly alert, correct? If you answered these questions in the affirmative, wrong again! As a matter of fact, Caucasians are about the only people who have the Look-Them-Directly-In-The-Eye rule. Even though there are always individual exceptions, Asians, as a group, don't practice the look-them-directly-in-the-eye rule, nor do Blacks, nor Latinos, nor Native Americans. Especially among lower-class Blacks who have not had much exposure to Whites, the rule is to look askance every so often, or to look downward, particularly when in the listening role, as a means of showing respectful attentiveness. And this is particularly the case when the speaker is someone deemed to be a superior, to be respected, such as an esteemed elder, the pastor of one's church, or someone else, such as one's attorney or judge.

Thus, not making direct constant eye contact is the proper way to show courteous, respectful, attention, or deferential attention. Unwavering direct eye contact is very likely perceived

³⁹ Lettie Lockhart, "Spousal Violence: A Cross-Racial Perspective," Pp: 85-101 in R.L. Hampton (Ed.), Black Family Violence: Current Research and Theory, Lexington, MA: Lexington Books, 1991; Lettie Lockhart, Methodological Issues in Comparative Racial Analyses: The Case of Wife Abuse, Social Work Research and Abstracts, V. 21, 1985: 35-41

⁴⁰ Patricia Tjaden and Nancy Thoennes, Extent, Nature, and Consequences of Partner Violence: Findings from the National Violence Against Women Survey (Monograph), National Institute of Justice, 2000 (July): 57 pp.

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by Blacks, who do not practice the look-you-in-the-eye rule, as being an intentional effort, on the part of the glarer, to be intentionally intimidating, hostile and threatening. So, take a minute to assess your client. Perhaps your African American client is seeking to demonstrate courteous attention versus trying to conceal something by not looking you directly in the eye.⁴¹

How about this, don't Black and White folks view domestic violence the same way? I suggest that you shouldn't be surprised, as a White attorney, if your African American client doesn't perceive females in the same way that you do. Whites are more likely than Blacks to view women as being docile, weak, and at the mercy of stronger and more aggressive males. Blacks, on the other hand, are more likely to respect the fighting prowess of Black women because, whereas many White women receive "slap the cad" instructions as tactics to ward off unruly males, many Black women, by contrast, are taught how to use scalding water, scalding grits, and, in the days of old, lye, as tactical methods either of attack, or defense from attack.⁴²

Hey, let's go to another place before I end my presentation. Isn't it true that there are no physical health risks in adulthood for individuals who were abused, or witnessed only mild to moderate violence in the family, when they were children? By now you know the answer. On this point would you believe that one study has found a relationship between children witnessing violence against their mothers, and increased risks for adult alcoholism, drug abuse, depression, suicide attempts, and severe obesity? But guess what? This same study also found associations between adverse childhood experiences and heart disease, cancer, chronic lung disease, and liver disease.⁴³ Males who witnessed domestic violence as children are also more depressed than other males, with those who both witnessed domestic violence and who, themselves, were abused, being not only the most likely to be depressed,

⁴¹ R.L. McNeely and M.K. Badami, "Interracial Communication in School Social Work," *Social Work*, V. 29, No. 1 (January-February) 1984: 22-26.

⁴² R.L. McNeely and José Torres, "Reflections on Racial Differences in Perceptions of Intimate Partner Violence," *Social Justice in Context*, Vol. 4 (1) 2009: 129-136.

⁴³ Vincent J. Felitti, et al., "Relationship of Childhood Abuse and Household Dysfunction to Many of Leading Causes of Death in Adults: The Adverse Childhood Experiences (ACE) Study," *American Journal of Preventive Medicine*, V. 14, No. 4, (May) 1998: 245-258.

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but also the most likely to suffer psychopathological problems, including antisocial and borderline⁴⁴ personalities.⁴⁵

Studies also have found that children who witness domestic violence are more likely than other children to have both poor verbal abilities and adversely affected intellectual functioning.⁴⁶ And, now going to other countries, a just-released Canadian study found an association, for Canadians, between having suffered physical abuse as a child and experiencing heart disease during adulthood.⁴⁷ So, it's not just us.

But, you know, on another note, we have the highest divorce rates in the industrialized world.⁴⁸ Did you know that recent research has found that children whose parents divorced are more than twice as likely, during adulthood as other adults, to suffer a stroke?⁴⁹ Divorce also has a particularly frightening depression-related effect on boys: **Even when factors such as socioeconomic status,** past history of mood disorders, and other factors are controlled, **they have been found to be more than twice as likely** as other males to have considered suicide in adulthood. (*But the relationship between*

⁴⁴ "BPD" or borderline personality is a serious mental illness involving pervasive instability in interpersonal relationships, moods, behavior and self-image. Family and worklife are often disrupted as is long-term planning. BPD accounts for about twenty percent of psychiatric hospitalizations, with about two percent of the U.S. population so affected. More individuals are afflicted with BPD than those afflicted with either bi-polar disorder or schizophrenia. It is also characterized by high rates of suicidal behavior, as well as high rates of self-injury without suicidal intent.

⁴⁵ Amy Murrell, Karen Christoff and Kris Henning, "Characteristic of Domestic Violence Offenders: Associations with Childhood Exposure to Violence," Journal of Family Violence, V. 22 (7): 2007: 523-532.

⁴⁶ Alissa Huth-Bocks, Alytia Levendosky and Michael Semel, "The Direct and Indirect Effects of Domestic Violence on Young Children's Intellectual Functioning," Journal of Family Violence, V. 16 (3) 2001: 269-290.

⁴⁷ Esme Fuller-Thomson, S. Brennenstuhl, and J. Frank, "The Association Between Childhood Physical Abuse and Heart Disease in Adulthood: Findings From A Representative Community Sample," Child Abuse and Neglect, V. 34, 2010: 689-698.

⁴⁸ Kathleen N. Hipke, et al., "Predictors of Children's Intervention-Induced Resilience in a Parenting Program for Divorced Mothers," Family Relations: Interdisciplinary Journal of Applied Family Studies, V. 51, 2002: 121-129.

⁴⁹ Esme Fuller-Thomson, Angela Dalton and Rukshan Mehta, "Is There a Link Between Parental Divorce During Childhood and Stroke in Adulthood?: Findings From a Population Based Survey," A paper presented at the 62nd Annual Meeting of the Gerontological Society of America, New Orleans, LA, Nov. 19-23, 2010; Cf: "Kids of Divorce Have Double the Risk of Stroke," My Health News Daily (MSNBC Articles), November 22, 2010.

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parental divorce and suicidal ideation for females is reduced to statistical insignificance.⁵⁰ An interesting study might be one that looked at the health and social functioning effects on adults who witnessed, as children, long-term domestic violence followed up by divorce.)

Finally, let me end this presentation by mentioning a few things about batterer intervention programs. We know those are effective, right? I can make this very short. Early evaluations, utilizing quasi-experimental designs, of batterer intervention programs, which are known as BIPs, or SAAPS (spouse abuse abatement programs), have found small program effects, but more recent investigations, using experimental designs, involving randomization and pure control groups, have found little or no violence reduction flowing from intervention.

In fact, the more rigorous studies⁵¹ have found no differences between treated batterers, and their control group counterparts, in terms of their attitudes toward domestic violence. Both those exposed to treatment, and those not exposed to treatment, continued to feel that battering could be justified. However, males who completed longer treatment programs (26 weeks), versus shorter treatment programs (8 weeks), had significantly fewer re-offense complaints lodged against them. But, unfortunately, methodological problems with the studies suggest the possibility that these men were more highly motivated to avoid re-offending, regardless of the length of treatment (Attrition was an issue with all of the studies: These men did not drop out of the longer treatment).

So, what are some of the other findings?

⁵⁰ Esme Fuller-Thomson and Angela Dalton, "Suicidal Ideation Among Individuals Whose Parents Have Divorced: Findings from a Representative Canadian Community Survey, *Psychiatry Research* (2011), doi: 10.1016/j.psychres.2010.12.0041; Cf: "The Frightening Effect of Divorce on Boys," BCNN1.Com, Jan. 24, 2011. Researchers note that the boys are likely more affected than girls due to the probable loss of the male role model, the father figure.

⁵¹ Lynette Felder and David R. Forde, "The Broward Experiment," Pp: 5-13 in *National Institute of Justice Special Report*, U.S. Department of Justice, June, 2003. Methodology and indicators: Randomly selected treatment group sentenced to one year probation and 26 weeks of group counseling, control group sentenced to probation, only; Batterers interviewed at adjudication and again 6 mos. later; Victims interviewed at adjudication and at 6 and 12 mos. later; Defendants tracked in terms of court records for one year. Robert C. Davis, Christopher D. Maxwell, and Bruce G. Taylor, "The Brooklyn Experiment," Pp: 15-21 in *National Institute of Justice Special Report*, U.S. Department of Justice, June, 2003. Methodology and indicators: Randomly selected batterers sentenced either to 39 hours (26 weeks) of Duluth batterer treatment or 39 hrs (over 8 weeks), or 39 hrs of community service; Batterers and victims interviewed at sentencing, 6 mos. and 12 months, about new violence; Official complaint and arrest data gathered at 6 and 12 months after sentencing.

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1. Arrests do not deter chronically-aggressive batterers.⁵²
2. Prosecuting violators of restraining orders has been found associated with increases in the homicides of White married and unmarried females, and for African American unmarried intimates.⁵³
3. According to Sally Satel, a Washington D.C. based psychiatrist affiliated with Yale University, there are virtually no data demonstrating that federally-funded approaches to resolving domestic violence are effective.⁵⁴

However, things are not quite as bleak as my remarks would indicate. Researcher Don Dutton has reported more optimistic findings.⁵⁵ His research, which looked at studies reporting recidivism rates, with varying lengths of follow-up, found evaluation reports⁵⁶ showing:

| <u>Treatment:</u> | <u>Recidivism Rate</u> |
|--------------------------------------|------------------------|
| Cognitive behavioral therapy for men | 20% |
| Couples group therapy | 25% |
| Duluth model | 40% |
| Individual couples therapy | 43% |
| Non-treated control | 66% |

⁵² Christopher Maxwell, Joel Garner, and Jeffrey Fagin, The Effects of Arrest on Intimate Partner Violence: New Evidence from the Spouse Assault Replication Program, National Institute of Justice Research Brief, (July) 2001.

⁵³ Laura Dugin, Daniel Nagin, and Richard Rosenfeld, Exposure Reduction or Backlash: The Effect of Domestic Violence Resources on Intimate Partner Homicide, National Institute of Justice, 2001.

⁵⁴ Sally L. Satel, "It's Always His Fault," The Women's Quarterly, Summer (12) 1997: 4-10. See: sallysatelmd.com

⁵⁵ D.G. Dutton, J.R.P. Ogloff, S.D. Hart, M. Bodnarchuk, and R. Kropp, "Wife Assault Treatment and Criminal Recidivism: An Eleven-Year Follow-Up," International Journal of Offender Therapy and Comparative Criminology, V. 41 (1) 1997: 9-23.

⁵⁶ Sandra Stith, K.H. Rosen, E.E. McCollum, "Effectiveness of Couples Treatment for Spouse Abuse," Journal of Marital and Family Therapy, V. 29, 2003: 407-26; E.W. Gondolph, "A 30-Month Follow-Up of Court-Referred Batterers in Four Cities," International Journal of Offender Therapy and Comparative Criminology, V. 44 (1) 2000: 111-28; S.L. Feld and M.A. Straus, "Escalation and Desistance from Wife Assault in Marriage," PP: 489-506 in M.A. Straus and R.J. Gelles (Eds.), Physical Violence in American Families, New Brunswick, N.J: Transaction Publishers, 1990.

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But Dutton points out that there are numerous issues with the studies, including, for example, variances in the length of time from treatment, variances in the severity of battering upon entering the treatment program, variances in treatment completion to assessment, and variances in attrition.⁵⁷ The latter problem, attrition, is a particularly vexing problem for these programs because it is always possible that the programs can appear, falsely, to be much more successful than they actually are, due to the fact that the individuals who stick around to the completion of treatment also may be the individuals who are the most motivated not to re-offend. So, let's just say that the jury is still out on the effectiveness of batterer treatment programs, but that, to date, the weight of the truly rigorous studies do not support their being effective.

Recommendations

So what has been recommended by some organizations that fight against domestic violence, such as SAFE, SAVE, and The National Family Violence Legislative Resource Center?⁵⁸ The first recommendation involves mandatory arrest policies. A mandatory arrest policy largely takes the matter of prosecution out of the hands of victims. The assertion is that when prosecutions move forward against the wishes of victims, victims are disempowered, making them less likely to report future abuse. It also is argued that anti dual-arrest policies take discretion out of the hands of police officers, and encourages gender bias in arrest decisions. It has been suggested that a trained assessment staff member should accompany police initial-response teams to determine whether an arrest should be made, if a single arrest should be made, or a dual arrest should be made. An assessment should also be made as to whether child protective services should be involved, and whether the wishes of an alleged

⁵⁷ Email correspondence from Don Dutton to R.L. McNeely on 3/27/11 in which Dr. Dutton also reported that the non-treated control, cited as 66%, is from Feld & Straus (1991), explaining further "that's the repeat rate for those who reported extreme violence in year 2 then had no intervention and were contacted again in year 2...The couples group therapy (25%) is from Sandra Stith, et.al's, 2003 work...the 40% Duluth figure is the number cited by Gondolf in his (2000) multi cite study- BTW- 40% of the wives of the men in that study said they had been the ones to start the violence...(and) We found 20% in our long term evaluation (Dutton et al. 1997)."

⁵⁸ Cathy Young, Philip Cook, Sheila Smith, Jack Turteltaub, and Lonnie Hazelwood, "Domestic Violence: New Visions, New Solutions," PP: 601-619 in John Hamel and Tonia Nicholls (eds.), Family Interventions in Domestic Violence: A Handbook of Gender Inclusive Theory and Treatment, New York, N.Y: Springer Publishing, 2007. "SAFE" is the abbreviation for the "Stop Abuse for Everyone" organization. "SAVE" is Stop Abusive and Violent Environments. See: www.nfvlrc.org.

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victim should be honored, as to whether an arrest should be made. These recommendations should be considered within light of the fact that the researcher whose research initially led to the mandatory arrest policies, Lawrence W. Sherman, is now on record as having concluded that mandatory arrest and pro arrest policies are inadvisable.⁵⁹

It also has been asserted that evidentiary hearings on executed restraining orders should take place sooner. Per Wis. Stats. 813.125(3)(c), a hearing must take place within fourteen days of the issuance of the restraining order (often on an *ex parte* basis) but that period can be extended for another fourteen days, for a total of twenty-eight days, if the respondent has not been served. The recommendation here is that victims in extreme cases should be afforded the equivalent of a witness protection program. (State subsidized relocation and resettlement under a new name after perpetrators have been released from incarceration.) Additionally, one might also want to consider that having evidentiary hearings take place sooner might be beneficial to those who have been falsely accused of abuse.⁶⁰

Third, it has been suggested that gender-inclusive treatment models for intervention must be adopted, based on the recognition that both males and females can be perpetrators of abuse. They point out that men need to have more equal chances for men to achieve custody of children, because many men stay in situations where they are abused, in order to maintain a buffer against the abuse of their children.⁶¹

⁵⁹ Lawrence W. Sherman, et al., "Crime, Punishment, and Stake in Conformity: Legal and Informal Control of Domestic Violence," American Sociological Review, V. 56, 1992: 680-690; Lawrence W. Sherman, et al., "The Variable Effects of Arrest on Crime Control; The Milwaukee Domestic Violence Experiment," Journal of Criminal Law and Criminology, V. 83, 1992: 137-169; Jeffrey Fagan, The Criminalization of Domestic Violence: Promises and Limits, A Research Report of the National Institute of Justice, U.S. Dept. of Justice (Jan.) 1996: 64 pp; See, esp., P. 14.

⁶⁰ Cf: David N. Helleniak, "The New Star Chamber: The New Jersey Family Court and The Prevention of Violence Act," Rutgers Law Review, V. 57(3) 2005: 1009-1042. See, esp: PP. 1015-1016.

⁶¹ Philip W. Cook, Abused Men: The Hidden Side of Domestic Violence, Westport, Conn: Praeger Publishers, 1997; Suzanne K. Steinmetz, "The Battered Husband Syndrome," Victimology 2 (3-4), 1977-78: 499-509.

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Finally, given the relationship between childhood victimization, and subsequent participation in violence during adulthood,⁶² more must be done to eliminate the victimization of children. Despite the existence of reporting statutes, many victimizations go unreported and, in many situations, child protective service departments are almost always set up to fail, due to extraordinarily burdensome caseloads. Criminal justice system procedures, Children's Court procedures, and child protective service procedures, need to be streamlined such that children do not remain in dangerous environments, including foster care, for lengthy periods of time, while cases are waiting to be litigated.

THANK YOU.

⁶² Patricia Tjaden and Nancy Thoennes, Extent, Nature, and Consequences of Partner Violence: Findings from the National Violence Against Women Survey (Monograph), National Institute of Justice, 2000 (July): 57 pp; See P. 34.

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COPERNICUS, SOCRATES and GALILEO

What is called **The Duluth Model** is based on the feminist idea that battering occurs when men subscribe to the view that they should control their partners. Of course, one might ask, then what accounts for female-perpetrated abuse?

Cognitive-behavioral approaches envision battering as a result of errors in thinking, and focus on anger management.

The third model, referred to as **Group Practice**, is based on the view that abuse results from multiple causes, requiring batterers to be exposed to psycho-educational curriculum, cognitive-behavioral techniques, and assessment of individual needs. These programs are just starting to gain popularity and have not been evaluated.

Couples therapy is another approach, and it is based on the premise that both men and women are equal in creating conflict. This model is often criticized because it assigns some blame to women for the continuation of violence.