Why Won't Someone Help Me?: The Unspeakable Epidemic of Domestic Violence: An Annotated Bibliography

THERESE A. CLARKE*

When I began working on this bibliography, I did not know what to expect. It was a new endeavor for me. An annotated bibliography on domestic violence seemed so straightforward. I soon learned just how mistaken I was in that belief. I have learned a great deal in this journey and during it have counted my blessings over and over again.

Domestic violence is a legal issue, a social issue, an employment issue, and an international issue. It is an issue for the young, for the elderly, for lesbians, gay men and transgendered persons. It touches legal and illegal immigrants, and the lives of children, adults, parents, siblings, grandparents, aunts, uncles and friends. It is not a stranger to any tax bracket for it does not discriminate against the rich or the poor. Domestic violence does not recognize international borders. It knows no color.

Domestic violence is terrifying. It is a subject kept secret throughout generations. It is an aspect of society not openly discussed until the latter part of the 20th century. Even today, many do not want to acknowledge its existence or its prevalence.

Domestic violence will not go away if we ignore it. Your neighbor’s cries in the night, the breaking glass you hear, your friends and co-workers excessive bruising are not private matters. Domestic violence cannot be kept hidden behind closed doors. We must remove our blinders and acknowledge its existence. Only in doing this can we face its horrors and eliminate them. Left unattended, domestic violence can fester in a family, pass from generation to generation and become a global epidemic.

As I began examining the literature in this area I realized that I could not cover it all. There is just too much. What I have done in this bibliography is focus primarily on the aspects of domestic violence dealing with the adult abuser and the adult victim. Material involving children is included but only to the extent that it also involves adult abuse as well.

* J.D., The John Marshall Law School, Chicago, Illinois; M.L.S. Dominican University; Assistant Professor and Reference and Instructional Services Librarian, Northern Illinois University College of Law. I would like to thank my family, co-workers and friends. All were very patient with me in my quest to complete this bibliography. A special thanks to my sister P.J. for all she has done for me.
Unfortunately, there are volumes of material available on child abuse that I could not incorporate given this limited scope.

This bibliography touches upon several aspects of domestic violence. While the bulk of the information addresses domestic violence generally, there are separate sections containing annotations and article references on international and asylum law domestic violence issues, domestic violence between same-sex partners and domestic violence and the elderly.

Within the general group of articles, there are a few subcategories. Those articles pertaining to children and failure to protect issues are together and articles addressing federal law are grouped together, as are articles addressing judicial involvement in domestic violence cases. In addition to the annotations, I have in some instances provided unannotated bibliographic references to articles and books that may also be of interest to the researcher.

For space and time reasons this bibliography only covers materials published since 1990, with the exception of a book from 1986 found in the same-sex section of the bibliography. Most citations are to law review articles and there are a few select citations to treatises as well. While they are not represented here, there are numerous websites on the Internet that address various aspects of domestic violence. A simple search using "domestic violence" on most search engines will result in thousands of hits, many providing useful information on the topic. The Pathfinder annotated in Part I B may be useful in locating Web materials.

Now for the caveat portion: I am by profession a Librarian and Legal Research Professor. In addition to these two things, I am also human and what is written below is what I believe the articles to be about, similar to the case annotations in a digest written by a legal publisher. If you wish to refer to these articles in your own research, I trust that you will read them for yourself. I hope the annotations can help the researcher to better determine if the topic covered is relevant to his or her research, but I do not intend the annotation to be a complete analysis of an article or book.

Table of Contents

I. Domestic Violence ......................................................... 531
   A. General Articles .............................................. 531
   B. General Books .............................................. 554
   C. Children and Exposure to Domestic Violence. 557
   D. Federal Law and Domestic Violence.......... 560
   E. Judicial Issues and Domestic Violence........ 564

II. Domestic Violence and the Elderly............................... 567
   A. Articles ..................................................... 567
III. Domestic Violence Among Same-Sex Couples

A. Articles ........................................................................ 572


The authors of this article work with domestic violence issues in the state of New York. The article addresses problems battered mothers face in New York when children are part of the domestic violence equation. The authors discuss programs in other parts of the country that can be looked to for guidance in dealing with battered mothers and the "failure to protect" issue. The authors cover the balance between protecting the children and providing assistance to the victim of abuse. Legislation that removes children from the home is not always in the best interest of the children or the victim of abuse. The article addresses the problem with the filing of neglect petitions against victims of abuse. The possibility of a neglect finding deters victims from reporting abuse for fear it could result in the victim's children being removed from the home. The authors propose legislative solutions to the current obstacles calling child service programs and law enforcement pose to victims with children. The authors see the current policy as ineffective and detrimental to victims and children, and the focus should be turned to the batterer and hold that person accountable.


Ms. Armatta covers domestic violence as a global issue. She discusses reforms in various parts of the world addressing the issue of domestic violence, as well as the numerous locations around the globe where violence against women is still an accepted part of society. The author refers to the different worldwide customs that limit a woman's access to relief from an abusive relationship. Her examples range from areas where marriage laws remove what little autonomy a woman may have had in her society, to divorce laws that allow only husbands to bring
an action for divorce, to custody laws that automatically make children "property" of their father. Another problem she addresses is women’s lack of access to the legal system in their country. Many systems require any action, brought on behalf of a woman, be brought by her husband, father or brother, even if that man is the reason for the action. Ms. Armatta also shows how many countries have made changes to their laws in efforts to protect victims of domestic violence, including countries such as Brazil, Vietnam, and Ethiopia, which have written restrictions on harming women into their constitutions. Additionally, she discusses how the United Nations has made violence against women a human rights issue. She concludes by calling upon the national and local law reformers worldwide to follow the international community and recognize the seriousness of violence against women and act on it at home.


Ms. Ayyildiz’s article puts forth the theory that battered women who kill their abusers are justified in doing so and should not be convicted of murder, manslaughter or even other lesser charges. She indicates that, where available, Battered Woman’s Syndrome can be used to explain the actions of a victim against her abuser. However, where this explanation is unavailable, the author proposes two other means by which victims of abuse can be found not guilty. The first of these means is to view those who kill their batterers as vigilantes. While the author recognizes the negative connotation of the term, she also provides a neutral definition of “a group of persons organized without legal authorization professedly to keep order and punish crime when ordinary law enforcement agencies apparently fail to do so.” Using this neutral definition, the author argues a battered woman is achieving justice by taking the law inter her own hands. The second means the author believes is available to a victim of domestic violence is that of jury nullification. Ms. Ayyildiz defines jury nullification as “a mechanism by which a jury, acting as the community conscience, effectively is permitted to disregard the letter of the law by determining that applying it to a particular case would not be justified.” She sees the incidents of women killing their abusers as very low and feels both vigilantism and jury nullification are viable options for a victim of domestic violence who protects herself and her children by killing her abuser.

In this article, Ms. Beecher-Monas discusses the admission of evidence regarding domestic violence cases where a victim has killed the abuser. She discusses the hesitance some courts show in admitting evidence of domestic violence at trial. Three types of evidence often appears in self-defense cases arising out of domestic violence: "battered woman syndrome testimony"; "testimony about the society context of domestic violence"; and "post-traumatic stress disorder (PTSD)." The author discusses these in the context of goals of formal and substantive equality with respect to evidentiary rules application in domestic violence cases. In her opinion, the goals of neither are being met. A lengthy discussion is provided regarding the battered woman syndrome and its faults. Due to these faults (most based on the way the research was conducted), the syndrome is not capable of withstanding the admissibility requirements of the evidentiary rules. She argues for the admissibility of expert testimony in the social context in which the victim of domestic violence lives. The author repeatedly states the testimony is important to provide background and context for the behavior of the victim of domestic violence. She feels this is important because most jurors and judges do not understand why the victim did not just leave the abuser. She concludes by stating much of he type of evidence admitted in male-on-male violence is excluded in domestic violence self-defense cases. In an attempt to remedy this, she hopes the United States Supreme Court's demand for more expert testimony will allow additional expert testimony in domestic violence self-defense cases. This will provide background context for jurors to make informed decisions on the use of self-defense by victims of domestic violence.


Professor Bernard is the Founding Director of the Center on Alternative Dispute Resolution and Director of its Early Settlement Central Mediation Program at the Oklahoma City University School of Law. This article discusses a summer ADR Institute at the law school. The Institute is intended to introduce students to, and helps develop in them, the appropriate skills necessary to adequately represent clients in non-courtroom settings. The institute covers various subject areas, but has a family law track that addresses among other issues, domestic violence.
While not an early intention, there is a heavy focus in the family law track on domestic violence. The focus is the result of seeing a lack of understanding, in areas of the legal profession, about the acceptability or unacceptability of mediation in domestic violence situations. While not certifying students through the summer institute, the goal is to educate students how to best meet the needs of their clients through negotiation, mediation, and arbitration. The description of the institute also covers many of the challenges domestic violence poses to the type of work and possible ways of facing these challenges.

Luisa Bigornia, Alternatives to Traditional Criminal Prosecution of Spousal Abuse, 11 J. CONTEMP. LEGAL ISSUES 57 (2000).

In this brief article, Ms. Bigornia discusses two aspects of spousal abuse. The first is victimless prosecution. She covers the use of evidence collected at the scene of incidents of domestic violence in San Diego in the prosecution of abusers. These prosecutions can take place even when the victim is unwilling to participate in the prosecution. The other area she covers is the role of mediation in spousal abuse claims. Ms. Bigornia looks at the fact that mediation assumes no power imbalance between the parties, and in order to use it in abuse cases, it must be clear there is no imbalance between the parties as a result of the abuse. This often is not the case and in such instances mediation is not an option.


Ms. Brown provides a good overview and discussion of the value of and problems faced by domestic violence advocates. The author shows these victims do not have the financial means by which to hire an attorney, due to the predominately poor economic situation faced by many victims of domestic violence. She also discusses the fact that there are few attorneys available that are proficient in the needs of a domestic violence victim, and even fewer who are willing to do the work pro bono. For these reasons, she indicates the value and benefit of non-attorney domestic violence advocates is great. However, the efforts of the advocates are being thwarted at times by claims of unauthorized practice of law (UPL). She states that often the claims is not being brought by the person receiving assistance from the advocate, but by the defendant in any matter in which the victim is involved. Ms. Brown proposes a number of solutions to address these claims of UPL while still maintaining the advocates assistance level for the
victim and keeping UPL proponents happy. Among these solutions, is a certification program for advocates that will provide regulation of those providing help, as well as leave UPL remedies to deal with those not obtaining the proper certification. She concludes by acknowledging there are legitimate concerns related to UPL issues, but domestic violence victims need the assistance provided by domestic violence advocates and the justice system should act to allow such assistance without UPL suits.


This annotation looks at the behavior patterns of abusers and the justification for admitting evidence of these patterns in abuse cases. The author argues that, like evidence of prior abusive acts on family members, prior abusive acts against animals should be admitted into evidence in abuse cases. The rules that would allow prosecutors to admit such abusive act against animals are, Fed. R. Evid. 404 and the balancing test of Fed. R. Evid. 403. Ms. Campbell argues that the admission of such evidence would assist in preventing future abuse rather than only punishing an abuser once the abuse has occurred. She indicates that animals are especially susceptible to harm due to the animals low level in the chain of power in the household. Reasons for abusing animals may range from a desire to harm the animal and have power over it, to using that harm or threat of harm to keep household member and victim of abuse quiet out of fear. The article stresses that judges, prosecutors and social workers, should be made aware of the link between animal abuse and incidents of domestic abuse.


Ms. Cochran looks at various ways evidence collected at the scene of a domestic violence incident, and shortly thereafter, can be used to effectively prosecute batterers. She addresses some of the pros and cons of no-drop policies. The author then covers in some detail trial and evidentiary practices used when prosecuting a batterer without the testimony of the victim. These practices range from proper voir dire questions to extensive photographs taken by the police at the time of the incident and the accurate and detailed recording of statements of the victim, batterer, and any witnesses to the incident for later admission into evidence.
Ms. Cochran ends her article by including a sample Personalized Safety Plan in an appendix. This type of plan is discussed in the article as a way for a battered woman to maintain some control over what happens to her.


This article addresses the inadequacies of current domestic violence laws when applied to Latina and other women of color in domestic violence situations. Prof. Coker proposes that domestic violence laws, policies and programs should be subject to a “material resources test.” She argues that such a test would dramatically improve the situation for those victims of abuse whom most need the assistance and are most “dramatically affected by the inequalities of gender, race and class.” The author covers several problems of the current way in which domestic violence is approached and how the material resources test can work to overcome these problems. Prof. Coker also provides information on the effect of police policies of no specific arrest policy, a pro-arrest policy and a mandatory arrest policy on domestic violence victims who are also women of color. In many situations the victim of violence is hesitant to involve the police based on prior negative experiences with the police. This type of resistance to involve the police is detrimental to the victims and their ability to seek help. Additionally, she ties in many socio-economic issues related to women of color in abusive relationships. The author argues, that applying the material resources test and providing significant aid to poor women and more significantly, poor women of color will improve the situation for all victims of domestic violence regardless of race or socio-economic status. Material needs of a victim of domestic violence must be met. Meeting these needs will empower her to leave the abusive home. The author discusses how the material resources test will work to direct resources to those areas that are most critical in providing necessary life-sustaining assistance to the victims.


Prof. Coker discusses the recent changes in the law surrounding domestic violence. The changes relate to a variety of mandatory policies involved in domestic violence law. The author presents four reasons regarding why these mandatory policies are problematic for feminist law reformers. The four areas she covers are: 1) Whether crime policies prevent recidivism among batterers; 2) The role a woman’s choice plays in
determining the response of police to battering; 3) How necessary mandatory policies are in getting the state to respond to domestic violence issues; and 4) the effect of mandatory policies on expressing the worth of victims of domestic violence. Prof. Coker covers many of the obstacles faced by victims of domestic violence when they involve the police in the situation. Often victims of domestic violence encounter problems with other social service agencies (e.g. children and family services) after police involvement. Thus, in addition to dealing with issues related to battery, the victim may have to spend time and money addressing other issues unrelated to the battery at hand. The author concludes by saying more effective policies need to be developed by domestic violence advocates and the state. These policies need to provide the resources victims of domestic violence need to move on from the abusive relationship. Additionally, the author advocates for a citizen review panel that can evaluate the effectiveness of the police response to domestic violence calls and what can be done to improve that effectiveness.


Mr. Detschelt addresses an issue covered very infrequently in literature, domestic violence where a man is the victim. He discusses the lack of support mechanisms, and programs to assist men who are victims of domestic abuse as well as the gender based stereotypes applied to domestic violence. The author discusses the inadequacies of existing legislation to help male victim of domestic abuse. He cites the Violence Against Women Act as an example of this inadequacy. He calls for equal resources and protections to be made available to all victims of domestic violence, including those men who are the victims of such abuse.


The article addresses the positive effects of mediation in many areas of law including family law. The author discusses the purpose of mediation and the benefit of positive resolution due to the parties’ significant participation. However, the article also addresses the problems of mediation when one of the parties is a victim of domestic violence at the hands of the other party. Ms Gerencser indicates how this imbalance created by the abuse skews the balance of power in mediation, where both
parties need to come in at an equal negotiation level. In order to avoid subjecting victims of domestic violence to a mediation session in which he or she will not feel able to adequately mediate, the author advocates providing for an exemption, for victims of domestic violence, from mandated mediation programs. She discusses how many state already provide for such an exemption. The article then covers the author’s proposal for a multi-tiered screening process to identify victims of domestic violence who have been sent to mediation. Screening for potential abuse could be done at various stages of the process by the attorneys, the clerk of the court, judges or mediators involved in the case. The author states, if any participant in the mediation process feels domestic violence is present and mediation would be inappropriate, an exemption from mediation would be granted.


Prof. Hellman addresses in her article, a practice of many large insurance carriers to deny coverage to those persons found to be victims of domestic abuse. Both the view and arguments of the insurance industry and the critics of this practice are discussed in this article. She divides the article into three parts. Part I presents several arguments on whether a classification for abuse victims can be distinguished from other risk classifications used by the insurance industry. Part II focuses on risk rating and its fairness. The author ends Part II with a look at how this activity reflects on the type of society we want to be. She then uses Part III to discuss the various legislative issues passed and pending throughout the country. Prof. Hellman concludes by stating that those jurisdictions, which have enacted legislation “restricting insurer use of the abuse victim classification,” are doing the right thing.


This article predominantly discusses a proposal to alter the misdemeanor penalty of the Hawai‘i domestic violence law. The author proposes the change based on the ineffective administration of the sentencing under the full misdemeanor classification and instead thinks a first offense should be considered a petty misdemeanor. Her change is based on the fact that classification as a full misdemeanor entitles the defendant to a jury trial creating a burden on the court system and not
providing adequate protection of the domestic violence victim. The full misdemeanor carries a penalty of up to one year. The author shows however, that 95 percent of the full misdemeanor charges end in a 48-hour sentence and little or no other punishment. The proposed change to petty misdemeanor eliminates the jury trial, would impose a 48-hour jail sentence and one-year probation. The author believes this change for first offenses would provide better service to the victim and the defendant. She believes this change would send a clearer message to the batterer that his/her current behavior will not be tolerated.


Ms. Jacobs provides an analysis of the “failure to protect” laws and their application predominantly toward mothers. She addresses the societal norms established for determining who is a “good mother” and why those who do not fit the model are unfairly punished. The author also discusses the dilemma faced by society when a mother is blamed for the abusive acts directed toward her child(ren) by a spouse or boyfriend. She discusses how the failure to protect statutes place blame on the mother without any consideration of her possible position of also being a victim of abuse from the same person who has harmed the child(ren). Ms. Jacobs advocates areas for change in the “failure to protect” laws. She discusses at length the concept of crimes of omission and calls for a clarification of this concept as applied to “failure to protect” cases. Additionally, she sees the need for education in the judicial area to help judges understand the nexus among the mothers’ ability to react, her status as a victim of domestic violence, and her child’s status as a victim of abuse. She concludes by asking courts and society to recognize the various situations a mother can be in and to accept in some cases she is not in a position to provide the requisite protection of the “failure to protect” laws.


Mr. Jarvis participated in a program to set a standard within his county, to deal with domestic violence cases. This article discusses aspects of how the program in the Grayson County Attorney’s Office was implemented and in the appendix he attaches a copy of the Domestic Violence Protocol for Law Enforcement in Grayson County. Mr. Jarvis states that when developing a uniform approach to domestic violence, both
law enforcement (police and prosecutors) and the general public need to be educated and change their approach to domestic violence situations. In Mr. Jarvis’ program a grant was sought, and funds were used to hire an office investigator for domestic violence issues and provide the investigator with transportation that could be used to transport victims to court. Police were also provided with cameras to photograph victims, abusers, children and the scene and cassette records to record statements from the same as well as any witnesses. In educating the public, Mr. Jarvis’ program created information cards in connection with local hospitals. The cards gave information on the signs of domestic violence as well as phone numbers to contact for assistance. Additionally, a billboard and bus placard advertising was used. Education in conjunction with every police agency using the protocol makes handling domestic violence cases more successful for all involved. The protocol appended to the article covers a plan that can be used as a model in other areas in order to more effectively handle domestic violence cases.


Ms. Kanter along with V. Pualani Enos and Clare Dalton put forth in this article a detailed description of the creation and work of the Domestic Violence Institute at the Northeastern University School of Law. The authors discuss the achievements of the Institute as well as the challenges and roadblocks it has faced in the last decade. Of note is the author’s description of the process gone through before the Institute came to reside in its current locations within the Dorchester District Court and the Boston Medical Center. Their description of the process shows how clinic based programs can overcome obstacles of serving their intended communities. Another interesting discussion was the way in which the Institute strives to reach out to the community and give a voice to the domestic violence victims the Institute represents. The article also covers the educational aspects of the Institute for students, both practical and academic. The authors provide detailed information on the program and hope something similar can be implemented in other law schools across the country. The article concludes with a frank discussion of obstacles the Institute has encountered and lessons learned from the ongoing experience.

This article discusses the prevalence of firearms in domestic violence murders and federal and state legislation enacted to protect victims of domestic violence from the use of firearms at the hands of the abuser. The author focuses on federal, Vermont and New Jersey law. In covering the Violence Against Women Act the author states that while persons subject to restraining orders are prohibited from having firearms, firearm removal is not sanctioned for domestic violence situations. In response to this, she suggests persons seeking the order of protection specifically request the inclusion of the removal of firearms. Ms. Kelly views the New Jersey approach to domestic violence as one that should serve as an example for other states. She discusses limitations New Jersey courts have placed on weapons seizure and the constitutionality of such acts when looked at in conjunction with the Second Amendment. She concludes by advocating that Vermont and other states should follow New Jersey's lead and enact legislation allowing prosecutors to require forfeiture of weapons from the house of the abuser.


Ms. Killian's article looks at the laws of the District of Columbia and federal government that address domestic violence. She provides a short history of domestic violence and a statistical overview of the “epidemic.” When discussing the District of Columbia’s response to domestic violence, she addresses the D.C. Domestic Violence Plan, which led to the Creation of the Domestic Violence Unit followed by the Domestic Violence Intake Center, and other statutes related to domestic violence. The author then covers the 1994 and 2000 Violence Against Women Acts passed by the federal government. Also discussed in the article are the effectiveness of no-drop policies and the use of mandatory minimum sentences. Ms. Killian also addresses an integrated approach to job placement for victims, treatment for batterers, education, providing mentors for both parties who can prove guidance and support to victims and acting as a role model for batterers.

Ms. Ko looks at the effectiveness of both civil and criminal efforts to implement restraining orders or injunctions on perpetrators of domestic violence. Her predominant focus is on civil actions and an analysis of several studies that looked into the effectiveness issue. Ms. Ko concluded that while restraining orders have definite positive psychological effects on the victims of domestic violence, the effect of ending or deterring abuse is not as certain. Several studies have been done to determine effectiveness, but due to the inability to have an adequate control group, the results of these studies are somewhat skewed. Even with skewed results, the news is discouraging. The rate of re-abuse after obtaining a restraining order is still high. The studies did show that the social status of the abuser does not affect the rate. Abusers who are employed are less likely to violate a restraining order. This, as well as other socio-economic factors, can be useful in determining how courts and legislatures can make the use and enforcement of restraining orders more effective. Ms. Ko proposes ways this can be done as well as possible ways to conduct more effective studies using adequate control groups.


This article focuses on the use of evidence rules that are meant to protect the defendant from the use of prejudicial evidence. Specifically, the introduction of prior bad acts to prove the matter before the court. The author focuses primarily on Hawaiian law, but does provide an overview of actions taken in other states. Ms. Lee discusses how the use of Rule 404(b) in domestic evidence is detrimental to the victim and that judges involved in domestic violence cases should see the necessity for introducing prior violent encounters between the accused and the victim. She talks about the fact that domestic violence is a continuing act and without the evidence of the pattern of behavior, an abuser may not be convicted or otherwise held responsible for some of his or her most serious acts of abuse. She concludes by stating the goal of domestic violence prosecutions is to protect the victims and admission of prior acts of abuse between the accused and the current victim is one step towards better protection.


Ms. Lennett addresses the conflict in policy seen when looking at the Violence Against Women Act of 1994 and the Personal Responsibility and
DOMESTIC VIOLENCE ANNOTATED BIBLIOGRAPHY

Work Opportunity Reconciliation Act of 1996. The author applauds the nearly unanimous passage of the VAWA, but shows concern about how this act and the welfare reform act seem to be ships passing in the night. The article discusses the correlation between persons who receive assistance through a state welfare program and the rate of domestic violence experienced by the recipients. According to Ms. Lennett's article, nearly two-thirds of eligible assistance recipients are victims of domestic violence. However, the author does not see the Personal Responsibility and Work Opportunity Reconciliation Act as adequately providing protection and other assistance for this group of women. While most welfare recipients would rather work than receive assistance, Ms. Lennett states more attention must be paid to the need of battered women under the new welfare-to-work programs. The author discusses five key components the welfare-to-work programs need to address with respect to battered women: safety of the women and their children; agency ability to identify and assess domestic violence situations; allowing recovery time from the abusive relationship; flexibility in meeting deadlines of program requirements; and integrating various agency involvement. By addressing these issues, the author hopes public assistance programs will be developed to address the specific problems facing victims of domestic violence in the welfare-to-work programs.


Ms. Lloyd's article addresses a research survey conducted to determine, among other things, whether present or past victims of domestic violence (women) have lower employment rates than non-victims. Her survey was conducted in the Humboldt Park neighborhood of Chicago. The article sets out the particulars of the participants' backgrounds and details of the format of the survey. While the author references earlier surveys showing women experience significant interference with work or school due to acts of their abusers, her survey does not come to quite the same conclusions. The article details questions asked and percentages affected by domestic violence. These details show that the battered women overall will experience more unemployment, hold more jobs, have lower income levels, and report higher rates of physical and mental health problems. However, when comparisons are made between the current situation facing women experiencing abuse next to those not experiencing abuse, there is not a significant difference. Ms. Lloyd sees these long and short-term consequences requiring special attention to be given to victims of abuse by those administering the assistance programs.

Prof. Maguigan provides a discussion of the arguments of feminists and multiculturalists with respect to the use of "cultural evidence" in criminal trials. She provides examples of criminal charges ranging from rape to murder where defendant sought to have aspects of their culture considered as justification, excuse, or as a mitigating factor. The article covers the difference between the dominant culture (Western/White) in our court system and the traditions of the culture of origin of many defendants. The author describes how cultural evidence has been used in plea bargaining and sentencing considerations as well as at trial. While many feel use of cultural evidence affects the outcome of a family violence case condones such violence, the author argues differently. She sees the use of cultural evidence as important in determining a defendant's state of mind. She sees as problematic the exclusion of such evidence based on the judge viewing defendant's state of mind as "unacceptable or incomprehensible." Prof. Maguigan concludes by identifying the risks of having "white-male values" be the "norm against which all accused individuals are measured."


Ms. Mason looks at the effects of the Personal Responsibility Act and its 60-month cap on receipt of benefits on persons receiving assistance who are also victims of domestic violence. She discusses how the Personal Responsibility Act was implemented as part of welfare reform and replaced the Aid to Families with Dependant Children Program. After a discussion of the former and current programs, the author provides reasoning for why the states should implement the options provided in the Personal Responsibility Act that allow states to extend the 60-month cap on benefits to persons fitting the requirements of the Hardship Exemption or the Family Violence Option. Ms. Mason proposes suggestions for implementation of the programs extending benefits, reasons why the current cap can be especially difficult for victims of domestic violence, and methods for screening extension applications.

In this article, Ms. Mecka looks at the direction being taken by New Jersey, other selected states, and the federal government in removing firearms from the hands of those convicted of acts of domestic violence. Her article covers the strict seizure and weapon forfeiture laws in New Jersey and compares a similar Arizona statute allowing law enforcement to seize weapons in domestic violence cases. She also covers proposed reforms across the country in cases involving both domestic violence and firearms. The article also discusses the Lautenberg Amendment, which when enacted, prevented anyone who had been or is convicted of a misdemeanor domestic violence charge, be prohibited from owning or possessing a firearm. The problems this presented for military personnel and the police is also discussed. Ms. Mecka then addresses whether the Lautenberg Amendment is a realistic solution and how the implementation of the amendment has been problematic for state and local law enforcement agencies. She indicates that implementation is not realistically possible without a standardized plan for the federal government and financial assistance to follow through.


Professor Murphy addresses the use of storytelling in the advancement of law reforms. She specifically focuses on the campaign undertaken to change the Maryland law regarding domestic violence issues. Specifically, she covers work that was done to allow the presentation of evidence on a history of battering and expert testimony regarding battered spouse syndrome at trial for persons accused of killing or attempting to kill an abusive partner. Professor Murphy indicates how having women, previously convicted of such acts, tell the story of their abuse, in their own words and voice, made a much greater impact on legislators and government officials than the same stories recited by someone else. The narrative of these women helped to show the extreme nature of what they were subjected to prior to the killing of attempted killing. The author stresses that in the context of law reform, storytelling must become an important part of the process. Decision makers need to see first-hand the effects of inadequate laws.

The author discusses the use of gun control laws and protecting victims of domestic violence. She addresses the varying gun control laws in effect at the state level and the varying degrees of protection these laws provide for victims of domestic violence. Ms. Nathan does not see these as adequate. The article then covers the federal law attempt at creating uniformity in the gun control laws. The author provides a history of the Gun Control Act of 1968 and the later amendments to this act that directly address perpetrators of domestic violence. One amendment in particular that has raised constitutional questions is the Lautenberg Amendment. Ms. Nathan addresses these questions and offers explanations for why the challenges have not been sustained. She identifies the main part of concern with the Lautenberg Amendment that as that part which prohibits members of the police and militia who are convicted of domestic violence misdemeanors from possessing firearms. The concern coming from the fact that members of the police and militia who are convicted of felonies in other areas as well as domestic violence incidents are not excluded from possessing firearms under other provisions of the Gun Control Act. She concludes by suggesting the potential inequality in dealing with those convicted of domestic violence acts is to prohibit militia or police as well as anyone convicted of an act of domestic violence, whether misdemeanor or felony be prohibited from possessing firearms.


Ms. Nolder draws comparisons between early American history and Ancient Rome and the lack of laws regarding domestic violence. Literature from Ancient Rome clearly shows the use and acceptance of violence in the Roman family. She shows how the laws of Ancient Rome were tolerant of husbands’ abuse of wives, but women were subjected to punishment for what seemed to be comparatively minor infractions. After covering Ancient Rome, Ms. Nolder moves to a discussion of early American laws regarding domestic violence. She indicates life was not much better in early America than in Ancient Rome. Not until the 1970’s did laws start to take shape, which protected victims of domestic violence. While advances have been made in dealing with domestic violence in the courts, the authors still sees hurdles presented by many laws. For example, a New York Penal Law (N.Y. Penal Law §§ 10, 120.05) that requires the victim to evidence
the physical injury or degree of pain. The author believes that recognition and understanding of the Battered Woman Syndrome, of the "excused self-defense" and serious efforts to change the public's perception of domestic violence are needed to advance the help domestic victims need and should receive.


This article is the transcript from a panel discussion of mandatory and dual arrests in domestic violence situations. The panel discussion was moderated by Dorchen Leidholdt and consisted of Lisa Smith, Mary Hariland, Michelle Maxian, Tasha Hightower, the Honorable Laura Drager, Inspector Ed Young, and Carol Stokinger. Questions addressed by the panelists included: "Is police officer training about primary physical aggressor a way to make mandatory arrest work?" and "What effect will lowering the threshold of physical injury...have?" Each panelist presented a short speech and then the panel was open to a question and answer period. All questions and answers are provided in the transcript.


Mr. Poplar addresses the use of the Battered Woman's Syndrome in extending the statute of limitations in a civil domestic violence case. The article presents the civil remedies often sought in domestic violence cases: assault, battery, and intention infliction of emotion distress. While these causes of action have been effective on occasion, they have not had an overwhelming effect on the lives of victims of domestic violence. Some of the reasons why, as presented by Mr. Poplar, are fear of society shaming or condemning them, the existence in some jurisdictions of inter-spousal tort immunity, and the requirement in some jurisdictions that any claims arising out of the marriage be brought with the dissolution of marriage action. He discusses how some of these obstacles have been addressed in various jurisdictions, and most notably in New Jersey where Battered Woman Syndrome evidence is recognized and passes the tests for admissibility of evidence in criminal trials. The author also looks at the continuous tort concept and argues for its application in domestic violence cases. He compares the violence experienced in Battered Woman Syndrome to the experience of those bringing child sexual abuse suits years later due to Repressed Memory Syndrome. He believes that New Jersey's application
of Battered Woman Syndrome in criminal cases is the first step in permitting recovery for the injury from Battered Woman Syndrome in civil courts.


Professor Phillips advances tort actions as a remedy path for victims of domestic violence. A domestic violence tort action would most likely be brought as a battery action. Women had an alternate tort action under the Violence Against Women Act until the Supreme Court declared the Act unconstitutional in United States v. Morison, 120 S. Ct. 1740 (2000). When bringing a tort action in domestic violence, Professor Phillips sees two significant roadblocks, the first deals with the statute of limitations. If the court deems the statute of limitations to toll from the time the victim discovers or should have discovered the tort, the statute of limitations may have started running from the first instance of abuse. If the court sees the abuse as a continuing tort, there is less of a problem with the statute of limitations. The second roadblock involves the tort action being brought in conjunction with a divorce. According to Professor Phillips, the two being brought together may affect the award of damages. Tort cases may entitle the plaintiff to damages for pain and suffering that cannot be awarded in a divorce settlement. The author also points out that a tort judgment is more likely to be enforced if the defendant does not pay, unlike support and alimony payments that are not as well enforced. He concludes by indicating that although awards in these cases may not be significant, lawyers should take them as cases of moral importance and the likelihood that an award of attorney’s fees may be available.


Ms. Puzella presents a short article discussing the three main categories into which social scientists categorize causes of spousal abuse. The three categories or models include, the psychiatric models which “focus on personality disorders and mental illness as the cause of the batterer’s aggressive behavior,” the social-psychological model which considers spousal abuse learned behavior and the socio-cultural model. She refers to the acts of a batterer under the psychiatric models as haphazard and as failing to explain why those without a mental or personality disorder become batterers. The author’s discussion of the social-psychological model indicates that it considers spousal abuse learned
behavior. The author sees one of the pitfalls of this model is it fails to explain why victims of child abuse grow up determined not to repeat the violence and succeed. In discussing the third model, the author states that it incorporates historical attitudes toward women and the stereotypical roles of men and women. Ms. Puzella concludes that no one of these theories is the perfect answer. Each addresses some aspects of spousal abuse, but not all. More debate is necessary and the author hopes this debate will at least make society more aware of this issue.


In this article, Ms. Raphael discusses two patterns involved with women on the welfare-to-work program. The first is an involvement with men who promise to support them, since they are unable to live on welfare assistance alone, and second, the physical and mental effects of past violence create problems for their attempts at working. The author then provides an overview of four major research studies involving recipients of assistance in the welfare-to-work programs. She looks at the Passaic County Study of AFDC Recipients in a welfare-to-work program, the “In Harm’s Way?” study, the Worcester Family Research Project, and the Chicago study on Effects of Violence on Women’s Employment. Ms. Raphael then indicates three areas still needing attention: 1) whether the effects of abuse are the cause of their specific health and mental health conditions; 2) what specific strategies are best for these women to achieve self-sufficiency; and 3) learning more about the abusive men involved. She concludes with the hope that the victims of domestic violence will be adequately served by the welfare extensions passed for those subject to family violence and by a better understanding of violence’s impact on a victim’s ability to participate in a welfare-to-work program.


In this article, Professor Romkens looks at the approaches the “law” has taken in dealing with domestic violence. While discussing both American and Dutch programs, it is seen that legal intervention is not always as helpful as it may seem. The law often stigmatizes victims of domestic violence if open action is not taken against the abuser. Action requirements before victims can use legal remedies often require more than
victims are able to do. Professor Romkens shows how the law can fail these victims due to incorrect assumptions. The law often interprets a victim's lack of action as an indication that the purported abuse is not real or not excessive. It does not take into account socio-economic or psychological factors that impede action by a victim. Her coverage of programs in two different countries indicates this is not an isolated occurrence. Therefore, while legal remedies can provide solutions for victims of abuse, people need to be aware of the insurmountable constraints the law may impose for many victims as well.


Ms. Salame provides a discussion of the use of stalking laws to protect victims of domestic violence. Although 10 years old, the references to stalking laws across the country are provided and still useful for research. The author covers issues related to these laws such as whether acts committed prior to enactment of the stalking law can be looked at to fulfill the elements necessary to convict one of stalking. Additionally, she speaks to potential constitutional challenges to the laws such as their prohibiting otherwise legal behavior to an unduly vague challenge. Both of these challenges, the author sees as quite surmountable. She concludes by indicating the value of stalking laws in protecting the lives of domestic violence victims.


The author addresses in the article an often forgotten means by which a batterer may financially profit from the victim of abuse. Inheritance. While many states have enacted legislation or developed through common law, prohibitions against inheritance by one who has caused the death of the decedent, they have not prevented an abuser from inheriting. For a variety of social and economic reasons discussed in the article, victims of abuse die intestate. Thus, the state rules of intestacy inheritance apply (often following the Uniform Probate Code model). These statutes may prohibit inheritance when the beneficiary of such inheritance is the perpetrator of certain types of misconduct, however, they are universally silent to acts of family violence. The author has proposed a statute that prohibits a perpetrator of family violence from inheriting while still
providing for other non-abusive family members. In proposing this statute the author discusses how it passes constitution scrutiny and why evidence, possibly inadmissible in a criminal action against the abuser, can be presented to the probate court in an inheritance issue. Also addressed in the article is the rationale for peering into the privacy of the home to show the pattern of abuse experienced by the decedent. The author indicates other times the probate court goes "beyond the scrutiny of marriage" such as those laws preventing inheritance due to abandonment or neglect of the spouse or family. Therefore, he concludes that such a statute does not ask the probate court to do anything more than they do in other probate cases. The hard part according to the author is getting the statute enacted.


The authors of this article represent the two opposing side of domestic violence. One has represented many batterers in the criminal defense area and the other has represented many victims of abuse in the poverty law area. Their article addresses the natural adversarial condition between these two types of lawyers. However, it goes past that issue to a discussion of how it is in the clients, students and attorneys best interest to see life from the other side of the table. While lawyers from both sides from both sides in domestic violence show clear contempt for one another, the authors of this article show that both attorneys are essentially engaged in similar practice. While it is not true all victims and accused persons in domestic violence cases, many persons involved in these situations have very little income. This is seen as a nexus between the two sides. Additionally, both sides are adamant about obtaining justice for their client. Lawyers who go into domestic violence, poverty law and the public defenders office usually do so out of a desire to help those who cannot or will not otherwise receive help. Because of the similarities between why attorneys enter this type of work and the benefits provided to the clients, the authors of this article address the importance of exposing clinical students to a bit of how the other half thinks and see the commonality between the types of representation, rather than loathing one another.


This article is one in a series of articles from the Colorado Bar regarding violence in the home and workplace. The author discusses briefly, how animal abuse can be a signal of other types of abuse. Adults
found to be abusing animals are likely abusing human members of the household as well. Additionally, the author indicates, children found abusing animals may be emulating what they see or experience at home. The author mentions several infamous mass murderers with whom a link to previous acts of animal abuse were made. Additionally, she provides a short history of how child abuse law grew from already existing laws against animal abuse. The author also points to the necessity for judges and other legal professionals to recognize this link and not dismiss acts of animal abuse as unimportant. She also discusses difficulties victims of abuse face when trying to leave the abuser and having to leave a pet behind. Shelters will not allow animals and abusers may use intended abusive acts against the animal as a threat to prevent the victim from leaving. She concludes by identifying ways lawyers can act to further help their clients who are victims of domestic violence and the animals that may have been their only source of comfort in the abusive relationship.


In this article, Professor Vaughn addresses how aspects of domestic violence can be incorporated into an employment law course. She states that domestic violence is “one of the leading causes of violence at the workplace against women.” This violence can lead to numerous problems for the victim of abuse. The author ties this problem to the ability of a victim of domestic violence to take action against the abuser. If this action interferes with the victim’s employment, it can greatly affect the economic independence of the victim. The author presents remedies available to these victims when they face one of two situations: 1) “discrimination based on their status as victims of abuse as they seek employment and 2) difficulty in retaining employment in the face of domestic violence.” The discussion of remedies by Prof. Vaughn covers employment discrimination, unjust dismissal, workplace health and safety laws and unemployment compensation. In addressing these aspects of employment law the author believes students should be challenged with questions regarding developing the connection between domestic violence and the regulation of the workplace. She concludes by stating “a woman who cannot find a source of economic sustenance independent of her abuser partner is more likely to return to that partner.” The author then provides several appendixes covering particular aspects of an Employment Law Course and the incorporation of domestic violence discussions and problems into the course.

Ms. Weiner approaches the issue of domestic violence from a tort recovery angle, allowing the victim to recover damages for the tort of intentional infliction of emotional distress. The author sees one of the biggest hurdles to this cause of action as the determination of whether the abusers conduct meets the court's definition of outrageous. She states three factors which greatly affect the determination of whether conduct is outrageous: 1) "the existence of an actual or apparent authority relationship between the parties," 2) "a pattern of harassment," and 3) "the defendant's exploitation of a known hypersensitivity of the plaintiff." The article then discusses how acts of domestic violence involve all three of these factors. The author advocates, in the article, that when a defendant violates a civil order of protection, his or her conduct should be deemed outrageous per se. She believes using a per se standard will eliminate current inconsistencies from courts dealing with the intentional infliction of emotional distress issue in domestic violence cases. Additionally, she argues that the use of a per se standard will eliminate roadblocks created by determining the qualities of an "average member of the community" when determining what is outrageous. If a civil order of protection has been obtained, there is a level of misbehavior already exhibited by the defendant that warrants protection of the victim/plaintiff. The author stresses that the per se rule is only invoked after such an order is obtained and a violation of that order constitutes a continuation of a pattern of activity prohibited by the court. Ms. Weiner does not suggest any other change to the intentional infliction of emotional distress cause of action with respect to domestic violence. She states several times that the plaintiff is still required to prove severe mental anguish and causation. The per se rule merely reduces the burden of proving intent. She concludes by saying her per se proposal among other things provides a standard that shows "...society's intolerance of the continued abuse of women..." who have sought and obtained orders of protection.


Mediation is a growing field in many areas of law and has come into significant use in family law areas. Many jurisdictions require parties to a divorce submit to mediation. This article briefly discusses the mediation programs in areas of California, Colorado, Ohio and Illinois. In it, Ms.
Wheeler focuses the discussion on the problems faced by a victim of domestic violence when forced into mediation with the abuser. Domestic violence is so problematic in this area because, the existence of domestic violence undermines a basic tenant of mediation; that parties to the mediation are starting from equal positions of power. When a divorce action is precipitated in part or in whole by a domestic violence situation, the parties are no longer in equal positions of power. The victim may feel pressured and intimidated by the abuser and be unable to effectively use the mediation properly. By looking at this type of situation, Ms. Wheeler identifies the shortcomings of mediation when domestic violence is an issue. She concludes by encouraging other jurisdiction to follow the Colorado lead of exempting parties from mediation when there has been any allegation of abuse.


Mr. Woo discusses both federal legislation and Hawai‘i state legislation enacted to address the prevalence of domestic violence in the nation. He defines familial violence under the Hawaiian statute and believes with this definition is where any analysis should begin. Additionally, while recognizing that each case has very distinct individualized characteristics, he identifies and discusses the pattern in domestic violence cases and the fundamental similarities of the cases. Mr. Woo discusses at the federal level, the use of civil protection orders, the Violence Against Women Act, the Gun Control Act, Act 198 of the Hawai‘i statutes and the Hawai‘i Rules of Evidence. He addresses the positive aspects of the Violence Against Women Act and Amendments to the Gun Control Act. Additionally, he highlights the lack of attention given to the implementation of the laws. Thus, those the law is intended to protect are not feeling the full positive effect of the laws. He concludes by stressing that better implementation of these laws is necessary to better protect victims from continued familial violence.

B. GENERAL BOOKS

THE CENTER ON CRIME, COMMUNITIES & CULTURE, PATHFINDER ON DOMESTIC VIOLENCE IN THE UNITED STATES (1997).

This Pathfinder provides a plethora of information to the researcher of issues in domestic violence. In addition to bibliographies and popular reading lists, the text also provides references to films, movies and
documentaries on the subject of domestic violence. Additionally, Internet resources are covered as well as legislative information.


The author of this text chose to cover a little written on subject. He provides narratives from abused men. Also provided are discussions of ways to end the violence, of how real domestic violence against men is and the problems encountered by male victims of domestic abuse.

ANN JONES, NEXT TIME SHE’LL BE DEAD: BATTERING AND HOW TO STOP IT (Rev. ed. 2000).

Ms. Jones writes on all aspects of domestic violence. Through the use of narratives in connection with numerous research studies in this area, the author opens the reader’s eyes to the horrific world of the victim of domestic violence. Ms. Jones covers sociological as well as legal issues presented by this violence, explains what domestic violence is, discusses legal remedies available and maybe most importantly, she discusses what people can do to end this tragic cycle of violence. She sees the necessity for changes at all levels of life and government. Friends and family, as well as law enforcement and the judiciary must listen to abused women. She states that there must be a continuance of and further development of community based domestic violence programs and the development of additional prevention programs. The text ends with a statement of great truth: “Things change when people stop being resigned to things as they are.”


Rather than focusing on the causes of domestic violence, this text tries to look at society’s response to domestic violence. The author looks to past and present responses to the violence and discusses what future responses should entail. Her look at responses begins by defining partner violence. The author still discusses the how and why of domestic violence, while trying to focus on the responses. She then moves on to address societal reactions, healthcare worker requirements of mandatory reporting, and awareness and assessment issues. She also discusses the response clergy members have had to domestic violence. Chapter six discusses the “Legal Response” and includes legislative, judicial, law enforcement and
prosecutorial actions under the criminal law. Additionally, torts, restraining orders and divorce and custody are covered with respect to the civil law. Ms. Loue even looks to responses of the batterer and battered as well as children who witness the violence. She concludes with a chapter looking to the future and addresses prevention efforts and violence assessment research.


This text covers violence against women generally and consists of a collection of previously published works. Several works address the subject of domestic violence. Subjects such as the Battered Woman Syndrome, the efficacy of stalking laws in domestic violence situations.


This text focuses on one aspect of the domestic violence specter, partner violence. The editors chose the term partner violence to refer to violence between two married or cohabitating adults. The text is a look at the past, present and future of literature in this area. The editors provide seven chapters, each focusing on a narrower aspect of violence between married or cohabiting adults. The subjects covered include: risk factors for abuse, the physical and psychological consequences of abuse, effects on children who witness the violence and marital rape. Also addressed is violence among ethnic minority couples and violence between same-sex couples. The text concludes by looking at literature related to the prevention of, and intervention in abusive situations. The chapter addresses different levels of prevention and intervention and defines both concepts. Lastly, the text provides an extensive list of references for further study and is well indexed.


This book tells the story of one battered woman, Bernice Hampton, and the obstacles her abuser presented in her efforts to advance herself. Through Bernice's story, the author discusses the various issues faced by battered women on welfare and their struggle to come off welfare. Battered women are in need of much greater assistance to take advantage of and comply with the welfare-to-work program and related policies.
Bernice’s story is tragic and moving and tragically not unique in society. Ms. Raphael uses Bernice’s experiences to explain the struggles of battered women that are so foreign to most of us. It is an eye-opening read and will help the reader to understand why some women cannot escape abusive relationships. Additionally, the book show how the abuse, struggles and challenges of the victim do not end even after she is able to leave the abuser.

Other books that may be of interest to the researcher:


HANDLING THE DOMESTIC VIOLENCE CASE 2000 (Betty Levison, Chair 2000).

HOME TRUTHS ABOUT DOMESTIC VIOLENCE: FEMINIST INFLUENCES ON POLICY AND PRACTICE – A READER (Jalna Hanmer and Catherine Itzin eds. 2000).

NANCY K.D. LEMON, DOMESTIC VIOLENCE LAW (casebook 2001).

ELIZABETH M. SCHNEIDER, BATTERED WOMEN & FEMINIST LAWMAKING (2000).

GRACE POORE, VOICES HEARD SISTERS UNSEEN: A COMMUNITY EDUCATION GUIDE (SHaKTI Prod. 1995).

C. CHILDREN AND EXPOSURE TO DOMESTIC VIOLENCE

Although the subject of child abuse is not directly covered in this bibliography the following articles do address issues specific to children and domestic violence. Children who witness the violence and those who are physically affected by abuse as well as psychologically. Additionally, the topic of ‘failure to protect’ is addressed.


As part of a symposium on Custody Law and Practice this article predominantly is a reaction to a book chapter. Ms. Fineman discusses the chapter addressing domestic violence in National Interdisciplinary
Colloquium on Child Custody, Legal and Mental Health Perspectives on Child Custody Law: A Deskbook for Judges edited by Robert J. Levy, 1998. The article author indicates that in her opinion, the chapter has not gone far enough in covering domestic violence issues in the courts. She discusses the shortcomings of the chapter while pointing out areas that should be differently addressed by the courts than in the manner suggested by the Deskbook. The shortcomings Ms. Fineman most often refers to deal with victims of domestic abuse being treated with suspicion when domestic abuse allegations are made in connection with custody issues. In her conclusion, the author contrasts this chapter with the ALIs tentative draft of a statute dealing with child custody and decision making responsibility. This draft, she indicates, better addresses how courts can place the burden of proof for custody on the abusing spouse rather than the victim of the abuse.


This article addresses issues raised regarding the complexities of addressing domestic violence issues in homes with children. The author discusses the harm caused to children living in an abusive household, even if the children are not on the receiving end of violent acts. He discusses the symptoms of children in abusive homes being similar to the symptoms of post-traumatic stress disorder. Also briefly covered are the differing affects of such violence based on the age and gender of the children. The author, in covering the happenings at the Honolulu conference, urges those addressing domestic violence issues to address the issues of the safety of children in violent homes. He hopes, at least in Hawaii, that this can be done without bringing criminal charges against the adult victim of abuse. Additionally, he states child protection workers and women’s (victims’) advocates need to be aware of the work and challenges of one another to effectively help their clients and to protect the children.


The authors of this article look at the connection between substance abuse, domestic abuse and child abuse and the requirements of the Adoption and Safe Families Act. The authors state two reasons why
"children of battered mothers are at special risk for abuse and neglect." These reasons are the direct risk when in a family where domestic violence occurs and the likelihood adults in the home abuse drugs and alcohol. Additionally, the article refers to studies showing households with wife-abuse more often involves child abuse by both parents. One reason discussed for the prevalence of drug and alcohol abuse is that battered women often turn to these in order to "self-medicate" and cope with the abuse. The article discusses a Maryland study of child protective services and the affect the Adoption and Safe Families Act had on the Maryland system. The study involved forty mothers and eight-five children and fond a significant presence of substance abuse in the homes. The authors conclude by stating that there must be recognition of the connection between domestic violence and substance abuse and that these issues need to be addressed in order to provide proper assistance to victims.


Mr. Stark uses a striking case study to address the problems encountered when dealing with the apparent neglect of children or abuse of children by a parent (typically a mother) who is herself a victim of domestic violence. In discussing defending a battered woman's actions with respect to her children Mr. Stark addresses the Battered Woman's Syndrome, post-traumatic stress disorder and then looks to alternate ways to look at the 'mother's failure to protect.' In his alternate methods the author covers three dynamics that come into play when a domestic violence spouse victim and abused or neglected children are both involved. He refers to these three 'dynamics' as "coercive control," "the battered mother's dilemma" and "tangential spouse abuse." In his portrayal of the case of Lavonne Lazarra, the author applies these dynamics to her and through applying them, helps to show why Ms. Lazarra acted he way she did with respect to her abuser and her children. Ms. Sark concludes by indicating that to determine the appropriate action when a parent has "failed to protect" her children the court, police and service organizations must recognize that the parent and children face a threat from the same source, the batterer.

The following articles may also be of interest to one researching areas of domestic violence and its effect on children.


D. FEDERAL LAW AND DOMESTIC VIOLENCE


The author provides an overview of state/government regulation of domestic violence. The study of the Violence Against Women Act is one of the primary ways the author indicates this regulation. Historically the state has stayed out of the domestic violence realm considering it to be a private, family matter. The article gives a short history of the acceptance of
domestic violence in society dating back thousands of years and not changing views until the mid to late twentieth century. The author also shows the federal government’s struggle to implement the Family Violence Prevention and Services Act and the Victims of Crime Act, taking five years to get the initial legislation passed. The article also points out that reluctance of the state to interfere in the private sector is not valid. The state legislates regularly in what have historically been considered private matters. The author uses the government’s regulation of the marketplace as an example. Additionally, the government’s involvement in family life is seen in the regulation of in such areas as marriage, divorce and child custody. The author sees the Violence Against Women Act and other legislation as a start, but believes more needs to be done by the states and judiciary. She concludes by stating the shift away from a public/private dichotomy around domestic violence is a start on eradicating the violence.


This article addresses constitutional arguments available to victims of domestic violence. The author first looks at the use of the Due Process Clause and discusses cases decided before what she deems the pivotal decision of DeShaney v. Winnebago County Department of Social Services, 49 U.S. 189 (1989). Ms. Brown next discusses how the ruling in DeShaney made it more difficult for victims of domestic violence and their survivors to assert a violation of due process claim against the state. She explains how the Court in DeShaney indicated that police knowledge of the dangers a person may face in a situation does not require state/police action, as long as nothing is done to increase the danger the victim faces. The author then discusses the Equal Protection clause and possible action available to victims based on a claim against the police, by a victim, of gender discrimination.


Ms. Calaf addresses the problems victims of domestic violence experience in the workplace. The author covers remedies available to victims when employers treat victims and abusers differently within the workplace with respect to the abuse and its effects. Three remedies available to victims of abuse with respect to employment issues arising as a result of the abuse are discussed. The three approaches are: 1) Bringing a
sexual harassment suit against an employer under Title VII; 2) Bringing suit based on disparate treatment; and 3) Bringing a suit based on disparate impact. The third of these approaches is, according to the author, the most viable option for victims who encounter workplace obstacles related to the abuse. The author indicates this is so even though the victim may not have been harassed at work, or even have disclosed the existence of abuse to his or her employer.


This article discusses the prevalence of firearms in domestic violence murders and federal and state legislation enacted to protect victims of domestic violence from the use of firearms at the hands of the abuser. The author focuses on federal, Vermont and New Jersey law. In covering the Violence Against Women Act the author states that while persons subject to restraining orders are prohibited from having firearms, firearm removal is not sanctioned for domestic violence situations. In response to this, she suggests persons seeking the order of protection specifically request the inclusion of the removal of firearms. Ms. Kelly views the New Jersey approach to domestic violence as one that should serve as an example for other states. She discusses limitations New Jersey courts have placed on weapons seizure and the constitutionality of such acts when looked at in conjunction with the Second Amendment. She concludes by advocating that Vermont and other states should follow New Jersey's lead and enact legislation allowing prosecutors to require forfeiture of weapons from the house of the abuser.


In this article, Ms. Mecka looks at the direction being taken by New Jersey, other selected states, and the federal government in removing firearms from the hands of those convicted of acts of domestic violence. Her article covers the strict seizure and weapon forfeiture laws in New Jersey and compares a similar Arizona statute allowing law enforcement to seize weapons in domestic violence cases. She also covers proposed reforms across the country in cases involving both domestic violence and firearms. The article also discusses the Lautenberg Amendment, which when enacted, prevented anyone who had been or is convicted of a
misdemeanor domestic violence charge, be prohibited from owning or possessing a firearm. The problems this presented for military personnel and the police are also discussed. Ms. Mecka then addresses whether the Lautenberg Amendment is a realistic solution and how the implementation of the amendment has been problematic for state and local law enforcement agencies. She indicates that implementation is not realistically possible without a standardized plan for the federal government and financial assistance to follow through.


The author discusses the use of gun control laws and protecting victims of domestic violence. She addresses the varying gun control laws in effect at the state level and the varying degrees of protection these laws provide for victims of domestic violence. Ms. Nathan does not see these as adequate. The article then covers the federal law attempt at creating uniformity in the gun control laws. The author provides a history of the Gun Control Act of 1968 and the later amendments to this act that directly address perpetrators of domestic violence. One amendment in particular that has raised constitutional questions is the Lautenberg Amendment. Ms. Nathan addresses these questions and offers explanations for why the challenges have not been sustained. She identifies the main part of concern with the Lautenberg Amendment that as that part which prohibits members of the police and militia who are convicted of domestic violence misdemeanors from possessing firearms. The concern coming from the fact that members of the police and militia who are convicted of felonies in other areas as well as domestic violence incidents are not excluded from possessing firearms under other provisions of the Gun Control Act. She concludes by suggesting the potential inequality in dealing with those convicted of domestic violence acts is to prohibit militia or police as well as anyone convicted of an act of domestic violence, whether misdemeanor or felony be prohibited from possessing firearms.

The following articles may also be of interest to one researching areas of federal law, such as the Violence Against Women Act, and domestic violence.


E. JUDICIAL ISSUES AND DOMESTIC VIOLENCE


Prof. Epstein's article discusses problems encountered by victims of domestic violence even after recent local and federal legislation has been enacted to better serve victims of domestic violence. She sees many obstacles presented by prosecutors, judges and the court system. Legislation enacting no-drop policies and mandatory arrests lead to greater police interaction in domestic violence calls and to a higher number of domestic violence prosecutions. However, as Prof. Epstein shows, getting to court does not alleviate the problems of many domestic violence
situations and in some cases exacerbates the situation. Domestic violence situation often involve both civil and criminal actions. The author points out that the lack of communication, much less co-ordination between civil and criminal courts on cases stemming from the same incident can lead to conflicting results. Additionally, she discusses how court personnel, such as clerks, do not always provide necessary information to victims of domestic violence, information such as additional filing requirements of the existence of any available victim services. The author provides examples where judges have acted improperly in the courtroom and admonished victims of domestic violence for not leaving the abuser. Much of this behavior by clerks and judges, the author attributes to the lack of education in the area of domestic violence. With regard to the lack of coordination between civil and criminal courts, Prof. Epstein discusses an integrated domestic violence court and uses the as an example the efforts in Washington D.C. to coordinate legal actions in the domestic violence area. The author ends by calling for courts to remedy the problems in information sharing in domestic violence situations so that victims may take advantage of all relief available and advocates judicial training programs to educate the judiciary on the "realities of intimate abuse."


The author of this article brings to it her experiences as a judge, practicing attorney and professor. Ms. St. Joan discusses the need to educate judges in the area of domestic violence, through the use of literature. She believes short stories, novels and poetry will enhance heir understanding of the many aspect of domestic violence. Through the use of a short story entitled *Trespass*, by Sandra Scofield, as well as a short play the author developed depicting a trial based on *Trespass*, Ms. St. Joan developed a judicial seminar on domestic violence. Using these tools she exposed the judicial attendees to the numerous factors affecting domestic violence cases that are not always apparent in the court proceedings. The article discusses the roles of passion, empathy and the use of narratives and how these three can help judge's presiding over domestic violence cases. She believes such actions can "clarify perceptions and deepen responses of judges to domestic violence cases."

Ms. Tsai uses her article to discuss the advantages and disadvantages of specialized domestic violence courts. She provides an overview of the history of and traditional approaches to dealing with domestic violence. The author provides an overview of what she refers to as model domestic violence programs in Quincy, Massachusetts, New York City, Dade County, Florida and the District of Columbia, which provide an interdisciplinary approach to domestic violence situations. In addition to these programs, the author mentions mandatory arrest and no-drop policies in San Francisco, King County, Washington and Pima County, Arizona. Criticisms of these model programs are addresses as well as the promising aspects of the programs. Ms. Tsai proposes her own model program incorporating aspect of the current available programs. Community response, victim advocacy and support dealing with the legal system, children services and advanced supervision of defendants are all important factors in an integrated domestic violence program. Ms. Tsai believes in improved accountability and program coordination among those involved in domestic violence cases will lead to an eradication of the domestic violence epidemic.

The following articles may also be of interest to one researching areas of judicial education, involvement and response to issues of and domestic violence.


II. DOMESTIC VIOLENCE AND THE ELDERLY

A. ARTICLES


The authors of this article address the idea that in the era known as the "Aging of America," domestic violence knows no age limit. The focus of this article is on elder abuse occurring in the home as opposed to nursing homes or other institutions. The article poses and discusses four questions: "1) What is abuse in later life?; 2) What can a professional do to intervene?; 3) What criminal and civil laws address elder abuse?; and 4) What interventions are most helpful for older victims of family violence?" In addressing these questions, the author looks at the position healthcare professionals, legal professionals, social workers and financial planners, may be in to identify situations involving elder abuse. The article covers interviewing techniques to be used by these professionals in the detection of elder abuse. Also discussed are legal issues related to competency, elder abuse reporting requirements, restraining orders, arrest policies and remedies for abuse of financial power of attorney. The authors encourage professionals to further assist victims of elder abuse by becoming involved in multidisciplinary elder abuse group work to help victims of elder abuse in the community.

Christina Matias, Elder Abuse as Domestic Violence in California 11 J. CONTEMP. LEGAL ISSUES 76 (2000).

In this brief article, Ms. Matias provides an overview of two California statutes that address elder abuse. The two statutes discussed are the Domestic Violence Prevention Act and the Elder Abuse and Dependent Adult Civil Protection Act of 1991.

Ms. Playton provides a brief yet comprehensive overview of the issues surrounding elder abuse. She touches on topics ranging from who the abusers are to the need for an increased awareness of the problem of elder abuse.


Mr. Moskowitz recognizes the attention paid to domestic violence in various law school classes. However, he also recognizes the lack of attention given to the problem of elder abuse in any law school course. He proposes, in this article, ways to incorporate coverage of elder abuse issues into the law school curriculum. Because elder abuse cases “present issues of competency, incapacity... and a wholly different public response system... from the classic domestic violence scenarios” the issue needs individualized treatment in law school. Mr. Moskowitz describes various ways discussion of elder abuse can be integrated into existing law school classes. The areas he suggests are criminal law, tort law, administrative law (nursing home regulations, FTC regulations on telemarketing and licensure regulation for elder care professionals), professional responsibility, family law/violence, specific classes on elder law and the creation of elder law clinics in the law school clinical programs. He concludes by emphasizing the growing nature of the elder population and the need to adequately train future attorneys to effectively handle elder cases and more specifically, those involving abuse.


Prof. McCuan begins with an overview of the recognition of elder abuse in our society. She describes how all states have some type of program intended to address elder abuse however, even these services can be confusing. The definition of ‘adult’ varies from state to state and many aspects of child abuse laws were relied on in developing services for elder abuse. The author discusses mandatory reporting requirements and those professional groups most often required to report suspected incidents of elder abuse. Additionally, she addresses the idea of more involvement in elder abuse issues from law enforcement personnel and members of the judiciary. The author concludes with a discussion of Missouri law dealing with elder abuse.

Ms. Shor, in her article, addresses the obstacles posed to victims of domestic violence who are also in the process of trying to gain citizenship or permanent residency. She discusses the special problems facing alien victims of domestic violence. Ms. Shor covers the legislation available to these victims in the Violence Against Women Act and the Immigration and Naturalization Act. While she commends the availability of such legislation, the author also identifies the shortcomings of the legislation. She addresses the financial, cultural and other hurdles an alien victim of domestic violence can face if she or he reports the abuse. Potential consequences to the abuser include deportation. Ms. Shor identifies problems even with this remedy, especially where potential deportation of the abuser can also result in deportation of the victim of the abuse. She concludes with suggestions for changes in the requirements for citizenship or residency. She calls for the changes when the person petitioning is a victim of domestic violence at the hands of a spouse who is a citizen or permanent legal resident and an integral part of the residency/citizenship process.


This short article looks at elder abuse specifically in Wisconsin. The definition of elder abuse is provided as well as information on the agency dealing with such abuse. The authors also provide a brief discussion of elder abuse being related to the financial dependence of the abuser on the victim, as well as about power and control. Lastly, several short examples of elder abuse incidents reported by the press are provided.

B. BOOKS

LINDA AITKEN AND GABRIELE GRIFFIN, GENDER ISSUES IN ELDER ABUSE (1996).

As stated in the introduction, this book brings together literature responding to the growing acknowledgement of elder abuse and the concept that gender issues play a role in such abuse. The authors cover gender, ageism and sexism, abuse in institutional settings and, significant to this bibliography, is the chapter “Who Cares? A Gendered View of Care
and Elder Abuse in Domestic Settings.” The chapter discusses both male and female victims of abuse and types of abuse and prevalence. The information provided focuses mainly on a United Kingdom study. The text concludes with a forward looking chapter discussing what can be done to deal with elder abuse and gender specific issues related to elder abuse.


The authors of this text intend it to be used by “professional in the fields of health, mental health, child/adult protective services and law enforcement, who are dealing with abused and neglected adults.” They set out four objectives for the text: 1) to clearly define adult abuse and understand its impact; 2) to educate professionals as to the scope and characteristics of such abuse; 3) to develop a system of recognizing various adult abuse indicators; and 4) to attempt to identify relevant issues to the legal profession and educate clinicians to these issues. The chapters cover abuse assessment, adult survivors and nonsurvivors of abuse, personalities of abusers and issues on repression and recovered memories. Additionally, there are chapters written by Gary W. Kearl on medical evaluation, Lenore E. Walker addressing domestic violence generally, Allan L. Beane covering persons with disabilities and Judith Sheiman discussing legal considerations of “adult victimization.” The text also contains numerous appendixes containing, among other information, a model policy for reporting elder abuse, aspects of courtroom preparation and a model intake contact form for abuse.


While this text does not solely address domestic violence against elder victims it does contain a variety of information applicable in this area. The text discusses the criminality of abusive acts against the elderly. Since many instance of domestic violence are also criminal acts, the information covered in this text can be very useful. The book is intended for use in both graduate and undergraduate courses and thus has some textbook tendencies such as review questions. However, the information like that covering such topics as victimization of the elderly, courts and crimes against elderly persons and aspects of abuse in lives of older adults (e.g. neglect, sexual abuse and financial abuse) are useful to the non-student as well. In addition to containing useful material, the title is well indexed and contains an extensive references list.

When most people think of elder abuse, they tend to connect the abuse to activities occurring in nursing homes or other care facilities. The author of this text addresses a different, just as or even more disturbing, form of elder abuse: domestic elder abuse. The text is divided into two parts, the first dealing with the "Phenomenon of Elder Mistreatment" and the second part covers "Diagnosis and Intervention." The chapters in part one discuss the nature of elder abuse, case studies of elder abuse, characteristics of the abuser and the types of abuse experienced by the victim. This abuse encompasses all forms from psychological, to physical and even financial abuse. The chapters in part two discuss the various components of the "Elder Abuse Diagnosis and Intervention Model." The second to last chapter, most relevant to this bibliography, discusses specific legal issues related to elder abuse. The legal interventions covered range from direct deposit of funds in order to avoid stolen and misplaced checks to criminal remedies available to victims of elder abuse. The authors cover many of the current issues facing victims of elder abuse and in the Epilogue reports on areas that are still in need of additional attention. The appendixes of the text provide sample Power of Attorney forms, dementia scales, a mini-mental status exam, an assessment form and a copy of the California Penal Code § 368, dealing with abuse of dependent adults.

UNDERSTANDING ELDER ABUSE IN MINORITY POPULATIONS (Tashio Tatara, ed. 1999).

This text was developed in response to the non-existence of any text addressing elder abuse specifically in racial and ethnic minority populations. In developing the text, the editor assembled contributors to the text with racial or ethnic minority backgrounds. The book is divided into five sections. Section one addresses elder abuse in the Black population, section two discusses elder abuse in the Hispanic community, section three speaks to elder abuse among Asian Americans, part four covers elder abuse in the American Indian population and the last part relates to a multicultural perspective of elder abuse. The text provides a comprehensive look at an aspect of elder abuse, which is under addressed in all areas of literature.
III. DOMESTIC VIOLENCE AMONG SAME-SEX COUPLES

A. ARTICLES


This article is a transcript of a panelist discussion which took place at “Revolution Within Communities: The Fifth Annual Domestic Violence Conference.” The panel consisted of six participants. One was a survivor of same-sex domestic violence and the rest were from various organizations or departments, in New York City, which deal with issues specific to the lesbian, gay, transgendered and bisexual communities. The format of the article is a story or presentation of each panelist, followed by a brief question and answer section. The panelist topics included background information and an explanation of difficulties and legal obstacles faced by domestic violence victims of the lesbian, gay, transgendered and bisexual communities, an overview of the police training provided regarding same-sex domestic violence cases, HIV reporting and notification laws with respect to same-sex domestic violence, and domestic violence against transgendered individuals.


Ms. Hodges discusses, in her comment, obstacles facing lesbian victims of domestic violence. From legislation that clearly excludes same-sex partners, to a lesbian batterer threatening to out her partner if she reports the abuse, the author covers the unique problems lesbian victims of domestic violence experience. Ms. Hodges discusses the heterosexual approach to domestic violence where the male is traditionally seen as the abuser and the female is the victim. She indicates how this “traditional” model poses problems with judges, juries and attorneys, when responding to lesbian battering situations. Additionally, the article covers the use of mutual restraining orders in same-sex abuse situations and the failure of the use of these orders in recognizing the aggressor in the domestic violence incident. She concludes by advocating for the expansion of domestic violence statutes to clearly include same-sex couples. Such inclusion, she states, will improve the available avenues of relief for lesbian victims of domestic violence as well as heterosexual victims of abuse.

Ms. Jablow addresses the disparate treatment same-sex victims of domestic violence receive compared to heterosexual victim of domestic abuse. After a short history of abuse against women and the development of laws regarding domestic violence, the author focuses on gay and lesbian domestic violence. She begins by defining both heterosexual and homosexual domestic violence. She then goes on to explain how available services differ for homosexual victims than for heterosexuals. While all 50 states have anti-domestic violence laws, Ms. Jablow indicates that while many states implicitly cover homosexuals in their laws, numerous states explicitly exclude homosexual individuals from the domestic violence laws. She indicates that only one state, Vermont, clearly includes same-sex domestic violence in the laws protecting victims of abuse. To explain how states implicitly cover homosexual couples, the author provides an overview of applicable case law from several jurisdictions. Ms. Jablow also addresses the unconstitutionality of domestic violence laws, which exclude domestic abuse incidents arising in a same-sex relationship. She argues that under the Equal Protection Clause, these laws can be seen to discriminate on the basis of sexual orientation. The statutes clear objectives, she states, are to protect victims from abuse by their partners, regardless of the gender make-up of the relationship. According to Ms. Jablow's argument the laws should be found unconstitutional regardless of whether a "mere rationality" level, intermediate or strict scrutiny review is applied. She concludes by imploring all victims of domestic abuse, regardless of whether they are homosexual or heterosexual, be afforded protection under the domestic violence laws.


Prof. Knauer explores some of the challenges faced when applying domestic violence laws to same-sex couples. She discusses how these challenges come from outside the gay and lesbian community as well as within the community. Reasons she identifies within the gay and lesbian community are the potential of admitting such activities exist can be politically damaging to the efforts of the gay and lesbian community to gain proper recognition. Additionally, for lesbians, the "vision of a peaceful, woman-centered world" is destroyed if it is admitted that there
are instances of domestic violence in lesbian relationships. Challenges Prof. Knauer recognizes from outside the homosexual community include the affront same-sex domestic violence poses to the gendered assumption of male battering female, and the male need to exert power and control as evidenced in the patriarchal setting. Prof. Knauer also discusses the problem states face in including same-sex victims of domestic violence in protective statutes. Most states exclude same-sex couples from any family, domestic or private existence, thus invoking domestic violence laws is not possible when the 'domestic' nature of the relationship is not recognized. Arguments against including same-sex couples in the scope of domestic violence laws often state other criminal law avenues are available. In response to this, the author discusses the reaction often received by a same-sex victim when he or she calls 911. Due to the lack of recognition or incorporation in existing domestic violence laws, Prof. Knauer indicates how same-sex victims are unable to obtain necessary assistance after being subjected to abuse. She concludes by indicating that the gay and lesbian communities must address the issue of domestic violence in their communities. Additionally, domestic violence advocates and feminists must move away from the gendered concept of who the batterers are before real progress can be made.

Ryia Lilith, Comment, Reconsidering the Abuse That Dare Not Speak Its Name: A Criticism of Recent Legal Scholarship Regarding Same-Gender Domestic Violence, 7 Mich. J. Gender & L. 181 (2001).

The author uses this article to discuss the most often cited and relied upon information in legal writing on same-sex domestic violence. The article focuses on how, according to the author, much of this information is misquoted or how many statistics are generated based on unsubstantiated assumptions. Two books, which the author indicates are regularly cited in literature addressing same-sex domestic violence, are discussed in the article. The two books are: Men Who Beat the Men Who Love Them, by David Island and Patrick Letellier and Violent Betrayal: Partner Abuse in Lesbian Relationships, by Claire Renzetti. The author also criticizes the misuse and misquoting of shorter Renzetti works and references one of Renzetti's own articles, where she indicates how scholars have inaccurately referenced her work. The author also discusses inaccuracies used by legal scholars in the examination of the "Non-Gendered Model of Domestic Violence," that claim opposite-gendered and same-gendered domestic violence occurs at the same rate. Another aspect discussed are the frequency studies that do not separate same-gender domestic violence into female on female and male on male, but rather attribute one statistic both
occurrences. The author concludes by stressing the need for multiple models in order to pick-up on the various factors that go into male on female, male on male, and female on female domestic violence situations.


In her note, Ms. Murphy argues that same-sex victims of domestic violence do not receive equal treatment or protection under most databases. She addresses the existence of de jure and de facto discrimination against gay men and lesbians with respect to domestic violence statutes. The de jure discrimination, she sees in statutes that explicitly exclude same-sex couples by indicating the abuse must be by someone of the opposite sex or statutes using the term spouse. De facto discrimination, she believes, is apparent in the facially neutral statutes applied only to opposite sex instances of domestic violence. Whether the statutory language leads to de jure or de facto discrimination, the author does not think the statutes should withstand an Equal Protection challenge, regardless of the standard of review applied. Ms. Murphy discusses how the statutes would fail under strict scrutiny, intermediate scrutiny and the rational basis test. She provides examples of how, at all three levels, it may be possible to strike down such statutes. The author provides a sample model statute providing protection to all victims of domestic violence, regardless of the gender make-up of the relationship. She then provides explanatory material for her proposed statute.

B. BOOKS

*SAME-SEX DOMESTIC VIOLENCE: STRATEGIES FOR CHANGE* (Beth Leventhal and Sandra E. Lundy, eds. 1999).

The editors of this text believe too much of the minutiae of literature on same-sex domestic violence consists of material directed at convincing the reader same-sex violence exists. Their intent, with this book, is to put forward "a book that presents concrete strategies for assessing and stopping the violence in abusive, queer relationships." The book is divided into four parts. Part I, Prologue: Hearing the Problem, provides narratives; Part II is entitled Legal Perspectives; Part III, Organizing Coalitions/Building Communities, addresses the way the gay, lesbian, bisexual and transgendered communities can work to address domestic violence; and Part IV Providing Services, discusses different ways assistance can be
given to gay, lesbian, bisexual and transgendered victims of domestic violence.

**NATIONAL COALITION AGAINST DOMESTIC VIOLENCE LESBIAN TASK FORCE, NAMING THE VIOLENCE: SPEAKING OUT ABOUT LESBIAN BATTERING, (Kerry Lobel, ed. 1986)**

This book is an anthology of stories of lesbians battered in their relationships. The stories were gathered through calls for papers and targeted outreach efforts. The stories came form across the country and many walks of life. In addition to the stories told through this book, chapters are included addressing shelter, support groups, and community organizations and programs. While somewhat dated, this text provides an illuminating look at a subject that, 17 years after the book’s publication, is still not openly discussed in either the lesbian or heterosexual communities.

**CLAIRE M. RENZETTI, VIOLENT BETRAYAL: PARTNER ABUSE IN LESBIAN RELATIONSHIPS (1992).**

Ms. Renzetti had been researching violence against women issues generally, for ten years before embarking on this text. The text is the result of a nationwide study undertaken to look at violence within lesbian relationships. Ms. Renzetti discusses the methods in which she carried out the study and its findings. One hundred women volunteered to participate, each identifying herself as a battered lesbian. The study addresses issues of dependency, jealousy, substance abuse and intergenerational abuse (abusers abusing because they are a past victim of abuse). Appendix A contains a copy of the survey completed by participants and Appendix B provides a list of numerous resources available to lesbian victims of domestic violence.

**DAVID ISLAND AND PATRICK LETELLIER, MEN WHO BEAT THE MEN WHO LOVE THEM: BATTERED GAY MEN AND DOMESTIC VIOLENCE (1991).**

Mr. Island and Mr. Letellier use this book to address a topic on which very little literature is available, domestic violence in gay relationships. Each chapter in the text addresses different aspects of this abuse; From “Who Are the Batterers?” discussing batterers confusion with respect to their masculinity and characteristics of gay batterers to “How Do You Get Out?” and “How to Stop the Violence.” The appendix provides excerpts of
a San Francisco Police Department Order addressing the handling of domestic violence incidents.

**PARTNER VIOLENCE: A COMPREHENSIVE REVIEW OF 20 YEARS OF RESEARCH, (Jana L. Jasinski and Linda M. Williams, eds. 1998)**

A full annotation for this text is provided earlier in the bibliography. Of note for this section is the chapter covering violence between same-sex couples. The chapter covers, among other topics, the type of violence found in same-sex relationships, how much domestic violence exists in these communities and problems with the lack of research available in this area of domestic violence.

### IV. INTERNATIONAL AND ASYLUM RELATED DOMESTIC VIOLENCE ISSUES


This article discusses the options available to victims of domestic violence seeking asylum in the United States. Some discussion of asylum laws in Canada, the United Kingdom and Australia is also provided. The author focuses on one case in particular, that of Rodi Alvarado Pena, to show how the application of current asylum requirements are not adequate for women fleeing to the United States from an abusive home in another country. She discusses five listed grounds for seeking asylum and the fact that one seeking asylum must show she was “persecuted or discriminated against” because of one of the five enumerated grounds. The most often of these grounds used by an asylum seeking, victim of domestic violence is that ground stating one has been “persecuted for membership in a particular social group or political opinion.” This argument poses some difficulty for the asylum seekers because gender as the basis for “membership in a particular social group, or political opinion” is not consistently recognized as adequate. The author then discusses how domestic violence can be argued as a violation of a woman’s human rights and may be an adequate basis for asylum to be granted. Additionally, she argues that the current definition of a refugee should be reworked to more adequately reflect the global society. In reworking the definition, she argues for the elimination of the five specified categories and the development of asylum standards with an emphasis on protecting victims from human rights violations.

Ms. Hueben argues, in her article, that the United States should remedy the current asylum law to “recognize persecution of women as a distinct ground for asylum.” The author provides a brief history of asylum law and its origin in a post World War II society. In part because of this, she indicates the law, while written in a gender-neutral manner, refers mostly to persecution resulting from male dominated activities. The author uses a few recent asylum decisions (e.g. In Re R.A.) to show how victims of domestic violence are not always able to benefit from asylum law protection. Women seeking asylum and using the “on account of membership in a particular social group” have met with varying results. The author shows the attempts at more fairly applying this asylum standard and discusses the 9th Circuit’s argument that a family unit can meet the “particular social group” requirement. Ms Hueben covers proposed changes to United States asylum law and refers to the steps taken by Canada to incorporate gender-based claims into the Canadian asylum laws. In her argument that the Unites States should create a gender category for asylum claims, she concludes that doing so will not lead to a flood of asylum claims. She believe this will not occur because asylum seekers will still have to prove persecution and that the persecution was on account of her gender. However, it will recognize the violence women face throughout the world.


Ms. Lewis’ article discusses the increase in marriages between people from different countries, and how this increase has possibly led to the recent rise in international child abduction cases. In response to such actions Ms. Lewis addresses the attempt by many nations of the world to co-operate in the return of abducted children to their home country. The article provides an in-depth discussion of the Hague Convention on the Civil Aspects of International Child Abduction, which was developed to in an attempt to guide countries in working to return abducted children. The author provides an explanation of various parts of the Convention and how action can be taken pursuant to the Convention. She also discusses the exceptions available to persons when compliance with the return order will be harmful to the child. The author discusses how a parent, who was a
victim of the domestic violence, and who fears injury upon return, may remove children from homes with domestic violence. She discusses how the exceptions factored into the Convention (grave risk of harm exception, consent exception, child’s objection exception, settled new environment exception, and the human rights and fundamental freedoms exception) are discretionary and a judge may choose, based on one of these, to not require the child be returned to his or her habitual residence. The author provides an explanation of each exception, focusing primarily on the “grave risk of harm” exception since that is the most relevant argument in a domestic violence situation. She then provides a summary of cases where the exceptions were invoked in a claim under the Convention. She concludes that a new approach, discussed in the case summary of Blondin, can be used to enhance communication between the contracting countries to the Convention and can work to achieve the common goal of protection of the children.


The author of this article discusses the Hague Convention on the Civil Aspects of International Child Abduction and its application in instances involving domestic violence. He purpose of the Convention is to provide a remedy for a parent whose child(ren) is wrongfully removed from the country by the other parent. It is meant to ensure that the laws of one country are respected by another country. However, the author indicates that the Convention does not provide and adequate defense for a child abduction precipitated by a need to escape from an abusive situation. The article discusses various parts of the Convention including the remedy of return and the definition of habitual residence. In discussing the remedy of return, the author covers the possible defense in domestic violence situations, of a “grave risk of harm”, but indicates this is not as good of a defense option as it appears. This is because the courts often focus on whether abuse was directed at the children or the spouse. When abuse is directed toward the spouse, the defense is not as helpful. The reason for this is that to be successful, it must be shown that return of the child “would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation” in order to use the defense. The author concludes by calling for a reform of the Convention to effectively assist victims of domestic violence in child abduction/custody cases.

The following articles may also be of interest to one researching areas international, asylum and child abduction laws and domestic violence.

Andy Man Chung Chiu & Vera Moon Hing Lam, Law-ing the Harmonic Familial Relationship, 8 BUFF. WOMEN'S L.J. 25 (1999).


