



THE ADVOCATE'S QUARTERLY

THE NEWSLETTER OF THE CENTER FOR SURVIVOR AGENCY AND JUSTICE

CENTER FOR SURVIVOR AGENCY AND JUSTICE

1802 VERNON ST. NW
WASHINGTON, DC 20009
TEL: 202.265.0967
FAX: 202.265.5704
www.csaj.org

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NEWSLETTER EDITOR, TRACY J. DAVIS

CSAJ STAFF

ERIKA A. SUSSMAN, EXECUTIVE DIRECTOR
TRACY J. DAVIS, SENIOR ATTORNEY
CHRISTINA S.R. NEW, PROJECT COORDINATOR

MESSAGE FROM THE EXECUTIVE DIRECTOR

By Erika Sussman

Dear Attorneys and Advocates:

Survivor-centered advocacy requires that advocates and lawyers approach their work from the perspective of the survivor. Unlike service delivery, where the worker offers a service regardless of the consumer's needs, *advocacy* is a partnership that depends upon and is shaped by the particular needs of clients. As advocates who strive to address the comprehensive needs of individual survivors, we must work to understand the particular context of their lives. In short, survivor-centered advocacy requires that we listen.

Though critical, listening to the stories of survivors of domestic violence, sexual assault and stalking is not easy. We are exposed to the horrific details of physical, sexual and emotional abuse—often with numerous people throughout the course of a day. Compounding this exposure to individual trauma is the exasperating impact of working with a variety of institutions and systems that are unsympathetic and often punitive toward survivors.

The personal and political consequences of secondary trauma are too significant to ignore. Therefore, this issue of the *Advocate's Quarterly Newsletter* asks: How can we garner all of our resources to counter these individual and systemic forces in order to become more effective advocates?

The first article of this issue, authored by Mary Pulido, PhD, describes secondary traumatic stress (also known as vicarious trauma) and identifies concrete actions that we as advocates can take to minimize it. The second piece, a survivor story, highlights the importance of listening to and supporting survivors through individualized and comprehensive advocacy. The case law summaries of this issue offer strong legal precedent to integrate into legal briefs and arguments before courts. And, the events updates provide information on the recent work of CSAJ, with references to supplemental advocacy tools.

Speaking of effective advocacy, I am pleased to announce the official launch of the Center for Survivor Agency and Justice website: www.csaj.org. This website provides a wealth of legal representation and advocacy resources—model briefs, case law summaries, articles, statutes, programmatic forms, listserve archives, past newsletters, and more—all intended to support and enhance your advocacy.

Take good care,

Erika Sussman
Executive Director

THE COSTS OF CARING: MANAGING SECONDARY TRAUMATIC STRESS IN THE DOMESTIC VIOLENCE ARENA

By Mary Pulido, Ph.D. *

Secondary Traumatic Stress (STS)

Secondary Traumatic Stress is a broad term for characterizing the consequent symptoms and behaviors that develop as practitioners provide services to clients that have been traumatized. It is also the stress resulting from helping or wanting to help a traumatized or suffering person (Figley, 1996). It's a normal response experienced by practitioners who are exposed to painful, traumatic material. These practitioners may be working as first responders, therapists, caseworkers, attorneys, advocates or physicians in a wide range of fields, such as child protection, domestic violence prevention, homeless shelter services, or mental and medical health care.

The focus of this article is for professionals who provide legal and advocacy services to victims of domestic violence. When an attorney or advocate experiences STS, they develop reactions (signs and symptoms of trauma exposure) that mirror the reactions experienced by the client who has endured domestic abuse. These reactions can also impact aspects of their relationships, their job and their worldview and can negatively impact the advocacy they provide.

Practitioners experience STS as a result of exposure and empathy. They are available to their clients (exposed) and due to their concern for their wellbeing, create an empathic connection with them. Thus, the trauma of the client's situation is "taken in" by the attorney or advocate. Practitioners report symptoms similar to the Post Traumatic Stress Disorder (PTSD) experienced by many of their clients. The good news is that STS can be prevented and managed so that the important work of the domestic violence prevention community can continue in full force. This article will provide suggestions and tips to address STS.

Brief Review of the Literature

Persons may manifest symptoms of PTSD through secondhand exposure to the trauma histories of others (Figley, 1995a). Such cases include Holocaust survivors and their children (Danieli, 1985); intimates of rape victims (Kelly, 1988); and mental health professionals who work with trauma survivors (Figley, 1995b; Stamm, 2002).

* *Mary L. Pulido, Ph.D., currently serves as the Executive Director of The New York Society for the Prevention of Cruelty to Children, the first child protective agency in the world. Dr. Pulido serves as a private consultant, lecturing and training nationally on the prevention and management of Secondary Traumatic Stress (STS). She has provided training for clinicians working with 9/11 families, first responders to hurricanes Katrina/Rita and to Child Protective Service staff in New York City. Dr. Pulido holds a Ph.D. in Social Welfare from the City University of New York and Masters Degrees in Social Work and in Teaching. She is an Assistant Professor at the Hunter College School of Social Work. She has published in the areas of detection and prevention of domestic violence and child abuse and managing STS.*

An independent body of literature generated from within the field of traumatology has emphasized the potential for harm to therapists who specialize in trauma therapy (Figley, 1995a, 1995 b; Pearlman et al, 1995). Therapists are exposed to the stressors and psychic pain experienced by their clients and also carry the professional burden of being expected to remain open and available to their clients on an emotional level. It is this empathic involvement that sets the stage for the potentially deleterious effects of therapy that impact the professional (Wilson, et al 1993). In the process of learning about the traumatic material of the client and trying to understand and identify with the experience, the therapist may actually experience emotions and other symptoms that are very similar to that of the victim. Dutton et al (1995) categorizes STS reactions/symptoms in three areas: indicators of psychological distress or dysfunction, changes in cognitive schema, and relational disturbances.

Although STS has been the subject of investigation in disaster relief, emergency workers and mental health professionals, few studies have evaluated these responses of those involved in the legal or criminal justice fields. Levin & Greisberg (2003) found that attorneys who worked with victims of domestic violence and criminal defendants experienced high levels of secondary traumatic stress and burnout. Follete, et al (1994) found that police officers reported greater symptoms of psychological distress and mental illness than mental health professionals. Pulido & Lacina (2007) found that attorneys and front-line staff involved in child protective services often experienced symptoms of STS. The symptoms included hyper-vigilance for themselves, families and their clients, intrusive thoughts and avoidant symptoms, such as numbing and denial.

STS symptoms mirror PTSD

“I feel embarrassed that I am having such an upsetting reaction to the violence perpetrated against the mother. I can’t get it out of my mind. Shouldn’t it be the caseworker who has to deal with the family all the time? As the attorney, I have limited contact with her...”

Workers in the domestic violence field may experience strong STS symptoms due to the nature of the traumatic material they are involved with on a daily basis. Attorneys or advocates may experience symptoms mirroring hyper-arousal, avoidance, or intrusiveness of PTSD. As a researcher and a consultant, this author had the opportunity to discuss STS impact with attorneys and front-line staff who work with child abuse and domestic violence clients.

The symptoms of hyper-arousal that were reported were quite strong. In a state of hyper-arousal, one may always feel alert and on the lookout for danger; have trouble concentrating; be very easily startled when someone surprises you and suddenly become irritable or angry. Feelings of anger and irritability were common among practitioners.

“I found I have no patience outside of work. I spend all day being so patient with my client or whoever is on my caseload and some days

it’s so hard. I get home and I can’t hear it. I can’t listen to it, I can’t be bothered with anyone, with my friends - whoever it may be, I can’t. I snap at people. That’s not the type of person that I used to be.”

Others reported that they experienced symptoms of hyper-vigilance – an uncomfortable feeling of “constant watchfulness,” and of regularly being “on guard.” Individuals reported that they now regard others with more suspicion due to the impact of their work. For example, a caseworker who handles sex abuse cases occurring at daycare settings may be more likely to question daycare workers and babysitters more closely. Attorneys working with rape victims may be more attuned to avoiding areas of the city where the rapes occurred.

Symptoms of numbing/avoidance are commonly reported. Individuals try to avoid thoughts, feelings or conversations about the traumatic event; may feel detached or estranged from their colleagues and family, or experience a restricted range of affect. The practitioners reported that they felt “hard” or “immune” as a protective measure so that they would not be impacted by the violent and sad issues on their cases.

“You desensitize. Or just try to avoid - I’ve had people tell me that, that the only way you are going to make it in this career is if you stop thinking ...to stop feeling their pain. But that’s hard.”

Regarding symptoms of intrusion, staff reported feeling that they could “never turn off” from work and that they were regularly haunted by images of cases that stayed with them long after the case was closed, or after they went home from work. Insomnia and trouble staying asleep due to their worries or nightmares about their cases was a common theme. Staff reported feelings of “non-stop worry,” high levels of anxiety and a constant fear that a client might die on their watch.

“It’s not only about the subject matter of the cases. It’s about, did I send out that subpoena? Did I remember to make that phone call? One of my colleagues keeps a pad by her bed so that when she wakes up at 2am - because she forgot to do something - she writes it down so she can go back to sleep. But, the fact that she’s waking up at 2am in the morning is horrible.”

Factors inherent in domestic violence work that contribute to STS risk

The list that follows describes the qualities that are needed by those working in the domestic violence field. Empathy, perseverance, working diligently and giving your all are invaluable assets. These important attributes, combined with the exposure to constant traumatic client cases may heighten STS symptoms.

- Empathy is a valuable tool for staff working with traumatized adults and children. Clients recover in

therapy or following solid casework, because staff are there emotionally for them. However, when staff empathize with a survivor or “feel their pain” they become vulnerable to internalizing the survivor’s trauma-related pain.

- Children’s trauma is especially difficult and provocative for advocates and legal staff. Empathy with a child who has been abused, witnessed domestic violence, or has lost a loved one produces stress.
- There can be a disparity between a worker’s expectations and the realities of the work. This can be true especially for newer attorneys/advocates, who were not anticipating the intensity of the job. It can be difficult to take on the “role” of bearing witness to a client’s pain and discomfort. Training alone cannot prepare a new attorney for the job reality.
- There is often a “divide” between the way attorneys/advocates view their jobs as “helper” “supporter” and “champion” of survivor’s needs, and how they are perceived by some family members of their clients that they encounter. While attorneys/advocates are doing a good and effective job, the family who may not fully understand the seriousness of the abuse, may see them as intrusive or disruptive to the family. This mismatch can create tension and stress for the professional. Legal staff may encounter disbelief or dismissive attitudes from judges, police officers, other attorneys and other community professionals regarding the occurrence of domestic violence, which can be so horrific that it is almost beyond human comprehension. As a result, the attorneys/advocates credibility may be questioned or attacked.
- The combination of being exposed to their client’s abuse and the burden of having to achieve results in a judicial system that is not always sympathetic to survivors also causes stress to the advocate/attorney.
- After handling a case involving immense trauma, staff may feel vulnerable, powerless and ineffective in their work. Often workers may be embarrassed to admit that they are having a difficult time emotionally for fear of being perceived as “weak” or incompetent and may deny or try to conceal feelings. Attorneys/advocates may try to make light of a case or joke rather than admit the types of feelings that they are experiencing.
- Many attorneys/advocates have experienced prior personal losses or trauma of their own, such as domestic violence. The pain of this past experience can resurface during work with domestic violence survivors, exacerbating the STS impact.
- Attorneys/advocates may experience “information overload,” due to insufficient recovery time. This happens when one takes in a lot of information quickly over a short period of time about a client’s horrific

situation. Legal staff may be secondarily traumatized by listening to similar stories over and over without adequate time to recover and process their cases.

- There is a high level of accountability in all areas of legal work assisting domestic violence survivors. Attorneys/advocates may feel a lack of control over their work schedule. Clients, supervisors, the agency demands and public responsibility all contribute to the stress and unavoidable imbalance often experienced by staff.

STS is Different from Burnout

In addition to STS, helping professionals have long been known to experience “burnout.” As opposed to STS that can occur suddenly and without warning, burnout develops gradually due to the accumulation of stress and the erosion of idealism resulting from the combination of intensive contact with clients and lack of institutional support systems. Burnout can be caused by conflict between a person’s values and organizational goals and demands, an overload of responsibility, a sense of having no control over the quality of services provided, awareness of little emotional or financial reward, a sense of loss of community within the work setting and the existence of inequity or lack of respect at the workplace (Maslach & Leiter, 1997).

Burnout syndrome is characterized by physical symptoms such as fatigue, sleeplessness and headaches. Emotional changes include anxiety, irritability, depression and hopelessness. These are similar to STS and therefore lead some people to confuse the syndromes. The major difference is in behaviors. The behavioral manifestations of burnout include: aggression, cynicism, calling in sick, being relieved when clients don’t show up for appointments, substandard work performance, just “getting by.” Burnout fuels significant attrition among professionals working with traumatized populations

In contrast, STS behaviors are quite different. The practitioner works relentlessly for their client, often sacrificing their health and private life to devote more time to the case. The provider is passionately involved in her/his work, and often stays late at the office, skips lunch or breaks to continue her/his efforts to help others. Another difference is that as opposed to quitting the job after feeling “burned out,” there is a quick recovery rate from STS, once the practitioner commences in professional and personal self-care activities.

Monitoring your STS, Burnout and Satisfaction with Work Levels

Professionals who work with traumatized clients may benefit from being able to rate their levels of STS, burnout and satisfaction with their work life. A tool that is commonly used for this purpose is the Professional Quality of Life Scale – Revision IV (ProQOL R-IV), developed by traumatologist Charles R. Figley (1996) and revised by B. Hudnall Stamm (1997-2005). This scale, a self-test, measures three distinct subscales: Compassion Satisfaction, Burnout, and Secondary Trauma. The entire scale consists of 30 questions, with 10 questions in each

subscale. Respondents are asked to rate the frequency in which they've experienced a characteristic or feeling in the last 30 days. Scores are then summed across subscales for three distinct scores. Attorneys and advocates can download this scale at the website <http://www.isu.edu/~bhstamm>.

Knowledge, Recognition and Responding to Secondary Traumatic Stress

In order to prevent or deal with secondary trauma, there are three stages that attorneys/advocates should be aware of in their work life.

Knowledge of STS, is accomplished through the acquisition of information and skills, such as reading this article, taking the ProQOL R-IV self assessment, and attending outside trainings on the subject.

Recognition takes place as the professional is able to identify risk and exposure. The worker will notice personal changes that are not attributable to other factors in their lives and seem to be connected to their work with clients. The personal changes can be in worker's relationships, or in their physical, emotional or spiritual life. Sometimes colleagues, supervisors or friends can help play a role in helping one recognize signs of STS. This stage is accomplished with peer support, supervision and reflection. Recognizing these changes leads to the next step – "Responding."

Responding is the application of skills, accomplished with organizational support, professional peer support and personal self-care. Fortunately, there are ways workers can manage secondary trauma. While secondary trauma can sometimes be prevented, it can always be dealt with and usually resolved.

Interventions that Help

The interventions that can be used to ameliorate the effects of STS can be grouped into four main categories: organizational, professional, personal, and psychological.

Organizational Interventions

Agency leaders are responsible for helping prevent and manage STS. Some steps include: providing training and information to workers on handling STS; providing a healthy work setting that makes the environment as supportive as possible; adequate security precautions for workers both in the office and in the field; and instituting a "buddy system" for workers to offset STS reactions. "Buy-in" from the top down really makes a difference.

Management must ensure that there is adequate supervision for the staff, particularly in times of emergency/crisis cases. Accessibility to supervisors is essential, as they can validate and normalize worker STS reactions, thereby hastening quick recovery. Management must also set good practice policies for overtime compensation, work hours and a regular break schedule. Finally, adequate personnel policies that ensure adequate time off, access to medical and mental health care, and solid insurance coverage for staff are critical.

Professional Interventions

There are steps that attorneys/advocates can take to minimize the impact of trauma-related work.

Balancing the number of hours worked per week and the proportion of the work that is directly trauma related should be taken into consideration when cases are assigned. Attorneys and advocates should also create a work pace that maximizes emotional and physical health, taking time for breaks, lunch and vacation. It's also important to set time boundaries that balance work life with personal life. Another aspect is overworking, common among dedicated professionals. They take on too many responsibilities or take work home, not allowing adequate time to separate from work. Set limits.

Regular supervision for staff conducting high stress work is essential, regardless of their years of experience. It is helpful to receive perspective on a case from someone trusted, or to receive guidance when facing a new challenge. If it's not available at work, look for a mentor. Find other professionals whose work is admired and contact them.

Peer group supervision used for case consultation is helpful. It nurtures collegiality and reduces isolation of the worker. This worker-team concept can also help a professional recognize and acknowledge STS reactions and the toll that exposure to a client's trauma has on a professional. Colleagues can also help peers arrange particularly complex trauma cases into manageable action steps and reduce the overwhelming quality and disorganizing influence of trauma.

Attend professional trainings and subscribe to newsletters or law journals that will enhance knowledge about issues facing trauma survivors, treatment modalities, new case law practice and on-going research in the area. It can be reinvigorating.

Finally, all professionals should develop a workday self-care plan for coping. Plan for time before and after client meetings and for emergencies, such as when a client is suicidal or experiences flashbacks. Work-in time for replenishment.

Personal Interventions

Personal interventions include aspects of physical, social and psychological self-care. Maintaining the health of your body is essential. This includes regular exercise, scheduling and keeping your annual medical and dental appointments, and making sure that you have adequate sleep and nutrition every day. Eat well. Be aware of how your sleeping and eating habits change under stress so that you can monitor them.

Reach out for social support. Talking with others relieves stress. Others may share similar feelings, that both serve to validate your stress reactions and reduce isolation. Support from a licensed clinician through therapy is also recommended.

Social activism is also helpful. Connecting with other advocates about issues impacting domestic violence survivors generates a sense of hope and purpose, and provides a sense of shared

mission. Join professional societies that have an advocacy arm or newsletters/mailings to keep informed and involved.

Psychological Interventions

Your coping capacity is strengthened by maintaining a diversity of activities. Try to have a balance of work, outside interests, social contacts, personal time and recreation. Incorporate relaxation into every day. Some activities to try to include: contact with nature – the change of view gives one a larger perspective of the world; caring for pets; gardening, and engaging in creative expression. Practitioners are so busy they may forget to engage the creative side of self. Artistry, baking, cooking, playing a musical instrument, singing, dancing and sports, all help mitigate STS reactions.

Practitioners often cite spirituality and meditation as helpful in handling STS (Pulido, 2005.) The benefits of meditation can include reduced blood pressure, easier breathing, and muscle relaxation. Spirituality can include participating in an organized religion or simply engaging in activities that bolster positive faith in one's self. Some find comfort in religious groups, others may expand their beliefs in new ways. Finally, humor is a precious commodity. Aim to have a good laugh at least once a day. Laughing can reduce stress and relieve tension and as a coping strategy, it is priceless.

STS is an unavoidable but manageable aspect of advocating for survivors of domestic violence. By selecting a few of the interventions from each category, attorneys and advocates can greatly reduce the negative impact of STS. Attorneys and advocates need to keep themselves strong and energized to continue their heroic and life-saving work with survivors of domestic violence.

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**COMPREHENSIVE ADVOCACY: MEETING A SURVIVOR'S NEEDS
A DOMESTIC VIOLENCE SURVIVOR'S STORY**

Domestic violence can have devastating and long lasting effects on survivors. These effects are often compounded when survivors have no support systems in place. Survivors who receive support from their families and from advocacy organizations within their community are better equipped to move towards a life free of violence. These support systems can help to create a positive outcome by offering comprehensive assistance that is responsive to the survivor's self-defined individual needs.

A survivor of domestic violence shared her story with CSAJ. She received advocacy and legal services from the Women's Resource Center to End Domestic Violence, an LAV grantee located in Atlanta, Georgia.

"How in the hell did you get yourself into that situation?" the voice on the phone inquired. My temporary loss of breath was not what was intended for, the moment the words came through the earpiece, an apology followed. I quickly explained that an apology was unnecessary as I had been asking myself the same question for quite some time.

In September of 2005, I rested for the first time in several years. My decision to leave my husband was the result of a long and agonizing process. What had started as an assault of emotions and words, had recently become more and more physical. The threats to end my life were constant and were justified by him saying that most men would have killed me by now. I had not slept soundly in months because the rants and threats increased in the late night hours. I was worn down. And yet, with all of the physical and emotional badgering it was only when I saw the damage being done to my young children that I knew I had to go. My younger daughter had picked the skin off the bottom of her feet in direct response to hearing her dad yell. My son refused to leave my side, which he later told me was because he was scared his dad would hurt me. My oldest daughter had shoplifted in hopes that her crime would lead her dad to kick her out of the house, her only imaginable way to escape. Somewhere deep inside I understood that while I might not have felt "worth it" I knew the children were, and that in time, I would come to believe the same of myself.

My plan was a bit like a scene from a movie. It was the second week of school and the third day of a new job. The night before I was to leave, my heart pounded as I quickly assembled bags for myself and the two younger children. A neighbor had agreed to let me store our bags in a garage while my husband was out of the house. I balanced the involvement of my sixteen year old with the need to hide my activities from my five and three year old. The next morning, my husband dropped me off at work and then took the kids to school. Unbeknownst to him, my mother had already begun her five hour drive to pick me up. I had no car and little local support but a fantastic mother whose love was as constant as her willingness to help.

When my mother arrived we went to my neighbors home to grab the bags. A risky endeavor considering that my husband did not have a routine 9 to 5 job and could return home at any minute.

We then gathered the children and headed for an emergency safe house for victims of domestic violence. When we arrived, I exhaled just a bit but I knew that my journey had just begun. I was introduced to a legal advocate who took the time to explain the protective order process and helped me complete the paperwork. My little ones were quite comfortable watching movies and eating snacks.

My situation was a bit unique in that my oldest daughter is not my birth child and at that time, I did not have legal guardianship. This meant that at a month shy of 16, she had to file an order against her own father who had raised her since she was three. I did not want to pressure her, and with help from the advocate who took her to her own room, interviewed her, and then let me know that she was confident that my daughter was acting freely, the process seemed much easier. At that point, all that was left was for us both to sign on the dotted line. Shaking, I faced the walk to the courthouse. My daughter seemed so brave. I was thankful that a police officer accompanied us. My fears were momentarily calmed.

The wait seemed never-ending and the crowd at the courthouse made me nervous. When I was called, I sat across the desk from the judge as she read my claim. She questioned why I had waited a week since the last episode of violence. My response was that my plans to leave had been complicated by no transportation and a child who was sick. I waited for what seemed to be an eternity until she agreed to grant the protective order. She gave me the standard talk of the need to stay away from my abuser. Things I knew she needed to say but my mind was convinced that my lack of physical bruises and other evidence made her question my legitimacy.

Back at the shelter, I was ready to leave. My plan was to go to a hotel but I was strongly advised against that and the safe house was recommended. My concern was for the safety of my mother. She had traveled from out of state and we had no other family in the area. The advocate sensed my distress and much to my relief, arranged for my mother to join us. The rest of the night was surreal. Waiting for what seemed to be hours for the police escort, attempting to answer the questions of my little ones, worrying about my teenager who wanted to live at school rather than enter a shelter, entering the shelter and being asked if I was a new volunteer, gauging the reactions to my response that I was a client.

I now know that my month at the shelter was the best decision I could have made. The kids and I had a safe place to relax. I remember my three year-old son saying that he was glad that his daddy could not come there and hurt me. I ate for the first time in months. My emaciated frame filled out and I gathered the physical and emotional strength I needed to begin my journey. On my first day, I went to meet a lawyer. I had stumbled onto Shelley in one of my many calls to local resources. Sitting with her and telling my story bought on a flood of emotion and I cried for the first time in months. Shelley gently listened. She then walked me through the court process and helped me know what to expect.

The next two weeks seemed like an eternity. I worked closely with Shelley and in preparation for court, she helped me role play. My oldest daughter's mother informed me that during her court battles with my husband he had attacked her in an elevator. My anxiety levels heightened. When the court date arrived, Shelley arranged for a police escort into the courthouse and then for me to sit in a separate room. The entire protective order proceeding took place without me having to face the glares of my husband. When it was time to go before the judge, Shelley came to me, explained his position in the courtroom and encouraged me not to look his way. I followed her instructions precisely. I sat, shaking and listening to my husband clear his throat. I was panicked that I would have to get up and speak. I felt weak and mute. I was facing the same judge who had doubted me just two weeks earlier. My heart pounding, I barely heard Shelley say that we could leave. No testimony, no attempts to speak, nothing more was needed. I took a deep breath, walked out of the courtroom and into a new life.

I credit all of those who helped me in this process. The shelter staff connected me to services in the community around me that I never would have known about if I had gone through it alone nor would I have ever had the energy to try to find them. Our family pets were rescued during a police escorted visit to my house and were sent to a wonderful pet-care program where they were loved and cared for until the children and I got settled. My children were connected to a counseling center where their counselor Latisse has helped them to flourish. My son attended a Pre-K program where he went from hiding in the book nook to reading aloud at his Pre-K graduation.

I sit two years later and reflect on my journey. I have surprised myself with my ability to rise above all that has happened. Shelley helped me to navigate the seas of divorce. Again, she was tremendous, combining her in-depth knowledge of the law with compassion and advocacy. I emerged from the process with full physical custody of my children. Shelley has offered many words of wisdom. Her facilitation of the process of assisting my children with seeing their father after one year was invaluable and her advice in the months to follow has been both insightful and practical from encouraging me to continue safety planning to helping me set up financial records which would facilitate any future court proceedings.

I am determined to make something positive out of this experience. I have drawn from the events that unfolded in my life and combined them with my love for adolescents and have forged a path for my dissertation research. I smile as I marvel in the strength and resilience of my children. My teenager opted for what some may call a predictable path and became pregnant at seventeen. She is, however, anything but a statistic as her willingness to explore her own pain expands her ability to love her new son.

I have been quite vocal in sharing my story. The graduate students I teach have been surprised and yet seem grateful for my honesty. I have pushed them to consider their own stereotypes about the women who survive violence. I have a master's degree, an open mind and no exposure to such behavior and yet I found myself in a relationship with a man determined to control me and

who, for the last month of our marriage, threatened to kill me every day. My students have said if this happened to me then it could happen to anyone. If they truly understand this, my task is accomplished. I am hoping the ripple effect will take hold and the more people who are touched by the words of myself and the countless other women who have survived abuse, the less common the problem will become. Until we are all truly outraged that such dynamics continue to exist throughout society, we will all continue to suffer the consequences.

CSAJ EVENTS UPDATE

By Christina New

National Institutes

❖ *Survivor Centered Advocacy for Lawyers: Practicing Ethically and Effectively*

On June 25-26, 2007, CSAJ and OVW hosted a two-day Institute on Survivor-Centered Advocacy for Lawyers, which was held in Philadelphia, Pennsylvania. The Institute focused on using survivor-centered advocacy as a tool to strengthen legal strategies, improve litigation tactics, and enhance the attorney-client relationship. The first session, presented by the staff of CSAJ, provided participants with an understanding of intimate partner violence and the ways in which abusers use control, enforce rules, and behave as parents. The next three sessions focused on Safety Planning. Presenter Jill Davies from Greater Hartford Legal Aid (a Legal Assistance for Victim grantee) spoke about survivor risk analysis and elements of safety planning including assessing danger, responding to life threatening violence, and implementing legal strategies. Caitlin Glass, a CSAJ consultant, and Maria Arias from the CUNY School of Law, presented on the challenges attorneys face in implementing a survivor-centered approach. This session addressed participant questions with a particular emphasis on reconciling the conflicts between a survivor's self-identified needs and the structure of the legal system. It also involved a discussion of attorney and advocate collaborations.

On day two, a panel of survivors told their stories and offered their perspective on: improving the attorney-survivor relationship, accessing community resources, and navigating the legal system. Caitlin Glass and Tracy Davis conducted a brief training on interviewing and listening skills, and faculty facilitated interactive skill building exercises to help participants develop interviewing and legal counseling skills that better support the needs of survivors. The final session of the two days, led by Caitlin Glass and Maria Arias, focused on implementation strategies to avoid "burn out" and to stay effective at work. Topics included: vicarious trauma, developing boundaries, and supervision strategies.

If you would like more information on this Institute or if you would like to receive copies of the materials, please contact Christina New at Christina.csaj@gmail.com.

Teleconferences

❖ *Civil Protection Order Strategies: Satisfying the Relationship Requirement*

On April 26, 2007, CSAJ in partnership with OVW hosted a national teleconference entitled "Civil Protection Order Strategies: Satisfying the Relationship Requirement." Faculty included Tamara Kuennen, Assistant Professor of Law in the Civil Litigation Clinic at the University of Denver College of Law, Ilene Seidman, Clinical Professor of Law at the Suffolk University of Law and the Director of the University's Family

Advocacy Clinic and consultant to the Victim Rights Law Center, a fellow LAV TA Provider, and Erika Sussman, Executive Director of CSAJ.

The teleconference began with an introduction from Erika Sussman, during which she spoke about "relationship requirements" as an issue that is at the core of access to justice for marginalized survivors. Ms. Sussman highlighted the categories of "relationship requirements" in each state and identified common difficulties that marginalized populations face when trying to obtain a protection order. Then, Ilene Seidman discussed strategies for satisfying the "dating relationship" category, with particular emphasis on teen dating relationships and barriers to satisfying the dating requirement where the individual is a victim of sexual assault. Tamara Kuennen then focused upon the "cohabiting relationship" requirement. In doing so, she offered strategies for accessing protection order relief for survivors in same sex relationships. Then, Tamara Kuennen and Erika Sussman focused upon the "related by blood" and "child in common" categories of relationship requirements. Faculty offered effective ways to prepare client testimony as well as specific pre-trial, trial, and post-trial litigation tactics geared toward meeting the relationship requirement. Each portion of the teleconference included time for question and answer and used hypothetical examples to illustrate the strategies for addressing each of the different types of relationship categories.

If you would like more information on this teleconference, technical assistance on protection order cases involving relationship requirements, or the materials from this training, please contact Christina New at christina.csaj@gmail.com.

By Tracy J. Davis

Criminal Law – Legality of Mutual Protection Orders

❖ *Manning v. Willett*¹

This decision comes out of an appellate court in Kentucky. Kimberly Manning obtained a protection order against Charles Willett, the father of her child. Subsequently, both parties were charged with violating the protection order. Mr. Willett entered a guilty plea, which the district court accepted, and the court dismissed the charge against Ms. Manning. However, the district court went on to order, *sua sponte*, a mutual domestic violence protection order. Ms. Manning appealed.² The Marion County Circuit Court reviewed Ms. Manning’s appeal and upheld the trial court’s decision to issue a domestic violence protection order against Ms. Manning. Ms. Manning then appealed.

Citing Kentucky’s protection order statute, the appeals court found that a “court may issue mutual protection orders only if a separate petition is filed by the respondent.”³ The appeals court further stated that the district court misinterpreted the clear meaning of the statute and failed to effectuate the legislative purposes of the statute.⁴ The appeals court’s written opinion demonstrates a relatively thorough understanding of the dynamics of domestic violence and the efforts made by survivors to achieve safety. The court wrote,

[v]iolent relationships are characterized by substantial power disparities that make leaving very difficult, particularly for women with children. Victims courageous enough to take the first step in overcoming all these obstacles by seeking protection orders do not deserve to be subjected to further fear and intimidation by the court.⁵

The appeals court also found that the trial court violated Ms. Manning’s due process rights by issuing a protection order without providing Ms. Manning a hearing.⁶ The appeals court reversed the trial court’s opinion and ordered that the protection order against Ms. Manning be vacated.⁷

Criminal Law – Protections for Unmarried Survivors

❖ *State v. Carswell*⁸

On July 25, 2007, the Supreme Court of Ohio issued a decision in an important case upholding the constitutionality of Ohio’s domestic violence criminal statute. Ohio is one of 18 states with a state constitutional marriage amendment that defines marriage

as a union between one man and one woman. Ohio’s amendment is particularly broad in that it prohibits the state from creating or recognizing a legal status for unmarried individuals that approximates the legal status of marriage.⁹

Ohio’s criminal domestic violence statute states that, “[n]o person shall knowingly cause or attempt to cause physical harm to a family or household member.”¹⁰ The statute includes a provision specifically protecting “a person living as a spouse.”¹¹ The defendant in this case, Michael Carswell, was indicted on one charge of domestic violence under this statute. The victim in the case was Carswell’s girlfriend, with whom he lived. The state intended to argue that the victim had been “living as a spouse” and that she was a “family or household member.”¹² At the trial court level, Carswell successfully argued a motion to dismiss and the court ruled that the domestic violence statute was unconstitutional because it recognized a legal status similar to marriage for unmarried persons.¹³ The court of appeals reversed the trial court’s decision and found that statute did not create a legal status akin to marriage.¹⁴ Carswell appealed to the Ohio Supreme Court.

The Court began its analysis by restating the rule that statutes are presumed to be constitutional.¹⁵ Applying this rule to the statute and amendment at issue in this case, the Court presumed that the drafters of the constitutional amendment and the voters who approved it knew of the domestic violence statute and its purpose.¹⁶ The Court then turned to another principle, created by case law, that requires that in order for a statute to be declared unconstitutional, the statute and the constitutional provisions must be clearly incompatible.¹⁷ The Court focused this part of their analysis on the second part of the constitutional amendment that prohibits the state from creating or recognizing a legal status for unmarried persons that approximates marriage.¹⁸ Specifically, the Court looked at the definition of the word ‘status.’ The Court concluded that the amendment prohibits the state from creating or recognizing a legal status for unmarried persons that “bears all of the attributes of marriage – a marriage substitute.”¹⁹

In analyzing the Ohio domestic violence criminal statute, the Court held that the statute does not create any special or additional rights, privileges, or benefits for family or household members.²⁰ Rather, the Court found that the intent of the statute is to protect individuals from violence by close family members or residents of the same household.²¹ In contrast, the intent of the marriage amendment was to prevent the creation or recognition of

¹ *Manning v. Willett*, 221 S.W.3d 394 (Ky. Ct. App. 2007).

² *Id.* at 394.

³ *Id.* at 397.

⁴ *Id.*

⁵ *Id.* at 399.

⁶ *Id.* at 400.

⁷ *Id.*

⁸ *State v. Carswell*, 871 N.E.2d 547 (Ohio. 2007).

⁹ OHIO CONST. Art. XV, § 11.

¹⁰ OHIO REV. CODE ANN. § 2919.25(A).

¹¹ OHIO REV. CODE ANN. § 2919.25(F)(1)(a)(i).

¹² *Carswell*, 871 N.E.2d at 549.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.* (citing *Desenco, Inc. v. Akron* 706 N.E.2d 323 (Ohio 1999)).

¹⁶ *Id.* at 549-550.

¹⁷ *Id.* at 550.

¹⁸ *Id.*

¹⁹ *Id.* at 551.

²⁰ *Id.* at 553.

²¹ *Id.*

a legal status that approximates marriage.²² Therefore, the Court found that “[t]he statute and the constitution are not in conflict.”²³

The Court ruled that the Ohio domestic violence criminal statute is not unconstitutional.²⁴ On October 19, 2007, Mr. Carswell entered a guilty plea.²⁵

Family Law – Custody

❖ *Puddicombe v. Dreka*²⁶

In this Supreme Court of Alaska case, a mother appealed a trial court’s decision awarding custody to the father in the event that she relocated to Arizona. At trial, the court found that both parties had perpetrated domestic violence, but the court did not address the statutory requirements regarding a finding of domestic violence.²⁷

This case began when Cherish Poole, mother of Sydney Dreka, filed a motion for an ex parte custody award, interim custody, and a restraining order.²⁸ The court denied her motion and scheduled an interim custody hearing. In May 2006, the court granted an interim custody order of 50/50 physical custody and ordered no contact between the parties.²⁹ In August 2006, the court held a trial to establish the permanent orders. At trial, Ms. Poole testified that she recently married a resident of Arizona and planned to move there with Sydney and her other two children from a previous relationship.³⁰ At the conclusion of the trial, the court ordered shared custody if the parties resided in Alaska. If Ms. Poole moved to Arizona, the parties would share custody (month on/month off visitation) until Sydney started school, at which point Sydney’s father, Todd Dreka, would assume primary physical custody and sole legal custody. Ms. Poole would have visitation during schools breaks and summer vacation.³¹ Ms. Poole appealed the trial court’s decision, arguing that the trial court abused its discretion.³²

Alaska’s custody statute requires courts to award custody based on the best interests of the child, which is determined by evaluating nine factors listed in the statute.³³ Among other things, these nine factors include:

the willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child, except that the court may not consider this willingness and ability if one parent shows that the other parent has sexually assaulted or engaged in domestic violence against the

parent or a child, and that a continuing relationship with the other parent will endanger the health or safety of either the parent or the child; and any evidence of domestic violence, child abuse, or child neglect in the proposed custodial household or a history of violence between the parents.³⁴

At trial, Ms. Poole testified that that Mr. Dreka punched her, sexually assaulted her, choked her, and threatened to hire someone to kill her.³⁵ Mr. Dreka also alleged that Ms. Poole punched him once and bit him twice.³⁶ Most of the evidence about the domestic abuse was from the parties themselves. Ms. Poole testified that she bit Mr. Dreka in self-defense. The trial court found that the domestic violence was mutual and that both parties have a substantial anger problem.³⁷

On Ms. Poole’s appeal, the Alaska Supreme Court addressed the issue of whether or not the trial court’s failure to evaluate the two statutory requirements triggered by a finding of domestic violence was an abuse of discretion and plain error. In analyzing the trial court’s decision, the Supreme Court found that the trial court based its decision almost entirely on one of the nine factors – the willingness and ability of each parent to facilitate a relationship between the other parent and the child.³⁸ The Supreme Court ruled that the trial court does not need to discuss each of the nine factors. However, once they do make a finding of domestic violence, the court should explicitly address whether or not once parent is a continuing threat to the health and safety of the other parent.³⁹ On this basis, the Supreme Court ordered the case remanded so that the trial court can make findings as to whether or not Mr. Dreka represents a danger to Ms. Poole or Sydney.⁴⁰

The Supreme Court also addressed the part of the custody statute that creates a rebuttable presumption that a parent with a history of committing domestic violence will not be awarded sole or joint custody of a child.⁴¹ The statute also has provisions for cases in which both parties are found by the court to have committed domestic violence. The Supreme Court found that it was plain error when the trial court failed to “make findings as to whether the domestic violence amounted to a history of perpetuating domestic violence.”⁴² The Supreme Court also remanded the case on this issue and ordered the trial court to make “findings regarding whether each party’s domestic violence satisfied the definition of a history of domestic violence.”⁴³

❖ *Symington v. Symington*⁴⁴

This Supreme Court of Wyoming case involves the determination of jurisdiction in a Uniform Child Custody Jurisdiction and

²² *Id.*

²³ *Id.* at 554.

²⁴ *Id.*

²⁵ Dan Sewell, *Man Who Challenged Domestic Violence Law Pleads Guilty*, CINCINNATI ENQUIRER, Oct. 20, 2007.

²⁶ *Puddicombe v. Dreka*, 2007 WL 2685262 (Alaska).

²⁷ *Id.* at *1.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.* at *3.

³³ ALASKA STAT. § 25.24.150(c) (West 2007).

³⁴ *Id.*

³⁵ *Puddicombe*, at *1.

³⁶ *Id.*

³⁷ *Id.* at *2.

³⁸ *Id.*

³⁹ *Id.* at *3

⁴⁰ *Id.*

⁴¹ *Id.* (citing ALASKA STAT. §25.24.150(g)-(i) (West 2007).

⁴² *Puddicombe*, at *3.

⁴³ *Id.*

⁴⁴ *Symington v. Symington*, 2007 WL 2773837 (Wyo.).

Enforcement Act (UCCJEA) case. Frank and Banu Symington are parents of two children. The couple was married in 1982, and Ms. Symington filed for divorce in 2004, shortly after the couple moved to Wyoming. In January 2005, while the divorce was pending, Ms. Symington moved to Idaho. In May 2005, the district court granted the divorce and awarded Ms. Symington custody of the children, with Mr. Symington having visitation rights.⁴⁵

Shortly after the district court made its order, Ms. Symington and the Guardian Ad Litem (GAL) filed petitions to modify visitation and asked the court to decline jurisdiction. Both Ms. Symington and the GAL argued that Idaho was now the more appropriate forum to hear the case because the children resided in Idaho, went to school there, had friends there, and had a counselor there.⁴⁶ The district court denied these motions.

In August 2006, the GAL filed another motion, this time seeking to be removed as GAL because she has changed jobs and her new job would preclude her from serving as GAL on the Symington case.⁴⁷ Shortly thereafter, Ms. Symington filed another motion asking the court to deny jurisdiction. In this motion, she repeated her earlier arguments that Idaho served as a better forum and added that, with the appointment of a new GAL, this was the appropriate time to transfer the case.⁴⁸ The district court agreed and denied jurisdiction on the basis that Idaho was a more appropriate forum pursuant to Wyoming's UCCJEA statute.⁴⁹

Mr. Symington appealed the district court's decision. The Wyoming Supreme Court analyzed the district court's decision to see if the court had abused its discretion. Reviewing Wyoming's UCCJEA statute and the National Conference of Commissioners on Uniform State Laws's comments on the model UCCJEA, the Wyoming Supreme Court found that the district court did not abuse its discretion when it declined jurisdiction. In affirming the district court's decision to decline jurisdiction, the Court cited many facts, including how long the children had resided in Idaho, the location of the children's school and counseling records, the location of witnesses, and the need to appoint a new GAL.⁵⁰

Family Law – Protection Orders

❖ *Sabbah v. Sabbah*⁵¹

This case comes out of a court of appeals in the Fourth District of California. Ms. Sabbah obtained a protection order against her ex-husband, Mr. Sabbah. Mr. Sabbah filed a motion for a new trial and the trial court denied his motion. He appealed the case.

In December 2005, Ms. Sabbah petitioned the court for a restraining order and an order granting her custody of their children. After a hearing, the court found that Mr. Sabbah had perpetrated domestic violence against Ms. Sabbah and awarded

her sole custody with monitored visitation rights to Mr. Sabbah.⁵² Mr. Sabbah filed a motion for new trial, asserting that he did not understand the impact of the domestic violence action on child custody and that the court was required to give him notice of the custody statute.⁵³ These arguments were based in California's custody statute, which contains a rebuttable presumption against awarding sole or joint physical or legal custody to a person who has perpetuated domestic violence against the other party/parent.⁵⁴ The statute also includes a requirement that in any custody or restraining order proceeding involving an allegation that one party has perpetrated domestic violence against the party, the court shall inform the parties of the existence of the rebuttable presumption statute and give them a copy of the statute prior to any custody mediation.⁵⁵ The trial court denied Mr. Sabbah's request for a new trial.

On appeal, Mr. Sabbah's two arguments were that Ms. Sabbah failed to meet her burden in showing that he committed domestic violence and that the trial court erred when it ruled that he was not entitled to notice under the custody statute. The appeals court found that there was "substantial evidence" supporting the court's finding that Mr. Sabbah perpetrated domestic violence. In discussing whether or not the custody statute required that the parties receive notice of the statute, the appeals court acknowledged that the statute was ambiguous – requiring notice in "any custody or restraining order proceeding," but also mandating that a copy of the statute be given to the parties "prior to any custody mediation."⁵⁶ To resolve some of this ambiguity, the appeals court reviewed the legislative history of the custody statute and found two previous versions of the bill. The legislative history also included the Senate Judiciary Committee Analysis, which stated that in custody mediation, many battered victims and their children were not benefiting from the rebuttable presumption because mediators did not make them aware of it.⁵⁷ In these cases, survivors agree to joint parenting without knowing that there is a presumption against awarding a batterer custody.

The appeals court read the previous versions of the bill with the committee analysis to conclude that it was the legislature's intent to ensure that parties in custody mediations be informed of and provided with a copy of the custody statute. Given the appeals court's interpretation of the notice requirement in the custody statute, it was ruled that Mr. Sabbah was not entitled to notice of the rebuttable presumption provision of the statute. The trial court's judgment awarding Ms. Sabbah custody was affirmed and she was awarded costs on appeal.⁵⁸

⁴⁵ *Id.* at *1.

⁴⁶ *Id.*

⁴⁷ *Id.* At the hearing on the GAL's motion to withdraw, the GAL testified about the heavy workload and time commitment required by this case.

⁴⁸ *Id.*

⁴⁹ *Id.* at *2, citing WYO. STAT. ANN. § 20-5-307 (West 2007).

⁵⁰ *Id.* at *4.

⁵¹ *Sabbah v. Sabbah*, 151 Cal. App. 4th 818 (2007).

⁵² *Id.* at 821.

⁵³ *Id.*

⁵⁴ Ann. Cal. Fam. Code § 3044(a) (West 2004).

⁵⁵ Ann. Cal. Fam. Code § 3044(f) (West 2004).

⁵⁶ *Sabbah*, at 824.

⁵⁷ *Id.* at 825.

⁵⁸ *Id.* at 826.

UPCOMING CSAJ TRAININGS:

HOUSING AND CONSUMER ISSUES INSTITUTES

JANUARY 15TH-16TH, 2008

THE WESTIN ALEXANDRIA

ALEXANDRIA, VA

TELECONFERENCE – INTERSTATE CUSTODY

SPEAKERS: DARREN MITCHELL & DEBORAH GOELMAN

JANUARY 31, 2008, 1-3PM EST

For more information on these CSAJ trainings or to register,
please call 202.265.0967.

Center for Survivor Agency and Justice Website Announcement

www.csaj.org

CSAJ is thrilled to announce the launch of our official website!

The CSAJ website provides extensive resources useful to attorneys and advocates who work with survivors of domestic violence, sexual assault, stalking, and dating violence. The website contains a password-protected Legal and Advocacy Resource Library that includes: sample briefs and motions, case law summaries, social science research, interdisciplinary articles on civil legal remedies for survivors, listserve archives, materials from all CSAJ Institutes and Teleconference Trainings, and past issues of the Advocate's Quarterly Newsletter. Also, the website allows you to learn more about our work, access information about upcoming CSAJ trainings and events, and submit technical assistance inquiries online.

You can find the CSAJ website at: www.csaj.org. To access the LAV Legal and Advocacy Resource Library, you will need your LAV grant ID # and a password, which we will assign to you. To obtain your password, contact Christina New at Christina.csaj@gmail.com.



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WELCOME TO CSAJ ::

We have exciting news! Since its inception in the year 2000, LAPTOP has operated as a project of the Pennsylvania Coalition Against Domestic Violence. In October of 2006, LAPTOP established itself as a separate organization, with a new name: *The Center for Survivor Agency and Justice*.



The Center for Survivor Agency and Justice is a national organization dedicated to enhancing advocacy for survivors of oppression-based intimate partner violence. We strive to meet this goal by cultivating a community of attorneys and advocates who are skilled in survivor-centered advocacy and capable of meeting the entire spectrum of civil legal assistance needs of survivors through their own advocacy and in partnership with others. The Center for Survivor Agency and Justice will continue to serve as a technical assistance provider for the network of over 200 Legal Assistance for Victims (LAV) grantees across the nation. In future years, we will expand our vision to include all advocates and to encompass all types of oppression-based interpersonal violence. We look forward to drawing upon our substantial network of grassroots advocates and national experts to forge new ground within the movement. As we take this work to the next level, we are committed to maintaining our survivor-centered focus, instilled by our movement leader and project founder, Barbara J. Hart.

TRAINING ANNOUNCEMENTS ::

January 15, 2008
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