



National Indigenous Women's Resource Center
National Resource Center to Enhance Safety of Native Women and their Children

April 10, 2013

Sexual Assault Awareness Month

Facilitated by

Paula Julian

NIWRC Program Specialist



Intimate Partner Sexual Abuse: The Hidden Dimension of Domestic Violence

National Judicial Education Program
Legal Momentum



Webinar
Presented by Lynn Hecht Schafran
Director, National Judicial Education Program
for the
National Indigenous Women's Resource Center
April 10, 2013

Question

“If a partner is controlling, abusive, and violent in the kitchen, the living room, and in public, why would he stop the abuse at the bedroom door?”

- Hon. Jeffrey Kremers, Chief Judge,
First Judicial Administrative District, Milwaukee, WI

Web Course

*Intimate Partner Sexual Abuse:
Adjudicating This Hidden Dimension of
Domestic Violence Cases*

Available Free at
www.njep-ipsacourse.org

Self-Test Question

- According to the 2010 National Intimate Partner and Sexual Violence Survey:
 - What percentage of U.S. women have been raped by an intimate partner?
 - What percentage of U.S. women have been subjected to sexual violence other than rape by an intimate partner?
 - What percentage of U.S. men have been subjected to sexual violence other than rape by an intimate partner?

2010 National Intimate Partner and Sexual Violence Survey*

“Nearly 1 in 10 women in the United States has been raped by an intimate partner in her lifetime.”

*Michele C. Black , et al., National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, THE NATIONAL INTIMATE PARTNER AND SEXUAL VIOLENCE SURVEY(NISVS): 2010 SUMMARY REPORT at [http://www.cdc.gov/ViolencePrevention/pdf/NISVS_Report2010-a.pdf](http://www.cdc.gov/ViolencePrevention/pdf/NISVS_Report2010-a.pdf;);

2010 National Intimate Partner and Sexual Violence Survey

- 9.4% of women have been raped by an intimate partner (over 11 million women)
- 16.9% of women have been subjected to sexual violence other than rape by an intimate partner (nearly 19 million women)
- 8.0% of men have been subjected to sexual violence other than rape by an intimate partner (approximately 9 million)

Question

“If a partner is controlling, abusive, and violent in the kitchen, the living room, and in public, why would he stop the abuse at the bedroom door?”

- Hon. Jeffrey Kremers, Chief Judge,
First Judicial Administrative District, Milwaukee, WI

Marital Rape Exemption

- The first state to eliminate the complete marital rape exemption did so in what year?
- The last state to eliminate the complete marital rape exemption did so in what year?
- How many states still have partial exemptions in their laws?

It is important to be aware of all the manifestations of intimate partner sexual abuse and understand them as:

- An aspect of domestic violence
- An assertion of power and control
- Factors for risk assessment
- Behaviors to be addressed in victim services, prevention education, batterer intervention programs and sex offender treatment

What is Intimate Partner Sexual Abuse/Assault?

- A continuum of behaviors ranging from degrading language to torture
- Victims may be coerced into sexual activity or denied control over their reproductive health through
 - Verbal coercion
 - Threats against themselves or others
 - Financial or other extortion
 - Physical violence

Intimate Partner Sexual Abuse

- Includes insensitive, critical or degrading behavior relating to sex and sexuality
 - Using sexually degrading names
 - Pressuring or forcing the victim to dress a certain way to please/attract other men
 - Accusing victim of having affairs, flirting, dressing provocatively, or coming on to others
 - Punishing victim for attracting attention of others; checking underwear for signs of sex

Reproductive Health Issues

- Coercing sex without protection against pregnancy or sexually transmitted infections
- Coercing pregnancy
- Attacking partner when she becomes pregnant
- Coercing abortion

Extorting Sex in Exchange for Necessities

- Demanding sex in exchange for money for necessities (e.g., food for children)
- Refusing to pay child support without sex
- Refusing essential medical transportation without sex

Pornography and Trafficking

- Making victim view, imitate, or participate in pornography
- Trafficking the victim

Forced Sex Acts

- Forcing vaginal, oral or anal sex
- Forcing physically painful sex
- Forcing sex in front of children
- Forcing sex with or in front of others
- Forcing sex with children
- Forcing sex with animals

Battering in Relation to Sex

- Battering before, during or immediately after sex
- “Apologizing” after a battering incident by coercing sex

Who Are the Victims?

- Women of all races and economic backgrounds
- Teens
- Elders
- Children
- Same-Sex Partners

Who Are the Victims?

"Any woman is a possible object of violence. What differs is not the woman, but the man. If the man is sexually abusive, he will victimize any woman with whom he lives or has lived."

– Walter S. DeKeseredy & McKenzie Rogness, *Separation/Divorce Sexual Assault: The Current State of Social Scientific Knowledge*, 9 AGGRESSION AND VIOLENT BEHAVIOR 675 (2004)

Self-Test Question

A study of 148 Houston women seeking orders of protection sought information about IPSA using behaviorally-based questions.

- What percentage of these women reported sexual as well as physical abuse to researchers?
- What percentage of those reporting IPSA listed it in their protection order petitions?

Houston Study

- A diverse group of 148 women seeking orders of protection for physical abuse
- Researchers used a conservative definition of sexual abuse and asked only behaviorally-based questions

Houston Study

- 68% of the 148 women reported sexual abuse in addition to physical violence
- 15% attributed sexually-transmitted infections to the sexual abuse
- 20% had a rape-related pregnancy
- High levels of posttraumatic stress disorder
- None of the women mentioned sexual abuse in their protection order petitions

Barriers to Reporting

- Fear of the abuser
- Overwhelming trauma
- Shame
- Denial
- Credibility concerns
- Ignorance of the law

Barriers to Reporting

- Religious Constraints: Some religious groups persist in the view that a man has absolute right of access to his wife's body
- Religious leaders may pressure abused women to stay in abusive relationships.

Religious Constraints

"Being Catholic, I talked to a priest who said I should go back if he [her husband] says he's sorry...You feel compelled to keep the marriage together, and yet his behavior really dissolves [sic] you of that responsibility because he raped you."

-Quoted in Raquel Kennedy Bergen, WIFE RAPE (1996).

Religious Constraints

“Violence in marriage is generally condemned, but when it does happen, the religious community offers no clear consequences for the abuse. Furthermore, the Islamic religious community tends to condemn any woman who seeks legal protection from an abusive spouse. Her actions are considered disloyal to the husband and the family.”

-Ruksana Ayyub, “Many Faces of Domestic Violence” ed: Shamita Das Dasgupta, *Body Evidence: Intimate Violence Against South Asian Women in America* (2007)

Barriers to Reporting: Racial and Cultural Issues

"Issues of race and culture can impact the victim's decision because she may be more worried about how the police will treat a man of color than she is about her safety. Victims of color report being forced to choose between gender and race in deciding whether to use the criminal justice system for relief. Most feel that their survival dictates siding with race..."

-Professor Sarah Buel, *Fifty Obstacles to Leaving, a.k.a. Why Victims Stay*, THE COLORADO LAWYER 19 (October 1999)

Issues for Immigrants

- Many immigrant populations in the U.S. retain the cultural and religious practices of their homelands. Because of strong gender role ideologies, marital rape may be more acceptable in other world cultures.
- Language barriers and problems with interpreters

Issues for Immigrants

Deportation Concerns

- Rape is a deportable "crime of domestic violence," a "crime involving moral turpitude" and an "aggravated felony" under the Immigration and Naturalization Act of 1952.
- Immigrant victims of intimate partner sexual abuse often fear that they must choose between staying in abusive relationships or losing their legal immigration status if they leave their partners.

Barriers to Reporting: Sexual Orientation and Gender Identity Concerns

- Services are based on a heterosexual conception of relationship violence and traditional gender roles
- Concerns about homophobia
- Not wanting to promote negative stereotypes
- Fear of not being believed

Barriers to Reporting: Inadequacy of Victim Services

- Sexual assault and domestic violence victim service agencies often view themselves as serving distinct populations
- Few shelters and rape crisis centers provide specific training on marital rape and intimate partner sexual abuse to advocates and volunteers

Inadequacy of Victim Services

- 2005 study of battered women's shelters*:
 - Only 31% of battered women's shelters and 49% of rape crisis centers provide training on marital rape
 - Only 55% of battered women's shelters and rape crisis centers ask about victims' experiences with intimate partner sexual abuse

*Raquel Kennedy Bergen & Elizabeth Barnhill, *Marital Rape: New Research and Directions*, VAWnet (2006).

Inadequacy of Justice System

- Lack of training for law enforcement, prosecutors, judges and court personnel on intimate partner sexual abuse, e.g., prevalence, impact, and implications for risk assessment
- Hostile environment discourages disclosure

Self-Test Question

- In a study of 229 men participating in a Northeastern batterers intervention program, what percentage answered “yes” to behaviorally-based questions about whether they had engaged in specific types of conduct that met the legal definition of rape or sexual assault?
- What percentage of men answered “yes” to the question “Have you ever sexually abused your partner?”

Study of Men in a Batterers Intervention Program in a Northeastern City

- 229 diverse men completed a questionnaire that included specific behaviorally
- 53% answered “yes” to questions about conduct that met the legal definition of rape or sexual assault in the program’s state
- 8% answered “yes” to the question- “Have you ever sexually abused your partner?”

*Raquel Kennedy Bergen & Paul Bukovec, *Men and Intimate Partner Rape: Characteristics of Men who Sexually Abuse Their Partner*, Vol. 10 JOURNAL OF INTERPERSONAL VIOLENCE 1375 (2006)

Study of Men in a Batterers Intervention Program in a Northeastern City

15% of the entire sample and 25% of the husband rapists said they frequently forced their partner to have sex after a fight, using sex as a way to “repossess women after a confrontation or to illogically try to ‘make things better’.”



Graham Barnes

Team Leader
Training and Resources
The Battered Women's Justice Project
Minneapolis, Minnesota

“Until I had worked with men who batter for three to five years, I had no idea that the level of sexual assault within domestic violence relationships was so high. I had to hear these stories from the facilitators of the women's partner group before I realized that most of the women partners are also being sexually assaulted.”

Offenders

- Perpetrators use sexual abuse to punish their partner
- Perpetrators often feel a sense of entitlement to have sex with their "property."
- "I remember one time he [her husband] told the judge, 'That's my wife, you can't tell me what to do with her.'"
 - Raquel Kennedy Bergen, WIFE RAPE: UNDERSTANDING THE RESPONSE OF VICTIMS AND SERVICE PROVIDERS (1996).

Assessment and Treatment of Offenders

- Assessments of batterers often fail to assess for intimate partner sexual abuse
- Many batterer intervention programs do not address intimate partner sexual abuse
- Many sex offender treatment programs do not address sexual abuse in the domestic violence context

Victim Impact

What is the biggest myth about marital rape?

Rebel



Rebel
Domestic Violence

Risk Assessment

- Sexual assault co-perpetrated with physical abuse heightens the risk of escalating violence and lethality for the victim and her children
- It is essential to know whether there is sexual violence in an abusive relationship in order to undertake informed risk assessment, provide appropriate services for victims and intervene appropriately with offenders

Separation is the Most Dangerous Time

- Widespread but mistaken belief that if the battered woman would just leave, the violence would end
- The batterer is outraged about losing control
- Most of the worst physical and sexual violence and most murders are perpetrated at or after separation

Seven Types of Potential Lethality

Femicide: Will the abuser kill his victim?

Child Murder: Will the abuser kill the couple's children?

Third Party Lethality: Will the abuser kill a third party?

Familicide: Will the abuser kill his victim, his children and himself?

Suicide: Will the victim kill herself?

Suicide: Will the abuser kill himself?

Will the victim kill the abuser?

Femicide

On average each day in the U.S. more than three women are murdered by their current or former husbands or boyfriends

Research documents that sexual assault in an intimate partner relationship is a leading indicator of potential lethality

11-city study of actual and attempted domestic violence femicides found that in 57% of these cases there was intimate partner sexual assault*

*Jacquelyn Campbell, et al, *Risk Factors for Femicide in Abusive Relationships: Results from a Multisite Case Control Study*, 93 AMERICAN JOURNAL OF PUBLIC HEALTH 1089 (2003)

Femicide

Taking all risk factors into account, a batterer who subjects his partner to forced sex in addition to physical violence is twice as likely to kill her as a batterer who subjects his partner to physical violence only.

- Jacquelyn Campbell, et al, *Risk Factors for Femicide in Abusive Relationships: Results from a Multisite Case Control Study*, 93 AMERICAN JOURNAL OF PUBLIC HEALTH 1089 (2003)

Femicide

In the Houston study cited previously in which 68% of the women were being both physically and sexually abused, the sexually-abused women reported more of the risk factors for femicide, such as strangulation and threats to children, than did those being subjected to physical abuse only.

Judith McFarlane & Ann Malecha, *Intimate Partner Sexual Assault Against Women: Frequency, Health Consequences, and Treatment Outcome*, 105 AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS 99 (2005)

“There was no greater divergence in what victims and perpetrators reported than in the area of sexual violence. If we are to believe the killers, none of them had ever been sexually violent or even coercive to the women they killed...The victims of abuse painted a very different picture. Nearly three-fourths of the women [who survived a near-murder] said their abusive partners had raped them.”

– David Adams, *WHY DO THEY KILL?* (2007) at 171-172.

Risk Assessment: Custody and Visitation Implications

"[T]he sexual abuse of a parent has been seriously neglected – despite its potentially severe traumatic impact on children and association with greater risk to the safety and well-being of children and adult victims."

- Kathryn Ford, *Children's Exposure to Intimate Partner Sexual Assault*, 3 SEXUAL ASSAULT REPORT 15 (2007).

Risk Assessment: Custody and Visitation Implications

"[A] history of sexual assaults against the mother...[is] linked to increased risk of sexual abuse of the children and increased physical danger."

- Lundy Bancroft, "Assessment of Risk to Children from Visitation with a Batterer," UNDERSTANDING THE BATTERER IN CUSTODY AND VISITATION DISPUTES (1998).

Recommendations

- Urge state lawmakers to repeal the remaining marital rape exemptions
- Write to media professionals who mistakenly use the language of consensual sex to describe sexual assault
 - A Nevada judge created a guide for the media re how to cover domestic violence cases

Recommendations

Victim Services Agencies:

- Increase cross-training opportunities between organizations that serve battered women and those that serve rape victims
- Ensure that intake forms and risk assessment instruments used with domestic violence victims include behaviorally-based questions about intimate partner sexual abuse

Recommendations

Justice System Employees and Judges:

- Education programs for court personnel and judges who handle domestic violence cases should ensure that all are aware of:
 - The high incidence of intimate partner sexual abuse in the context of domestic violence;
 - the many forms intimate partner sexual abuse can take;
 - the implications for victim trauma;
 - the implications for risk assessment;
 - the services victims need;
 - the interventions necessary with offenders.

Recommendations

Justice System Employees and Judges:

- Create a court environment in which victims perceive they will be respected if they disclose intimate partner sexual abuse
- Ensure that court intake forms and risk assessment instruments used with domestic violence victims include behaviorally-based questions about intimate partner sexual abuse
- Maintain a secure waiting area for victims in the courthouse outside of the courtroom
- Use behaviorally-based questions to ask domestic violence victims about intimate partner sexual abuse

Recommendations

In Criminal Cases:

Justice System Employees and Judges:

- Allow a thorough voir dire to identify and excuse jurors who cannot deliberate fairly in a case involving marital rape or intimate partner sexual abuse.
- Admit expert testimony when needed
- Work with Department of Corrections and Probation and Parole to ensure that treatment programs in prison and in the community address the intersection of sexual abuse, physical violence and coercion and control

Web Course

*Intimate Partner Sexual Abuse:
Adjudicating This Hidden Dimension of
Domestic Violence Cases*

Available Free at
www.njep-ipsacourse.org

Contact

Lynn Hecht Schafran
Director

National Judicial Education Program

Legal Momentum

395 Hudson Street

New York, NY 10014

(212)-413-7518

lschafran@legalmomentum.org

www.njep.org

QUESTIONS/COMMENTS
PLEASE GIVE US YOUR FEEDBACK ON
SURVEY AFTER THIS WEBINAR

Thank you!

*Together we will increase safety for women
and children*

*Together we are the movement to increase
Native Women's safety!*