

NOTICE

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Evidence-Based Prosecution in the Aftermath of *Crawford v. Washington*

By Casey Gwinn, JD, San Diego City Attorney

Recently, the United States Supreme Court created major concerns around the country for domestic violence and child abuse prosecutors with its ruling in *Crawford v. Washington*, 124 S. Ct. 1354 (2004). In cases where the witness is unavailable at trial and has never been subjected to cross-examination, *Crawford v. Washington* establishes that the introduction of a statement made during a police interrogation violates the Confrontation Clause. This ruling may impact evidence-based prosecutions of domestic violence cases — unless prosecutors are diligent in understanding *Crawford* and in distinguishing the ruling from the well-established hearsay exceptions that support most evidence-based domestic violence prosecutions around the country.



Published decisions interpreting *Crawford* are already being seen around the country, and they continue to support admissibility of many of the statements relied upon in those domestic violence prosecutions conducted without the testimony of the victim in the prosecutor's case in chief. In the aftermath of *Crawford*, prosecutors in the San Diego City Attorney's Office - Domestic Violence Unit (DVU) have been successfully advocating for the admissibility of excited utterances and other crucial evidence. San Diego's pleadings demonstrating how to admit non-testimonial statements are being shared with other prosecutors around the country; the motions are available on our website, at www.sandiegodvunit.org.

The key advocacy issue for evidence-based prosecution initiatives will be to establish that most hearsay evidence is not "testimonial" under the concepts

VAWA Turns Ten See page six for photos and more!

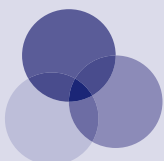


Pat Schroeder, former Representative of Colorado, and Debby Tucker, Executive Director of the National Center and cofounding chair of the National Network to End Domestic Violence (and then Executive Director of the Texas Council on Family Violence) share a smile at a reception in 1994 honoring the sponsors of the Violence Against Women Act.

discussed in *Crawford*. In fact, many of the key statements of victims and children witnesses in domestic violence cases are not the result of "interrogation" and should not run afoul of *Crawford*. In addition, the DVU is evaluating how it might introduce legislation in California to circumvent *Crawford* given the language in *Crawford* about "state's rights," specifically a state's right to determine its own trustworthy and historical hearsay exceptions. For example, if a dying declaration is still trustworthy, the same rationale can apply to an excited utterance.

In the alternative, prosecutors need to be reminded that simply because a victim must be available does not mean she has to be put on the stand or forced by the prosecution to testify. The defense has had and continues to have the ability to subpoena the victim to testify in their case. If the prosecution subpoenas the victim but does not put her on the stand, she is available and subject to cross-examination by the defense if they choose to call her. However, in California a victim's failure to appear does not subject her to a jail sentence. The victim is statutorily protected from re-victimization.

— continued on p. 5



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The National Center on Domestic and Sexual Violence designs, provides, and customizes training and consultation; influences policy; promotes collaboration; and enhances diversity with the goal of ending domestic and sexual violence.

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Bush Administration Provides \$20 Million to Establish Family Justice Centers Nationwide

A pilot program known as the President's Family Justice Center Initiative will soon establish domestic violence victim service and support centers around the country. A Bush administration initiative, the program will provide \$20 million in Fiscal Year 2004 to create Family Justice Centers in 15 communities (see below), with the goal of making services for victims and families more accessible.

Serving as the model for the Initiative is the City of San Diego. October 2002 marked the official launch of the San Diego Family Justice Center, a dream of City Attorney Casey Gwinn's since 1989. The dream became a reality when Gwinn teamed up with Police Chief David Bejarano — the Center was a combined effort of the San Diego City Attorney's Office, the San Diego Police Department, and the city's Domestic Violence Council. It brings together about 100 domestic violence professionals who work in the same building to improve the response to domestic violence in the San Diego area.

Victims of domestic violence in the city now need only become familiar with a single location to get support and services, such as: talking to an advocate or a police officer, obtaining a restraining order, planning for their safety, meeting with a prosecutor, and receiving medical assistance, counseling from a chaplain, help with transportation, nutrition information, or pregnancy counseling.

The Office on Violence Against Women (OVW), part of the Department of Justice, will administer and manage the Initiative. Community officials will work in collaboration with their local legal aid and direct-service organizations to streamline the provision of services to victims of domestic violence. The 15 communities receiving these grants are:

County of Alameda
Oakland, California
Family Violence Law Center

Bexar County
San Antonio, Texas
Texas Rio Grande Legal Aid

City of Boston
Boston, Massachusetts
Greater Boston Legal Services

Defiance Municipal Court
Defiance, Ohio
Legal Aid of Western Ohio

County of Erie
Buffalo, New York
Neighborhood Legal Services, Inc.

Hillsborough County
Tampa, Florida
Bay Area Legal Services

City of Knoxville
Knoxville, Tennessee
Legal Aid of East Tennessee, Inc.

City of Nampa
Nampa, Idaho
Idaho Legal Aid Services

City of New York
Brooklyn, New York
Sanctuary For Families, Inc.

Ouachita Parish Police Jury
Monroe, Louisiana
Legal Assistance for Victims

Sitka Tribe of Alaska
Sitka, Alaska
Alaska Network on Domestic Violence and Sexual Assault

Somos Familia Family Institute, Inc.
Las Vegas, New Mexico

St. Joseph County
South Bend, Indiana
Legal Assistance for Victims

City of St. Louis
St. Louis, Missouri
Legal Services of Eastern Missouri, Inc.

City of Tulsa
Tulsa, Oklahoma

Learn more about the San Diego Family Justice Center by visiting www.familyjusticecenter.org. More information about the President's Family Justice Center Initiative and other OVW efforts is available at www.ojp.usdoj.gov/vawo.

JAG training a "home run"

National Center Training Director, Juliet Walters, and Executive Director, Debby Tucker, recently delivered a domestic violence training for Air Force Judge Advocate Generals (JAGs) and victim witness coordinators. In developing and presenting the curriculum, they worked with JAG school staff to solicit the involvement of several experts: Jennifer Woods and Bakeba Thomas from the Alabama Coalition Against Domestic Violence; Captain James B. Norman of the U.S. Navy JAG Corps; Major Melissa A. Saragosa and Major Jim Whitworth of the Air Force; Ulester Douglas, M.S.W., of Men Stopping Violence, in Decatur, GA; and Timothy E. Campen of the City Attorney's Office and the Family Justice Center of San Diego.

The training lasted three and a half days, during which students gained a greater understanding of domestic violence and reflected upon their thinking about the issue.

Student feedback expressed enjoyment of the workshop, and Colonel Thomas Strand, Commandant of the JAG school, was also pleased. Colonel Strand commented, "Superb program. I'd hoped for a single or a double, and your team hit a home run." Based on the success of this training, the National Center hopes to do another in the coming year.

Collaborating to train military chaplains and law enforcement officers

The National Center is working with the FaithTrust Institute, in Seattle, WA, to train chaplains in all branches of the military. Chaplains are presented with the issues and appropriate responses so they will be more sensitive to victims and more able to hold offenders accountable.

The first training was conducted this spring, and two more are scheduled in the next year, funded by the Office on Violence Against Women (OVW) and the Department of Defense (DOD). The National Center worked with FaithTrust to develop the curriculum, present the course, and handle the registration and logistics. Tucker worked closely with the FaithTrust's Rev. Marie Fortune and with Douglas at Men Stopping Violence.

Since October 1, 2003, with the Federal Law Enforcement Training Center, the National Center has conducted four weeklong trainings for military and civilian law enforcement, advocates, and prosecutors. Trainings were held at McChord Air Force Base in Tacoma, WA; Langley Air Force Base in Norfolk, VA; Pearl Harbor Naval Station, in Honolulu, HI; and at Naval Station San Diego, in San Diego, CA.

According to Tucker, "A significant aspect of the vision of the Defense Task Force on Domestic Violence (DTFDV) is that military prevention and intervention strategies evolve by collaborating with civilians also working to end violence against women. The commitment of OVW's Diane Stuart to work with John Molino at DOD and the various national training and technical assistance providers on disseminating new information to military professionals and the civilian communities adjacent to installations has resulted in many being exposed to the vision and recommendations of the DTFDV. This has been wonderful."

Civilians and military work together on a coordinated community response

At the invitation of the Battered Women's Justice Project (BWJP), in Minneapolis, MN, the National Center is working on the Coordinated

Community Response Demonstration Project, an 18-month project funded by OVW and DOD.

The project will conduct parallel assessments of civilian/military responses and focus on civil and criminal justice intervention, medical response, and services for victims and their children and perpetrators. Two models will be developed from the experiences of two jurisdictions in the project, each located

near a sizable military installation, where significant numbers of these cases are handled annually and issues relating to civilian/military coordination arise on a regular basis.

The participating jurisdictions are: Jacksonville, FL, with its two naval stations, and the Army's Fort Campbell near Hopkinsville, KY and Clarksville, TN. The project director is BWJP's Connie Sponsler. Bobb Stein, former Executive Director of the DTFDV, is also assisting with the project.

National Center Training Director testifies before Congress

The public's attention to sexual violence in the military is refocused now due to the approximately 118 reports of sexual assault from victims in Iraq, Kuwait, and Afghanistan. Juliet Walters testified on sexual assault prevention and response in the armed forces on June 3 for the House Armed Services Subcommittee on Total Force.

Walters responded to the recent report issued by the DOD Task Force on Care of Victims of Sexual Assaults. She urged the DOD to "develop responsive, supportive services for victims of sexual assault" and to "eradicate sexual predators in our military." "We need a military," she concluded, "that understands violence against women, actively seeks to end it, and steps up as a leader to collaborate with us."

You can read Walters' testimony and view the supplemental materials she submitted at www.ncdsv.org. Click on News, then on NCDSV in the News, and then scroll down to June 2004. You can also view the report itself at the National Center site — click on Resources, then Publications, then on Military (in left column), and scroll down to the Sexual Violence section.

Spreading the Word

The National Center reaches out to military communities across the country

Most everyone agrees that language is powerful. The words we use have meaning, and that meaning informs how we and those who hear us think, feel, and act. When there are multiple phrases used to refer to something as sensitive as sexual violence, it gets confusing quickly. Why say “non-stranger” rape instead of “date” or “acquaintance” rape? Here’s the simple, but important, reason: it’s a more accurate description.

People routinely treat sexual violence committed by an acquaintance or on a date as less serious than a rape or sexual

ward right away; and that victims typically tell someone else prior to reporting the incident to law enforcement.

Another important element in the proper investigation of non-stranger sexual assault is understanding how to investigate for force. Most non-stranger incidents do not involve weapons or visible bodily injuries. Force can be and is exerted through the use of intimidation — physical (body weight, threats, pinning arms and wrists, placing a forearm across the neck or throat) or



TALKING ABOUT SEXUAL VIOLENCE

The power of words

by Juliet Walters, MMFT, National Center Training Director

assault committed by a stranger. Even if we don’t intend to discount these occurrences, there’s something about the phrases “date rape” and “acquaintance rape” that undermine the severity of these crimes.

One important step in countering this undermining process is striving to be intentional with the language we use. The term “non-stranger rape/sexual assault” describes what happened and by whom — without the accompanying judgments that the other phrases have wrapped up in them.

The newer phrase is also a more inclusive one. It includes any sexually violent act committed by a person the victim knows or can identify. The perpetrator could be a family member, friend, coworker, boyfriend, husband or ex. The victim may or may not have a past or current relationship with the perpetrator.

Perpetrators that have some kind of social relationship with their victim are less likely to be viewed as serious criminals. This is incredibly dangerous. These criminals typically aren’t held accountable by society or their community for their actions. In addition, because they’re not usually prosecuted and removed from the community, they’re free to continue to commit sexually violent acts, creating new victims.

Consent defense

Prior to the advent of DNA evidence, most accused perpetrators would simply claim as their defense that they didn’t do it; this is known as the identification defense. As a result, law enforcement spent much of its energy identifying the perpetrator. With the use of DNA, we are seeing the defense of consent used with much, much greater frequency. For example: “Yes officer, we had sex, but she consented.”

Investigators who do not know how to investigate around consent or the lack thereof miss the opportunity to hold a perpetrator accountable for his crime. To investigate consent properly, investigators must understand the dynamics of sexual assault. They must understand, for example, that: the majority of sexual assaults and rapes are committed by a non-stranger, in someone’s home; that alcohol and drugs are often ingested; that victims typically do not come for-

mental — in an effort to subdue the victim.

Submission is not the same as consent. A victim might choose to submit to a perpetrator *instead of fighting back* in order to survive an attack. For an investigating officer, it’s important to ask the victim what she was thinking and feeling during the assault — many times a victim will say, “I thought he was going to kill me,” or, “I thought I was going to die.” In addition, shock and disbelief have a tremendous impact on how a victim responds during an attack as well as afterwards.

For more information on this subject, visit the following pages:

www.ncdsv.org/ncd_ongoingtrain.html and www.ncrle.net/SAProject/index.htm

NSVRC

NATIONAL SEXUAL VIOLENCE RESOURCE CENTER

A Project of the Pennsylvania Coalition Against Rape

The Centers for Disease Control and Prevention is awarding the Pennsylvania Coalition Against Rape a five year cooperative agreement to sustain and further expand the National Sexual Violence Resource Center (NSVRC); the agreement calls for an increased emphasis on prevention. The NSVRC collects and disseminates a wide range of resources on sexual violence including statistics, research, position statements, statutes, training curricula, prevention initiatives and program information to coalitions, advocates, and others interested in understanding and preventing/eliminating sexual violence. For more information, visit www.nsvrc.org or call 877.739.3895.

LIBRARY CORNER

By Nancy Flanakin,
National Center Librarian

Non-stranger Sexual Assault Resources

National Center FAQ on sexual violence:

www.ncdsv.org/images/SV_FAQs.pdf

National Center sexual violence links and publications pages:

www.ncdsv.org, under *Resources*

Comprehensive investigation manual:

“Successfully investigating acquaintance sexual assault: a national training manual for law enforcement,” National Center for Women & Policing, 2001:

www.vaw.umn.edu/documents/acquaintsa/acquaintsa.html

Article on law enforcement and prevention on college campuses:

“Acquaintance rape of college students,” by Rana Sampson, Office of Community Oriented Policing Services, 2002:

www.popcenter.org/Problems/problem-acquaintance.htm

Other good links

Office on Violence Against Women's information about sexual assault (including a list of government documents from the National Criminal Justice Reference Service on rape and sexual assault victims; lots of statistics and some information on investigation):

www.ojp.usdoj.gov/vawo/SexAssaultInfo.htm

San Diego Police Department's professional resources for sexual assault response teams:

www.sannet.gov/police/about/proresources.shtml

Sexual Assault Training & Investigations' sexual assault resources:

www.mysati.com/resources.htm

Violence Against Women Online Resources' sexual assault information:

www.vaw.umn.edu/library/sexassault

Crawford v. Washington, continued from page 1

The principle remains, nonetheless, that the prosecutor need not seek any sanction against the victim if the victim fails to appear. In San Diego, the DVU is developing a procedure to subpoena victims to come to the San Diego Family Justice Center rather than to the courthouse. This will allow a victim to meet with a community-based or system advocate and have all the support of the Family Justice Center without having to be in court with her abuser. The victim is then “available” and “subject to cross-examination” if, after her hearsay statements are used by the prosecution, the defense chooses to call her. Yet the victim does not have to face the intimidation of the courthouse interaction with her abuser.

Prosecutors need to be thinking far more strategically in developing strategies to continue pursuing offender accountability while still prioritizing victim safety. Some cases may have to be dismissed until appellate court rulings that flesh out the proper procedures in each state in the aftermath of *Crawford* develop around the country. To do everything possible to protect victims, state legislation enabling evidence-based prosecution needs to be a priority across the country.

Final Thoughts

Those who cheer *Crawford* as a vindication of a battered woman’s right not to “press charges” are misguided. This was not the purpose of Justice Antonin Scalia’s opinion in *Crawford*, and *Crawford* should not be construed as bringing about such a result. *Crawford* presents a dangerous ruling for victims of domestic violence and is, at best, uninformed about the consequences for such victims. Evidence-based prosecution continues to hold great promise for offender accountability. This is no time to turn back from 20 years of progress — initiatives to develop greater and greater support and advocacy for victims should become an even higher priority.

For example, since the advent of San Diego’s Family Justice Center, there has been a dramatic reduction in the number of victims who drop charges or refuse to prosecute. Because the Family Justice Center wraps victims in the services and advocacy of over 20 different organizations, they are less likely to recant and far less fearful of and hostile toward law enforcement intervention for the offender.

Perhaps *Crawford* should push more communities toward greater comprehensiveness in services for victims, rather than in the direction of backlash policies that will further victimize those suffering from violence and abuse.

To read the Supreme Court decision, go to www.ncdsv.org and click on Resources, then on Publications, then on Legal.

For more information about the San Diego City Attorney’s Office Domestic Violence Unit, visit www.sandiegodvunit.org or the website for the Family Justice Center: www.familyjusticecenter.org.

The Violence Against Women Act Turns Ten!

After years of hard work and extensive lobbying efforts on the part of advocates all over the country, Congress passed the Violence Against Women Act (VAWA) as part of the Violent Crime Control and Law Enforcement Act. The legislation, drafted by the National Network to End Domestic Violence, was signed into law by then-President Bill Clinton on September 13, 1994.

VAWA targeted the problem of domestic violence in large part through the funding of unprecedented collaborative efforts.

Funds were authorized to prosecute perpetrators; educate the public about domestic violence, stalking, sexual assault, and the legislation itself; train law enforcement officers, prosecutors, court personnel, and other criminal justice workers; create partnerships among law enforcement and victim service providers; and improve direct services to victims. Crucially, immigrant victims were finally able to get legal status in the U.S. independent of their abusers. Offender penalties were increased as well. VAWA was reauthorized in October of 2000. (To take a look at the legislation, head to www.ncdsv.org. Click on Resources, then on Publications, then on Legal, and scroll down. Both the 1994 Act and the 2000 reauthorization are available.)

To commemorate this historic milestone, the National Center contacted several experts (see listing, next page) for their take on VAWA, ten years later. Here's what we heard.*

Life before VAWA

CC Protection orders weren't valid across state lines, a big deal for a border state like Missouri [orders of protection weren't valid across any state lines at the time]; there was no national domestic violence hotline ... the vast majority of state coalitions — if they existed with any staff — had very very meager funding and a couple of staff members but were working with every system imaginable ...

RF Life pre-VAWA was a constant struggle of getting the needs met with a very under-resourced and often hos-

*Comments have been edited to suit the available space.

tile environment. We were working to change society to stop women from being battered or raped.

JZ I do not know how many victims I watched despair as the system re-victimized them by not believing them, accusing them of lying, losing their files, or in other ways telling them that their experiences were not taken seriously, that they had not been really harmed, that they must have done something to have caused their victimization, or that they undoubtedly enjoyed what had happened.

LO I represented many, many victims locked in abusive relationships with men who controlled their immigrant status or who could take steps to have them deported if the women took action.

DA There was very little attention to perpetrators. Batterers were not being arrested in large numbers. Even when they were, their cases were often being dismissed or they were getting probation with no rehabilitative conditions. The burden of change seemed to remain solely on victims.

MVH When I started in law enforcement it was in July of 1971. In those years you simply did not have a great number of "family disputes." It was something that was not reported as frequently as today, because it was accepted and thought of as a personal family matter and because we did not have in place the good laws that we do today. As a general rule, law enforcement responded when there was injury and medical treatment for broken bones or serious life-threatening injury was evident and a witness or neighbor called in for help. ... If law enforcement was fortunate and arrived on the scene early, [we] listened to the parties and tried to find some way to resolve things within the household. Many times this was handled by taking the wife (bleed-

ing) to her sister, children, parents, or a friend, and that was the end of the matter. I can recall when small children were present, and often crying, that we insisted that the



The Board of the National Network to End Domestic Violence (NNEDV) celebrates passage of VAWA, 1994. From left: Debby Tucker (formerly of the Texas Council on Family Violence and now Executive Director of the National Center), Jan Mickish (formerly of the Colorado Coalition Against Domestic Violence), Joan Stiles (formerly of the Massachusetts Coalition of Battered Women's Service Groups), Vickie Smith (formerly of the Illinois Coalition Against Domestic Violence, now Deputy Director of the National Center), Donna Edwards (first Executive Director of NNEDV), Colleen Coble (Missouri Against Domestic Violence), Susan Mize (formerly of the Maryland Network Against Domestic Violence), and Susan Kelly-Dreis (Pennsylvania Coalition Against Domestic Violence).



Catherine Pierce, Kathy Schwartz, and Bonnie Campbell, early staff members at the Office on Violence Against Women; and Sherry Frohman, New York Coalition Against Domestic Violence, at an NNEDV meeting, 1995.

husband leave for the night and go to one of his friends' homes. A focus much of the time was to "buy some time" while the alcohol left the husband's system and then we simply hoped that everything would be fine again.

Working to pass VAWA

DT When then-Congressman Jack Brooks of Texas, Chair of the Judiciary Committee, realized that the self-petitioning section of VAWA [that allows women to request to remain in the country on their own if their sponsor is the batterer] was causing controversy among members of the Committee, he directed Pat Reuss and myself to meet with several members for 30 minutes and come up with an agreement. While he entertained the Committee with stories about LBJ, VAWA House cosponsors Pat Schroeder and Charles Schumer worked with us in a corner to reach an agreement that ultimately became one of the far-reaching aspects of VAWA. The support and leadership of Congressman Brooks were so critical; we wouldn't have made it without him!

PR Those of us in DC who needed a large grassroots movement reached out to every women's rights, anti-poverty, civil rights, worker's rights, religious, medical, and legal group we could find. Many have said that this "watered down the movement," but it was essential to getting the bill passed with the bipartisan attention and momentum that it enjoyed. The criticism was that we were asking for way too much money, and that the civil rights remedy and battered immigrant women's provisions were going beyond all reason. But we persevered and with the help of dedicated Congressional staff and their members of Congress (no more than 15 total, I'm sad to say), we got just about everything in the bill that we asked for.

The legacy

RF As a result of VAWA, it seems to me, police, prosecutors, and other legal professionals are better trained and have developed an expertise to respond to the issues.

JZ ... we have expanded our reach to include numerous groups never before included, such as clergy, schools, and humane societies (animal abuse), and those working on prevention. We are beginning to think about unbelievable coordinated community responses, addressing violence against women at all levels, at all ages, and even realizing that it is not only women and children who are victimized, but male victims as well. Lastly, and this is extremely important, we are finally understanding that violence impacts different people very differently, and that we need to understand and work with all the different communities and populations in very different ways if we want to respond to and stop the abuse affecting them, and this includes prevention.

OH I was proud to work to see that this important legislation made it into law and I have been — and will continue to be — a strong supporter of OVW. Though the battle is far from over, I am proud of the progress we have made in the last ten years.

LO Over 25,000 immigrant victims of domestic violence have been able to get legal status in the U.S. independent



Diane Stuart, Director, Office on Violence Against Women

of their abusers and to get protection for their children. Shelters across the U.S. now understand that they need to offer services to all victims, regardless of immigrant status. Lawyers, advocates, and immigrant community-based programs across the U.S. can get VAWA funding and are seeking funding to create programs to serve immigrant populations.

JB We changed the paradigms. We said, "Hey, this is not a woman's fault; this is not just a women's issue." We enlisted the involvement of judges, employers, nurses, police, shelter directors, and others, and created local, coordinated community responses to violence against women. We ensured that domestic violence and sexual assault issues also had proper federal attention by establishing a separate federal Office on Violence Against Women. We are by no means done. But we've come a long, long way.

— continued, next page

Contributors

(in alphabetical order)

AK: Andy Klein, former Chief Probation Officer, Quincy, MA; Senior Research Analyst, BOTEK Analysis Corporation; author of *Criminal Justice Response to Domestic Violence*

CC: Colleen Coble, Executive Director, Missouri Coalition Against Domestic Violence, Jefferson City, MO

DA: David Adams, Ed.D., Program Director, EMERGE, Boston, MA

DE: Donna Edwards, former Executive Director of the National Network to End Domestic Violence; Executive Director, the Arca Foundation, Washington, DC

DT: Debby Tucker, Executive Director, National Center on Domestic and Sexual Violence, Austin, TX

FL: Fernando Laguarda, Chairman, National Network to End Domestic Violence Fund, Washington, DC

JB: Joseph Biden, United States Senator (D-DE), original author of VAWA, along with Senator Hatch

JZ: Joan Zorza, Attorney and Editor, *Sexual Assault Report and Domestic Violence Report*, Washington, DC

LO: Leslye Orloff, Associate Vice President and Director of the Immigrant Women Program, Legal Momentum, New York, NY

LR: Lynn Rosenthal, Executive Director, National Network to End Domestic Violence, Washington, DC

MVH: Marvin VanHaften, former Marion County Sheriff; Director, Governor's Office of Drug Control Policy, Des Moines, IA

MW: Mark Wynn, formerly of the Nashville Police Department; Wynn Consulting, Nashville, TN

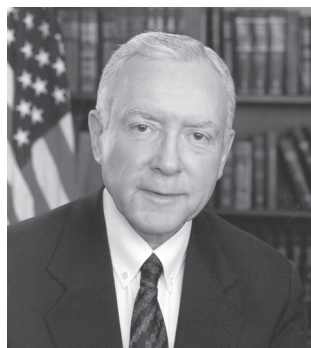
OH: Orrin G. Hatch, United States Senator (R-UT) Chairman of the Senate Judiciary Committee and an original author of VAWA, along with Senator Biden

PR: Pat Reuss, Senior Policy Analyst, National Organization for Women, Washington, DC

RF: Rus Ervin Funk, MSW, Coordinator of Education and Training, Center for Women and Families, Louisville, KY

SC: Sheryl Cates, Executive Director, National Domestic Violence Hotline, Austin, TX

DE When an advocate of any kind is in a position of having to work with the very systems that present challenges to the women we serve, there's the chance that we can sometimes lose touch with where our responsibility is. We have to be on guard for that and recognize that there is a valid and valuable role for those advocates who are challenging the system as well as for those who are working within it. Part of the reason I suggest this is because VAWA meant a whole lot of money going into the movement, [funding] development, training, capacity-building, etc. And some of that is terrific, but we all know that when there's money, there's the challenge that the lure of money can take you off your game. I think that the domestic violence movement needs to be able to step back from the VAWA money to examine the question of advocacy.



Senator Orrin G. Hatch (R-UT)

Alliances with other programs that do not focus on domestic violence are important. I've heard of social change agencies that do not have a relationship with their local domestic violence program. We need to be part of those communities and part of those movements.

SC VAWA created the National Domestic Violence Hotline, which provides a vital link for women in our nation to receive life-saving information and become connected to local emergency services and domestic violence programs. This effort has saved thousands of lives. VAWA has dramatically increased victims' options to lead a life free from violence.

LR VAWA brought funding to tribes and Native women's groups that led to the development of urgently needed services and interventions. However, the resources needed to develop a truly comprehensive response to the high rates of violence committed against Native women are much greater than VAWA currently provides. Also, VAWA has not been able to resolve the complex intersection between federal law, sovereignty and jurisdiction.

VAWA's biggest impact
CC Federal and state legislators started paying much closer attention

to domestic violence, sexual assault, and stalking as issues of importance that their constituents admired them for addressing.

FL [VAWA] put violence against women squarely in the public policy debate and make it unacceptable to ignore any longer.

LO [VAWA] has ... significantly enhanced, through its various generations, the rights of immigrant victims. It's both the funding and the legal framework that are important — the recognized need to emphasize that a fair share of VAWA funding go to underserved populations as well as the emphasis on these rights.

DA [VAWA] has fostered coordinated community responses to domestic violence. Across the nation, these teams have worked together to identify and remedy weak links in their responses to domestic violence. Over and over again, I've been impressed with the ability of these teams to come up with creative solutions to old, and seemingly intractable, problems.

MVH From my perspective the best things that happened were: when the mandatory arrest law was passed, and law enforcement had a great tool to end the abuse immediately and permanently at that point in time; and when protective/restraining orders became a reality and mandatory arrest for violating them was included; this was [also] a powerful tool for abusers who "were slow learners."

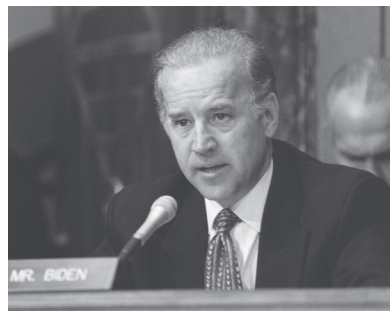
MW I've seen the impact of this horrific [type of] crime for more than forty years as a survivor, police officer, and advocate. In my lifetime [VAWA] has been the most significant legislation this country has ever enacted. Simply put, the Violence Against Women Act has saved lives of victims, family members, and police officers and will continue to save lives for many years to come. We (the United States) have become the beacon of hope

for victims around the world, yet we have so far to go. We should celebrate this occasion and recommit ourselves to a future of peace and safety for our families.

Hindsight is 20/20

CC We should have put in more money for direct services at the beginning — by a factor of 50. That's a haunting [reality] that we struggle with daily.

AK With the benefit of hindsight, I would have emphasized the crime of battering and de-emphasized the uniqueness of its perpetrator. The whole batterer-intervention focus has not proved a productive one. Rather, I would have focused on appropriate penal sanctions.



Senator Joseph Biden (D-DE)

JZ What we failed to see was that we had to, and still have to, take on the much broader issues of gender bias against women and women's equality. We have not even begun to do much of the research to back up some of what we need to show — e.g., that compared to men, women are far more credible. Until we can exclude all of the myths that defense attorneys routinely argue as fact (e.g., "hell hath no fury like a woman scorned") and we can exclude jurors who believe that "no means yes," victims will not be treated fairly in court. As far as the predominant means of resolving custody disputes in our family courts, we have allowed mediation, presumptions of shared parenting, and other tactics that have always worked to women's disadvantage and that have never helped children from abusive families. (These tactics have often been allowed even



Tucker and Pat Reuss at a five-year celebration for the National Domestic Violence Hotline, 1999.

when children have been sexually abused by their fathers.)

DE It would have been helpful to spend a little more time educating ourselves and policy makers about ways to address issues of violence against women outside of the criminal justice system model. Of course, when VAWA was moving forward, about the only thing Congress was funding was anything

— continued on p. 11

Probation Review Hearings Aim to Increase Victim Safety

By Paul Dedinsky, Director of the Domestic Violence Unit, Milwaukee District Attorney's office

On a Friday afternoon in August, when many courts had wrapped up all of the items on their busy weekly calendars, the courtroom of Judge Marshall Murray, in Milwaukee, WI, bustled with activity. Once each month, Judge Murray schedules a Probation Review Hearing to determine the compliance of those domestic violence offenders he has sentenced to probation. The effort is funded through a grant from the Office on Violence Against Women (OVW), of the Department of Justice.

OVW designated Milwaukee as one of three Judicial Oversight Demonstration Initiative sites; the city is implementing several creative strategies and innovations around domestic violence, including the Probation Review/Compliance Hearings. Soon, the Urban Institute will publish its research findings on the effectiveness of this strategy.

"How are you going to find a job while continuing to do drugs?" queries Judge Murray before handing out 30 days of jail time to one offender. "And when you get done serving that month of jail, I want you back on probation, but this time ... I want you to stop using drugs and start supporting your family."

To a different probationer, Judge Murray asks: "Why didn't you just tell me that you weren't planning to follow my order? I could have saved lots of time and simply sentenced you to the full 9 months of jail to begin with. As a wake-up call, you're going to serve 60 days of jail, and when you get out, you'll be back on probation and I want you to go to each and every Batterer Intervention Counseling class and not miss a single appointment with your probation agent. Are you listening?"

Listening is just the beginning of what Judge Murray hopes to accomplish. As 15 Milwaukee deputy sheriffs stand by to take offenders into custody for failing to be

strictly compliant with his orders, Judge Murray looks out over a packed courtroom of offenders who straighten themselves up in their seats, some of whom are about to "face the music."

When a domestic violence criminal prosecution ends, the hard part begins: effecting change. That is the goal of Judge Murray's probation review hearings. Though the case may be completed in court, Judge Murray understands that negative behavior does not magically change overnight. And in domestic violence cases, Judge Murray acknowledges that keeping victims safe often depends upon offenders changing their behavior and their attitudes about violence.

Across the country, more and more domestic violence courts are beginning to follow suit. Scheduling 50 offenders each month to appear in court takes time, but in the end, the judicial oversight of offenders ensures that courts demand accountability. Ultimately, Judge Murray believes that the credibility of the criminal justice system is at stake.

And there's more: Probation Agents take the time to write status reports to the court and to attend the hearings. Most agree that the hearings make a big difference in their supervision. And more often than not, most offenders come around. Judge Murray rewards those who are compliant with their court orders with praise.

"You've been able to make a positive way for yourself," Judge Murray comments to one offender. "With the odds against you, I congratulate you for making your life better. You've completed counseling. You're working. You're caring for your kids. You're doing the right thing. That's what it's all about."

With every offender who makes a positive change, judges, prosecutors, probation agents, advocates, and law enforcement officers feel that another victim is a little safer.

Judge Marshall Murray, a National Center Board member, is a Circuit Court Judge, a former domestic violence prosecutor, and a former children's court judge. He is currently assigned to one of three domestic violence specialized courts in Milwaukee, WI.

The VERA Institute has produced a detailed video about Probation Review Hearings. To obtain a copy, visit www.vera.org/jod.

TAPS Takes Final Bow

After more than a year in operation, the National Center's Technical Assistance Provider Support (TAPS) project, funded by the Office on Violence Against Women (OVW), will cease on September 30. Being able to assist people in creating top-notch training and learning opportunities was "wonderful and a privilege," says National Center Deputy Director Vickie Smith. "In addition," Smith comments, "we are extraordinarily proud of the incredible talents and dedication of everyone who worked on TAPS and what they brought to this project."

As for the loss of funding, Smith says, "I understand that sometimes decisions have to be made regarding funding and I certainly agree with what Diane Stuart, Director of OVW, has said — that the project's end had nothing to do with the performance of the TAPS team. I can agree heartily because the staff here gave 110%, and we enjoyed great feedback from our TA providers."



The TAPS team at a farewell party for the TAPS Coordinators in August, 2004. Back row, from left, with tiaras: Andrea Twyman, Pat White, and Anne Cunic. Front row: Jenny Brown and Vickie Smith.

Toby Myers

A mother of the movement



Toby Myers is a longtime member of the battered women's movement. She has helped found and been active in so many battered women's organizations that the Texas Council on Family Violence (TCFV) dubbed her "the mother of the Texas battered women's movement."

When asked how she got her start in this work, Myers responds, "I'm a survivor and it was just fortuitous that this whole movement was getting started at the same time that I was coming out of my marriage, around 1976. It was lucky timing." Myers, the founder of a program for men who have been violent in intimate relationships, also serves as an expert witness for battered women who have defended themselves.

She recalls the early days of the movement fondly, but notes that a lot has changed for the better. "[As for getting involved]," she says, "there was nowhere to volunteer! New things would happen on each coast and then they'd drift mid-continent ... and by 'mid-continent,' I don't mean Texas — I mean the Midwest and *then* Texas." Myers worked at the Texas Department of Mental Health and Mental Retardation (MHMR), during which time she began to see mentions in the press about shelters. "Each time I went to a conference," she remembers, "I would seek out the local shelter, if there was one, and visit; I wanted to see if we could get one started in Houston."

La Casa de las Madres, in San Francisco, CA, was the first shelter she ever visited, around 1976. In 1977, as different women were thinking about starting a shelter in Houston, Myers recalls, "a nucleus of women came together, and I was part of that. I visited the Austin shelter because they had one before us." She also notes that Erin Pizzey's 1979 book, "Scream Quietly or the Neighbours Will Hear," was the first one she ever saw written about battered women. "The title says it all," Myers notes.

A huge milestone was the first time Myers got paid an honorarium for speaking about the issue of domestic violence.

Over the years, Myers points out, money has become available for not only shelters, but for other efforts as well — funding has grown not only in breadth but in depth.

Now, "you see domestic violence funding reflected in laws, at universities, professorships, etc., whereas in the old days, it was a bunch of crazy women running the streets trying to get people to pay attention to us!"

One of the allegories Myers uses presents violence against women as a public health issue; she compares battering to malaria. She explains that one response to malaria is to strengthen the host (the person affected); in the case of the battered woman, the equivalent would be helping her to access and create support systems. She goes on to say that another way of fighting malaria is to eradicate the mosquito, the equivalent being the batterer. But neither of these is enough.

"You can work with as many batterers as possible to try to reduce or eliminate the violence," she elaborates. However, you also have to drain the swamp; we *all* have to be swamp drainers. We all need to participate in changing the environment that foments this violence." In the end, she points out, we can help women and we can work with batterers, but if we don't change society, we don't get anywhere.

Myers' favorite thing about the violence against women movement, she says, is "seeing that you can do something." In addition, a big side benefit is being able to work with bright women who "can do so many things!" "It's so wonderful to see women get the wrench, so to speak, as we have always done in the fight against domestic violence," Myers says. "This movement," she concludes, "provides tremendous leadership development for women. There are tons of other places for men to be leaders — shelters are about the leadership of women."

For more information on Myers, visit www.ncdsv.org. (Click on About NCDSV, and then on Board of Directors.)

VAWA Turns Ten, continued from page 8

that had a criminal justice label; all of these received full funding.

So even though the legislation contained other elements, the criminal justice system was the vehicle. And I think that we would all be advised to think about what that meant, especially to communities of color. This goes back to connecting with other social organizations — we know that communities of color have a palpably different relationship with the criminal justice system than almost any other community we can identify. For battered women of color, routing everything through this system might not have provided the best avenue to address their life experiences.

We simply didn't have enough women of color around the table at a leadership level challenging those assumptions, and I would say that the movement is still rather deficient in this respect. I could figure that on some of the provisions and priorities, we might have thought of those differently had a different set of people been sitting around the table.

DT We underestimated the amount of energy and the level of resources that would be required to truly change the criminal justice system. We had a naïve view that if we simply provided resources and came to the table with the criminal justice system, things would change.

Future of VAWA

RF I hope it increases efforts on, funding for, and attention to prevention efforts (targeting males on how not to be abusive).

AK Unless VAWA enforces strong performance standards that are backed up by real data and leadership, its impact will dissipate and it will go the way of Law Enforcement Assistance Act and other federal funding programs, which were designed to promote innovation but de-

veloped into block-grant funding programs with low common denominators. As such, VAWA is vulnerable to being replaced by the next issue, probably homeland security.

PR VAWA can continue to be a funding stream for the shelters, coalitions, hot lines, rape crisis centers, and the medical and law enforcement communities. Or, it can take the quantum leap to being a social, cultural, and political movement to demand prevention, accountability, and the eventual eradication of sexual and domestic violence.

Yes, we should celebrate and reauthorize this landmark bill, but the administration and Congress are not going to take any new and bold steps without our leadership and direction. We have allies in this effort if we choose to do it ...

JZ One of our biggest challenges is protecting child victims of sexual and domestic violence, particularly when the abuse is happening in the immediate family ...

DE We should be creative about looking at political solutions that are going to make a difference for women, and we can do this by identifying collaborations. Wages, health care — we wouldn't have in the past said these were domestic violence issues, but they are. There are challenges women experience that can get in the way of their taking action to end the violence in their lives, and these issues provide an opportunity for collaboration with other organizations and movements.

DA ... I would like to see more emphasis on and incentives for jurisdictions to implement secondary and primary prevention efforts ... I'd like to see more ways that the criminal justice system can become more educated about batterer intervention programs and other rehabilitation efforts in the community as well as in correctional settings.

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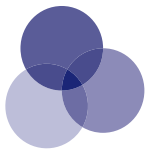
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