

# DEALING WITH

# DOMESTIC VIOLENCE

## Pro bono attorneys respond to plight of domestic violence victims

By Naseem Stecker

**D**omestic violence rears its ugly head every 15 seconds in Michigan and the victims are mostly women. Statistics tell us that more than 50 percent of women are battered at some point in their lives. Others suffer the ultimate penalty—death at the hands of their abusers. A recently released report from the Domestic Violence Homicide Prevention Task Force notes that in 1999, more than 100 women in Michigan were murdered as a result of domestic violence.

According to Joyce Wright, from the Michigan Domestic Violence and Treatment Board, one out of five women who are in relationships where there is domestic violence is killed. “Other family members and children may also be killed by the assailant,” Wright said. “It is to the degree where not only are they living in terror, but as they are planning to get out, that terror escalates in frequency and severity. Even though we do have tools in place such as the personal protection order or other forms of protection for the safety of that survivor, you still have many assailants out there who are bound and determined that they are going to go after that survivor and those kinds of tools don’t even stop them.”

Long viewed as a private family matter, domestic violence has emerged from behind closed doors as a complicated problem that must also be addressed by the larger community. Although the Michigan legislature has enacted a number of laws—including enhancing sentencing and charging options for repeat offenders, creating personal protection orders and clarifying law enforcement responsibilities to mandate the investigation, and reporting and evidence collection required for prosecution—much more remains to be done.

To meet the needs of many poor women who have difficulties in locating and retaining legal representation in civil matters, the State Bar of Michigan’s Open Justice Commission organized a free statewide training seminar, the first of its kind, on May 31st for all attorneys interested in offering pro bono help to domestic violence victims. Three hundred lawyers responded by signing up for the training, which included a live video presentation by experts as well as on-site discussions with area judges, attorneys, court personnel, and service providers.

## Violence Against Women

- Over half (58 percent) of Michigan women over 16 experienced some type of violence by a man.
- Women were more likely to sustain violence by someone they knew (52 percent) than by strangers (35 percent).
- Forty percent of women over 16 have experienced some form of sexual violence, ranging from unwanted touching to forcible rape.

*Source: Michigan Department of Community Health, 1996*

- In 1998 Michigan Domestic Violence Service Providers sheltered 13,429 women and children.
- In 1998 Michigan domestic violence crisis lines received over 60,000 crisis calls.

*Source: Michigan Family Independence Agency*

## National Facts

- Women were about six times more likely than men to experience violence committed by an intimate (husband, ex-husband, boyfriend, or ex-boyfriend).
- Women aged 19–29 and women in families with incomes below \$10,000 were more likely than other women to be victims of violence by an intimate.
- Violence by an intimate was more likely to result in injury to women than stranger perpetrated violence.

*Source: National Crime Victimization Survey*

Supreme Court Justice Marilyn Kelly in her opening remarks at the East Lansing site in the studios of WKAR, reminded attorneys that remedies through the legal system are frequently financially inaccessible especially to the 1.2 million people in Michigan who live at or below the poverty level. “Clearly, faced as we are with so many who can find recourse for their problems only through pro bono help, all lawyers have a duty to put their shoulder to the wheel,” Justice Kelly said.

“We should remember the words and spirit of our oath for admission to the Bar: ‘I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay any cause for lucre or malice.’ Keeping this goal ever before us will help remind us of the value and need for the type of service we’re engaging in today.”

Karen Mitchell of Lansing was one of the lawyers who had signed up for the training. “I went to law school to be able to help people out and I believe that my efforts will be best served working with this program with the Bar and the group at hand,” she commented.

Jackson attorney Blaine Johnson, Jr. described the conference as “necessary and valuable. It has raised the level of knowledge as to what domestic violence involves and what we as lawyers can do to help to control this de-meaning injustice of staggering proportions. I loathe bullies and when I can perform a legal service to ease an acute situation, I feel immense personal and professional satisfaction.”

Another participant, Lisa Israel, an assistant prosecuting attorney from Jackson said she was “attending as many seminars and

functions as possible to be able to better prosecute domestic violence cases and more importantly to know how to deal with the victims. Often times, I’m confused as to whether to take a very stern approach with them or a more empathetic, sympathetic approach, so I was hoping to be able to learn more about that as well.”

Those who came to share their knowledge with the participants had many insights. Holly Rosen, director of the domestic violence program on the campus of Michigan State University known as MSU Safe Place, drew attention to the weaknesses in the present system.

“The system fails victims when they expect them to be the ones to testify. They dismiss, when they don’t show up or they don’t understand why they might recant without having expert witness testimony to counteract that and explain to the judge or jury why a woman would recant, that it makes perfect sense with the type of victimization that battered women experience and that a conviction should still occur.”

Rosen also cited other system failures. “A lot of judges in some counties will not even sign personal protection orders [PPOs]. And when you have communities that will sign PPOs, a lot of times the police won’t even enforce them. At every layer, whether it’s getting a PPO, having a PPO enforced, or going to friend of the court or going to circuit or district court, a lot of times there’s inconsistent responses. Police response is also very inconsistent. So there’s no consistent mechanism in place to believe the victim. There’s

always a question—‘did this really occur?’ and to hold the assailant accountable. All it takes is one weak link within the system and that assailant’s got it made. They can make sure that the abuse continues and that the victim will be further abused by the court system or by police.”

Kathy Hagenian from the Michigan Coalition Against Domestic and Sexual Violence said batterers often use the legal system as a tactic to get what they want. “You can use the legal system to batter without raising a fist and that is a safe tactic for batterers to use and they do, do that—going after property, going after life-core issues that really mean a lot to the survivor. That’s something that the batterers recognize and they try to use that to hold on to the relationship. So, these cases are difficult and an attorney who takes a case like this is typically in for a fight and for trial.”

Lorraine Weber, State Bar of Michigan Open Justice consultant said the seminar was very well received and evaluation feedback has been extremely positive. The level of information that was conveyed through lecture and discussion as well as networking with mentors and experts in the field was very substantive she said.

“We have joined forces with the Michigan Coalition Against Domestic and Sexual Violence to request funding from the Justice Department for another program in two years,” Weber disclosed.

She also added that the success of the domestic violence seminar could allow it to be used as a pilot program for other areas. “This model can be used in more than just the domestic violence arena and really can be a model for helping attorneys get resources that they can use—things that can help them, as well as giving them a place where they can give back through their pro bono service.”

The domestic violence seminar was supported by a grant from the U.S. Department of Justice as well as financial backing from the Michigan Domestic Violence Prevention and Treatment Board, the Michigan State Bar Foundation, and the Women Lawyer’s Association of Michigan Foundation. ♦

*Naseem Stecker is a staff writer for the Michigan Bar Journal.*