

The Interrelationship Between Adult Domestic Violence and Child Abuse

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Abuse**

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AGENDA

- Domestic Violence/Scope of Problem
- Domestic Violence and Children
- Problems
- New Legislation
- Investigation and Prosecution
- Stalking
- Final Thoughts

DOMESTIC VIOLENCE

DEFINED:

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- **WHAT:**
 - Harassment
 - Emotional & Psychol.Abuse
 - Violation of Protection Orders/ NCO's
 - Threats

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- **WHO:**

- Spouse
- Former spouse
- Related by blood
- Currently co-habiting
- Share a child
- Dating relationship
- Children
- May also include roommates
- Can be same-sex abuse

DOMESTIC VIOLENCE

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- Assault/Battery
- Sex Offenses
- Stalking
- Burglary and Theft
- Destruction of Property
- Child Abuse
- Child Abduction
- Kidnapping
- Homicide

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SCOPE OF THE PROBLEM

- 1.3 million women and 835,000 men are physically assaulted annually by intimate partner
 - U.S. Department of Justice
- Of the 3.5 million violent crimes committed against family members, 49% were committed against spouses
 - U.S. Department of Justice 1998-2002
- Women suffer two million injuries from intimate partner violence each year
 - Center for Disease Control 2008

SCOPE OF THE PROBLEM

- Intimate partner violence made up 20% of all nonfatal violent crime against women and 3% of nonfatal violent crime against men
 - U.S. Department of Justice 1993-2001
- 25% of women in the U.S. experience violence by a current or former intimate partner in their lifetime
 - U.S. Department of Justice 2008

SCOPE OF THE PROBLEM

- 2005, 1,181 women were murdered by an intimate partner
- In recent years 33% of female murder victims and 4% of male murder victims were killed by an intimate partner
- Each year 324,000 pregnant women are battered by men in their lives

SCOPE OF THE PROBLEM

- 1 in 3 adolescent girls in the U.S. is a victim of domestic violence
- 1 in 5 teens – 11 to 14 – say their friends are victims of dating violence

The National Council on Crime and Delinquency Focus, 2008

CONSEQUENCES

- Women who experience domestic violence are more likely have a stroke, heart disease, asthma, and alcoholism
 - Journal of Interpersonal Violence, 18(2):166-85 (2003)
- In 1995, the total cost of intimate partner violence was 5.8 billion dollars (8.3 billion in 2003 dollars)
 - Violence and Victims, 19(3):259-72 (2004)

Myths and Facts

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- ? **Abusers are mentally ill**

Myths and Facts

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- ? **Domestic violence is an anger problem**

Myths and Facts

- Boston Public Health Commission survey of 200 teenagers, 46% said Rihanna was responsible for what happened
 - Boston Globe, 3/19/09
- “She probably made him mad for him to react like that, you know, like, bring it on!”
 - New York Times, 3/19/09

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In 2000, in homicides where the weapon was known, 50 percent (1,342 of 2,701) of female homicide victims were killed with a firearm. Of those female firearm homicides, 1,009 women (75 percent) were killed with a handgun).

WHY DOESN'T SHE JUST LEAVE

- May not be safer
- Fear
- Economic reasons
- Love
- Nowhere to go
- Children
 - Custody
 - Danger issues
- Believes batterer will change
- Family and community pressure
- Lack of confidence in the system
- Immigration issue
- Shelter issues

SEPARATION VIOLENCE

Risk Factors for Femicide in abusive Relationships: Results from a Multisite Case Control Study, 93:7 American J. of Public Health (July, 2003)

SEPARATION VIOLENCE

- MOST DEADLY TIME

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- HOMICIDE/SUICIDE MORE LIKELY

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Although @ 75% of all family violence occurs in or near victims residence...BJS 2005

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DOMESTIC VIOLENCE AND CHILD ABUSE

Domestic Violence and Child Abuse

Children's Exposure to DV

- **Hearing a violent event**
- **Direct involvement**
- **Experiencing the aftermath of a violent event**

BATTERER USES CHILDREN

- Hitting or threatening a child while in his/her mother's arms,
- Taking the child hostage in order to force the mother's return to the home,
- Using a child as a physical weapon against the victim,
- Forcing the child to watch assaults against the mother or to participate in the abuse, and
- Using the child as a spy or interrogating him or her about the mother's activities.
- Ganley and Schechter (1996)

What about the kids?

- 3.3 million – 10 million kids at risk of witnessing DV per year.
- NO accurate measure of # of children who witness DV.
- Short and long term effects.
- Children do not sleep through their “parents” in combat.

Incidence of Violence

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- One in six children are exposed to DV
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- One in six children are exposed to DV (Brown & Bzostek, 2003)
- Child abuse is 15 times more likely to occur in households where domestic violence is present (Friend, 1998)

How does DV impact kids?

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- **Truancy**

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- **School drop-outs**

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- **Drug and alcohol problems**
- **Early adult unemployment**
- **Intergenerational violence**

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- Helplessness

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- Young infants-significant disruptions in sleep, feeding, emotional bonding with long-term developmental affects.

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- Guilt- a feeling of complicity

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- Antisocial behavior
- Rage and helplessness

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- PTSD
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How does DV impact kids?

- Guilt- a feeling of complicity
- Confusion
- Antisocial behavior
- Rage and helplessness
- PTSD
- More prone to be victims and abusers

Co-occurrence of DV and CA

- Between 30-60% of men who batter their female partners also abuse their children (Findlater & Kelly, 1999)
- Perhaps as many as 59% of children of battered women are also physically abused themselves (Holden et al, 1998)

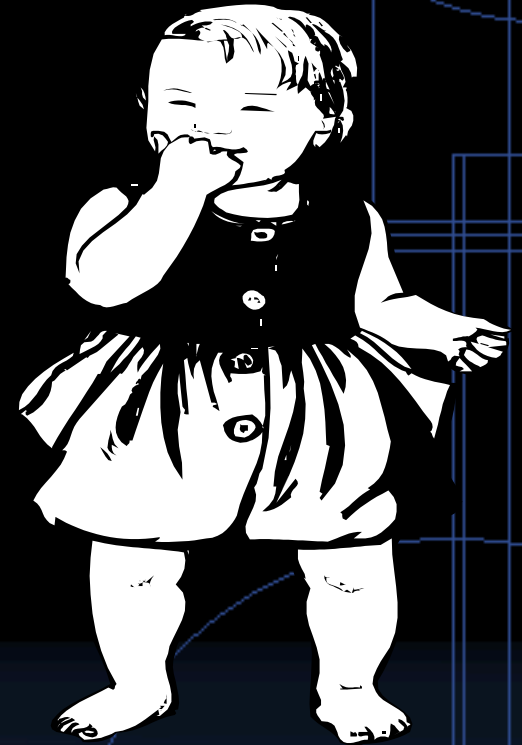
Understanding the Intersection

(Bowker et al, 1988)

- A study of 1,000 battered women found:
 - Perpetrators of DV abused children in 70% of the cases
 - The prevalence of child abuse increased from 51% with one child to 92% with four or more children
 - The severity of DV is predictive of severity of child abuse
- In some child assault cases, children are not the primary targets
- Child abuse does not usually occur at the same time as DV
- DV is a major precipitant of child abuse

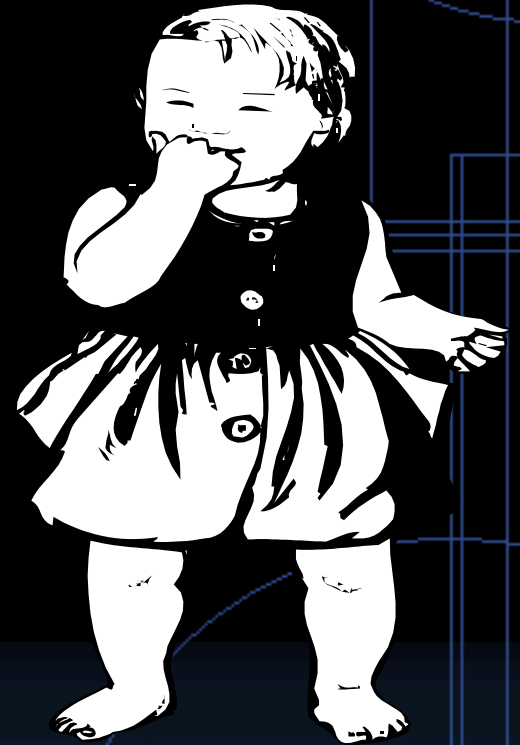
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- In 30–70% of the families with spouse abuse, there is child abuse.



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- 87% of the children are aware of the DV.
- In 30–70% of the families with spouse abuse, there is child abuse.
- Severity of child abuse can parallel domestic violence.



Homicides of Young Children

- 71% by family member
- 68% by “personal weapons”
- 58% perpetrators = male

– OJJDP 2001

Who abuses the

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- 50% of men who abuse their spouse, abuse their children.



Who abuses the

- 50% of men who abuse their spouse, abuse their children.
- 28% of battered women physically abuse their children.



WHAT ARE THE PROBLEMS?

Lack of Communication

- One – Third of Jurisdictions (38%) have separate domestic violence and child abuse prosecution units
- None had protocols directing prosecutors in these units to inquire about co-occurrences
- One-Fourth had protocols for investigators to inquire about DV when responding to child abuse incidents

WHATE ARE THE PROBLEMS?

Differing Agendas

- DV advocates have several fears:
 - CP agencies will automatically remove children from a home with DV
 - Victims charged with failure to protect
 - Victims will lose custody

WHAT ARE THE PROBLEMS?

Differing Agendas

- Child advocate concerns:
 - Without intervention in violent homes, children will suffer
 - Without new laws, perpetrators will not be held accountable

WHAT ARE WE DOING ABOUT CHILDREN EXPOSED TO DV??

- Calling the Child Abuse Hotline??
- Who are your mandated reporters?
 - Police?
 - Prosecutors?
 - EMS/Medical personnel?
 - DV advocates?
 - Counseling providers?
 - Others

Enhancements to DV Crimes

New Legislation

- Define exposure to DV as form of child maltreatment to meet mandatory reporting requirements
- Exposing kids to DV a criminal child abuse offense
- Enhanced criminal penalties for committing DV in presence of child

Enhancements to DV

Crimes

Georgia's Statute (O.C.G.A. § 16-5-70)

- The “primary aggressor” either, “intentionally allows a child...to witness the commission of a forcible felony, battery, or family violence battery” or has knowledge that the child “is present and sees or hears the act”

INVESTIGATION AND PROSECUTION



Interviewing Children

- Utilize the resources available
- Are any first responders trained to talk to children
- Is the CAC available for interviews
- If not appropriate place for interview
 - Consider family dynamics
- Decision to Interview is NOT the same as decision to testify...

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 - ✓ Prior witnessing events
 - ✓ Cross-screen for child abuse

S.A.F.E

- **S**tay out of the fight
- **A**sk for help
- **F**ind an adult who will listen
- **E**veryone knows it is not your fault

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 - Presence of children

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 - Emotional Demeanor

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 - Physical Appearance

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 - Name and Age/School

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 - Physical Appearance
 - Name and Age/School
 - Other children in home

DOCUMENT

- Document
 - Presence of children
 - Emotional Demeanor
 - Physical Appearance
 - Name and Age/School
 - Other children in home
 - Witness statements/excited utterances/
present sense impressions*

Photograph injuries with

- ✓ Bleeding
 - ✓ Bruises
 - ✓ Abrasions
 - ✓ Bite marks
 - ✓ Strangle marks
 - ✓ Follow-up
- Contextualize the photograph
 - Zoom in and out
 - Date the photo
 - Be sure that can be identified as accurately portraying the way the injury looked
 - Note on a body diagram the location of injuries

Diagram the crime scene

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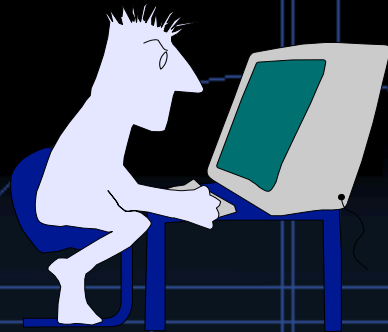


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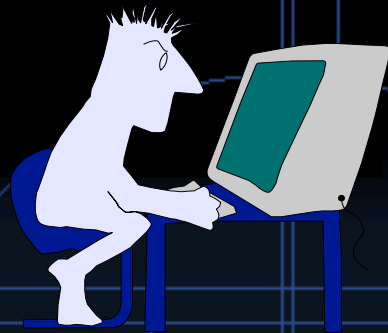


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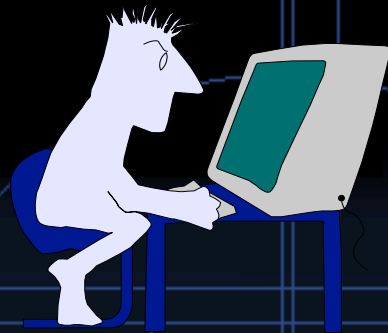
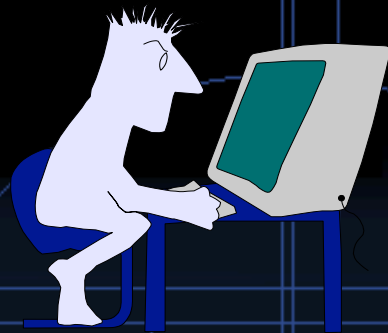


Diagram the crime scene

- **Layout/sketch of the floors/rooms**
- **Videotape/photograph crime scene**
- **Videotape from perspective of victim**



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- Answering machine tapes, caller ID, notes and letters containing threats, etc.

**Have the victim sign a release to
obtain medical and billing records**

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- **Why are billing records helpful**

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- Why are billing records helpful
- Not only present but past medical records
- Weekend doctors

Hearsay Exceptions

- Present Sense Impression - FRE 803(1)
- Excited Utterance - FRE 803(2)
- Excited Utterance: Tender Years – see state law
- Statement of then Existing Mental, Emotional or Physical Condition – FRE 803(3)
- Stmt for Purpose of Medical Diagnosis or Treatment - FRE 803(4)
- Business Records Exception – FRE 803(6)

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**•Present sense
impression.**



Hearsay

Excited Utterance

“A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.”

FRE 803(2)

EXCITED UTTERANCE

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- An assault is a startling event.

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- Officers must document behaviors that prove the victim was under the stress of the excitement.

EXCITED UTTERANCE

- An assault is a startling event.
- Officers must document behaviors that prove the victim was under the stress of the excitement.
- Still intact under most *Crawford* analyses

Hearsay

Excited Utterance: Rekindled

“An otherwise qualified excited utterance that includes comments about a *prior* happening may be admissible under the excited utterance exception...if the subsequent startling event that generates the utterance relates directly or indirectly to that prior event, i.e., is likely to produce an exclamation about that prior event.”

Bayne v. State 632 A.2d 476 (Md. Ct. Spec. App. 1993)

Hearsay

Excited Utterance: Tender

“In a case involving an offense perpetrated against a child under the age of 13, the out of court statement was made before the victim attained 13 years of age or within 3 months after the commission of the offense...but the statement may be admitted regardless of the age of the victim at the time of the proceeding.”

§725 ILCS 5/115-10

Hearsay

Present Sense Impression

“A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter.”

FRE 803(1)

Hearsay

Present Sense Impression

- Did the declarant perceive the event or condition?
- Was the statement made while perceiving the event or condition?
- PSI's are rare in child abuse cases because of the nature of the crimes and the rarity of immediate reporting
- What about Child accounts as PSI's?

Hearsay

Present Sense Impressions

Child Accounts

- Mother is assaulted by dad
- Billy, Victim's son, sleeps in the next room and listens to the assault. Hears mother say "stop hitting me with your fist"
- Billy calls 911

PRESENT SENSE IMPRESSION

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- 911 tapes
 - Current and Past
 - Who called

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PRESENT SENSE IMPRESSION

- 911 tapes
 - Current and Past
 - Who called
- Prompt interviews are essential
- Child witnesses to the event often make present sense impressions

Hearsay

Statements for Medical

“Statements made for purposes of medical diagnosis or treatment and describing medical history or past or present symptoms, pain or sensations, or the inception or general character of the cause or external source insofar as reasonably pertinent to diagnosis or treatment.”

FRE 803(4)

OTHER POSSIBILITIES

- Statements to medical doctor. **Crawford**
- Statements to percipient witnesses.
- Canvass for all witnesses.
- Prior orders of protection.
- Check with prior relationships
 - Both victim and defendant
- Divorce or custody proceeding – documents filed there
- Lethality assessments being used?
- Advocates being utilized

Crawford v. Washington

- **Testimonial statements are no longer admissible in court unless:**
 - **The witness takes the stand; and**
 - **The witness is subject to cross-examination**
- **Testimonial was not defined**

Crawford v. Washington

What is Testimonial?

- Testimony is a “solemn declaration or affirmation made for the purpose of establishing or proving some fact.”
 - Not casual remarks
- The test:
 - Was a government agent involved in creating the testimony or taking a formalized statement?
AND
 - Would an objective person in the declarant’s position reasonably expect the statement to later be used in court?

Davis v. Washington

Hammon v. Indiana

- **U.S. Supreme Court decision on 6-19-06**
 - **Davis = 911 call during a domestic violence emergency**
 - **Non-testimonial**
 - **Hammon = Police arrival subsequent to domestic disturbance**
 - **Excited utterances and affidavit (present sense impressions) from victim**
 - **Testimonial**
- **Court did not provide a comprehensive definition of “testimonial statements”**

Davis & Hammon

“Primary Purpose” Test

- When we said in *Crawford* that ‘interrogations by law enforcement officers fall squarely within [the] class’ of testimonial hearsay, we had immediately in mind ... **interrogations solely directed at establishing the facts of a past crime**, in order to identify (or provide evidence to convict) the perpetrator. The product of such interrogation, whether reduced to a writing signed by the declarant or embedded in the memory (and perhaps notes) of the interrogating officer, is testimonial. “

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 - **Witness be unavailable AND have been subject to cross-examination at a prior time**
 - **Reliability or trustworthiness of the prior statement is not an issue under Crawford**
 - **Reliability is a factor under Rules of Evidence**

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- **All admissible hearsay can be introduced and reliability under Ohio v. Roberts applies**
- **No Crawford issue because confrontation was satisfied**

Forfeiture of Confrontation Right

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- FRE 804(b)(6)

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 - **Telling a child to “not tell”**
 - **Having others secure witnesses unavailability**

Giles v. California, 128 S.

Ct. 2678 (2008).

- Supreme Court Case – decided June 2008
- Defendant threatened and beat his ex-girlfriend
- She reported it to police – Should Court have heard about that report after her murder?
- Killed or intimidated witness with intent or purpose to prevent witness from testifying?

Giles v. California, **128 S. Ct. 2678 (2008).**

- Prosecutors should not be quick to concede specific intent
- Not traditional specific intent
- Intent can be shown inferentially
- Pattern of behavior
- History of relationship

Child Abuse after Crawford

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(Hammon & Davis language)

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 - **First Prong: The employment status of the interviewer**
 - **Did law enforcement conduct interview?**
 - **Interrogation –vs- Interviewing**
 - **Forensic interviews are not primarily for the purpose of criminal prosecution**
(Hammon & Davis language)
 - **Second Prong: Young children (under 10) are unlikely to comprehend that a forensic interview may be used at trial**

People v. Stechly (2007)

225 Ill. 2d 246

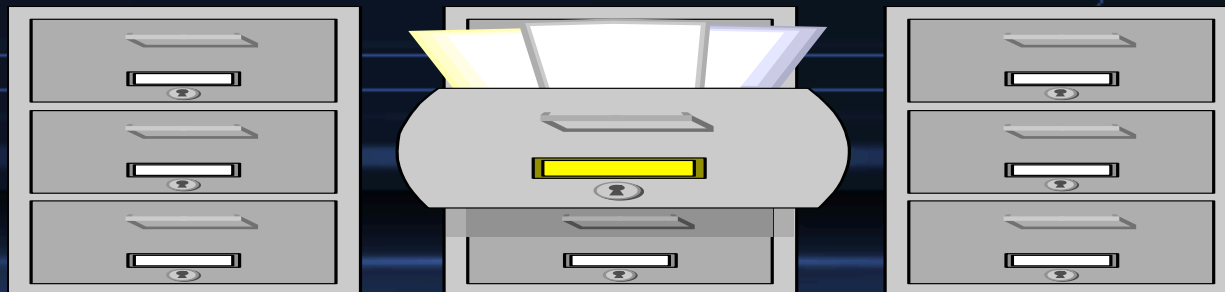
- The court held that the child's age may be taken into account when determining whether a reasonable person in his/her circumstances would have understood that his/her statement would be for use at a later trial

FOLLOW-UP INTERVIEW

- ✓ Police at scene.
- ✓ Detective next day.
- ✓ Prosecutor.

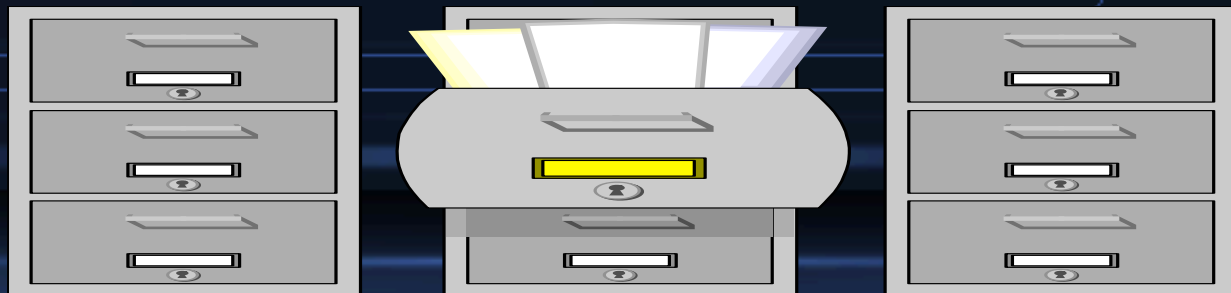
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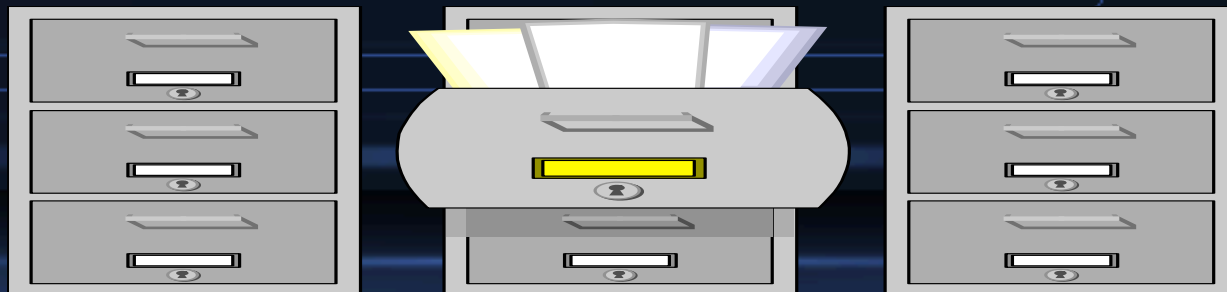
Investigate the entire history of violence.

- **Prior bad acts evidence.**



Investigate the entire history of violence.

- Prior bad acts evidence.
- Other chargeable crimes.



MOIPPKIA

- Motive
- Opportunity
- Intent
- Plan
- Preparation
- Knowledge
- Identity
- Absence of mistake

Should Child Testify

- Assess the case
 - What is the theme and theory of the case
 - What is the defense theory
- What is the crime
 - Is the child a percipient witness or
 - A victim
- How serious is the crime
 - How necessary is the child's testimony
- What are the safety considerations? **
- What does the DV victim want to do
 - Is she cooperating
- What does the child want to do
 - Age
 - Relationship
 - Mental Health

Should the Child Testify

- Utilize resources that pre-exist for children in court
 - Child abuse unit
 - Kids in court program
 - Prior testimony in civil court>
 - Motions for easing testimony for children
 - All relevant hearsay rules
 - Forfeiture by wrongdoing...

Stalking

“Stalking is the only instance we know of where a future murderer identifies himself to police ahead of time.”

David Beatty

Former Director of Public Policy, Office for Victims of Crime

STALKING



STALKING

🎯 **75% of battered women who work are harassed by their abuser at work either by phone or in person**

STALKING

- ◎ **75% of battered women who work are harassed by their abuser at work either by phone or in person**
- ◎ **80% of women who are stalked by former husbands are physically assaulted by that partner and 30% are sexually assaulted by that partner**

Stalking Behaviors

The background is a dark blue gradient with a white grid pattern. There are several white geometric shapes: a circle on the left side, a large semi-circle on the right side, and various rectangular outlines of different sizes and orientations scattered across the page.

Stalking Behaviors

Violation of protective order

Stalking Behaviors

Violation of protective order

Technology abuse: pagers, cellular phones, telephones, answer machines, computers

Harassment, persistent contact

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Mail / email sent to or left for the victim

Lurking or continually showing up at the victim's home, workplace or other known locations; being where the victim is

Stalking Behaviors

Trespassing

Burglary of victim's home (may have key)

Access to victim's vehicle (may have key, GPS)

Following victim (on foot or in vehicle)

Vandalism of victim's property or friends' or relatives' property

Disable victim's vehicle, unscrew lights, disable alarm systems, disable phone or monitor conversations, change of address forms

FINAL THOUGHTS

- Work in Multi-Disciplinary Teams
- DV and Child Abuse professionals in DV office cooperate
- Use resources: kids in court program
- Any and all hearsay laws
- Serve on each others coalitions and task forces
- Enlist the clergy and the community to engage in prevention, reporting and protection

FINAL THOUGHTS

- Victim support and safety planning.
- Train Child Protection to screen for Domestic Violence.
- Coordinate Civil Family Court proceedings and Criminal Proceeding.
- Involve advocates.
- Provide counseling for children and adult victims.

Reference

- Gazmararian JA, Petersen R, Spitz AM, Goodwin MM, Saltzman LE, Marks JS. 2000. "Violence and Reproductive Health: Current Knowledge and Future Research Directions." *Maternal and Child Health Journal*. 4(2):79-84.
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ATTRIBUTION

- Many thanks to Allison Turkel, former NCPCA senior attorney and Melissa W. Johnson SA/DV investigator, District Attorney's Office, Shreveport, Louisiana who originated this PowerPoint presentation.

For when you need me

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