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Fall 2006

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DOMESTIC VIOLENCE

Societal Views and Survivors of Domestic Violence: *Asking the Right Questions*

By Dana Harrington Conner

As part of my work as an associate professor with Widener University School of Law, I supervise students participating in the Delaware Civil Clinic (DCC). The primary focus of the clinic is the representation of victims of domestic violence seeking protection from their abusers, as well as enforcement of those orders through civil contempt proceedings. Through their clinic experience, students are given the opportunity to learn the importance of public service and to provide equal access to justice to those who desperately need assistance. In calendar year 2005, DCC students closed 80 cases representing 1,676.85 hours in volunteer time.



In addition to my work with the clinic, I also teach other classes, one of which is a seminar in domestic violence. I begin my seminar by asking students to discuss their views about domestic violence. Each year I hear a recurring theme, “Why doesn’t she just leave?” Law students, however, are not the only individuals guilty of this way of thinking. I hear the same question from some members of law enforcement, the bar, and the public.

Many factors act as a barrier to a survivor of domestic violence, preventing the victim from leaving an abusive relationship. And despite a wealth of resources on the issue, many continue to blame the victim for her circumstances or simply fail to understand her plight. Societal views about intimate partner violence, the dynamics of the relationship, cultural issues, and the response from some members of our legal system thwart the efforts of many battered individuals.

Because domestic violence has become such a national issue, it is natural to believe that things are changing, and they are. But we still have some work to do. On average it takes a victim five or more attempts at leaving before she can safely and permanently stay away. Moreover, there continues to be a general lack of understanding about how difficult it is for survivors to leave.

Recently one of our interns had the unfortunate opportunity to witness the dismissal of a criminal charge against the abuser of one of our clients, despite good evidence that showed that our client sustained serious physical injury at the hands of her husband. The student had a difficult time understanding how this could happen to a victim today, given the evidence available.

I do not write this article to point the finger at others or lay blame. I, too, am not immune from responsibility and hope that in writing this piece, I will help others recognize the flaws in our system and ourselves. A number of years ago, our clinic represented a survivor of domestic violence who taught me a valuable lesson. The abuse our client endured for many years at the hands of her husband was excessive and brutal. Despite the acts of violence, she never contacted the police. As a result, there were no police reports or prior convictions to support her allegations. Further, in this case there was no other evidence of domestic violence. We had no hospital reports, photographs, or witnesses who observed acts of violence or past injuries other than the client and her child. The child was unwilling to testify, and the client refused to call the minor as a witness, fearing that compelling the child’s testimony would further traumatize her. Initially, our client’s desire to protect her daughter was viewed by our office as an attempt to hide evidence. We could not have been more wrong.

I am uncomfortable to admit that although I had been handling domestic violence matters for a number of years before this case, represented numerous survivors, studied

extensively in the area, and believed I understood the issues, I had trouble accepting our client’s story. This particular situation is not uncommon: Domestic violence cases generally lack evidence and involve facts that are difficult, if not impossible, for the average individual to believe. All we had was our client’s word, and she had provided a story of violence which caused us to question her ability to survive, for so long, under such circumstances.

When asked why she never contacted law enforcement, the client responded that the state would have taken her child away had they entered her home, a threat that the abuser often made to her. The client truly believed that if she called the police, they would place the child in their care. Given her situation, the client may have been correct. Her abuser knew this to be true and used the threat to control her actions.

Why had no other living person ever witnessed any act of violence or observed any injuries given the long history and severity of the abuse? The answer is simple. Domestic violence happens behind closed doors. This individual never entertained, her child had no friends, and no person—other than the abuser, the victim, and the child—entered that home. Moreover, our client had virtually no contact with family or friends as a result of the perpetrator’s efforts to control her every move.

The answer to why this woman and countless others like her remain in abusive relationships for so many years is complicated. As we know, the most dangerous time for a victim is when she leaves. Statistics show that the majority of women who are killed by their intimate partners recently separated from that individual. In addition, we as a system fail to provide the resources necessary for the battered woman to

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stay away. Although civil protective orders often provide for financial support, perpetrators frequently disobey those court orders. DCC clients often return to court, as do many victims, on motions for contempt due to the abuser’s failure to pay support. In some cases, the only option is incarceration, due to the abuser’s repeated failure to comply with support obligations. The end result for some victims and their children is homelessness, an outcome that many abusers intend as a way of once again gaining control over the situation. Fear, desperation,

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necessity, the children, and so many other reasons cause survivors to choose life, no matter how miserable, over leaving.

After we had an opportunity to speak with the client, the student and I met to consider case acceptance. Although the outcome in court could possibly be unsuccessful, the student and I agreed that this was a classic case of domestic violence, and without our assistance, she would not pursue the matter. In this case, as in all domestic violence cases, it is important to explain to the battered person that there is a possibility that she or he will not prevail in court, an outcome that can place the victim in greater danger. Without a protective order, the perpetrator is free, after case dismissal, to return to the residence. As a result, safety planning is essential. The attorney or a trained advocate must discuss with the client what to do while awaiting trial and what resources are available if a protective order is not granted. In this case, the client was ready to leave, and she understood the risks of staying, as well as the risks of leaving.

With our assistance, the client filed a civil petition for protection from abuse, and a hearing was scheduled. Unlike the vast majority of cases that are resolved by agreement of the parties, the perpetrator refused to enter into a consent agreement (a fully enforceable court order entered by agreement of the parties), so the case went to trial.

As the client testified, I could not help but think, “If half of her story is true, how did she live all these years under such conditions?” Further, if I was having such a hard time accepting her story, how would the court react? The perpetrator stated that he did not have any questions for our client, so she stepped down. And then something happened that I rarely experience; the respondent testified that everything our client said was true and more. It was at that moment that I realized how important it is not to prejudge the case or the client. I could see how surprised the hearing officer was by the respondent’s admissions and how skeptical she had been while our client was testifying, but I was too.

A number of years have passed since we represented this client, and in that time I have had the honor of working with

many survivors with similar situations and stories. I try to remind myself that case acceptance should be based not on which cases will be won in court but on the basis of who most needs our help. This is not an easy job when trying to balance the need to provide a positive experience for our student interns with the desire to help those seeking to end the violence in their lives.

The outcome for this client was positive, but so many cases do not end this way. For many victims of domestic violence, there is no intervention. They live with the abuse on a daily basis, and we as a society fail to believe their story when they finally find the strength to seek help. For the average individual, it is difficult to understand why the battered woman does not leave the abusive relationship. We want to believe that if the abuse is real, the answer is as simple as getting up and walking away.

Until we as a society change our way of thinking and come to understand that the unbelievable is true, we will never stop the violence. The first step may be as simple as shifting our focus to those individuals who truly need to alter their behavior; only then will we begin to ask the right questions. ■

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