



## **Audio Conference Training**

### **Understanding the Legal System and the Role of a Supervised Visitation Program**

#### **Part 3: Working to Enhance Legal Service Resources**

**Wednesday, January 23, 2008**

Locating legal support services can be extremely challenging for many people. This session will explore ways in which a visitation center can identify and engage meaningful legal resources for participants both in your own community and nationally. It will provide resources and suggestions that put visitation centers in the best position to help families and provide meaningful legal service linkages. We will also discuss potential ways in which the legal community can inform, partner and support the work of your visitation center.

#### **Trainer: Sarah Buel, JD**

**Sarah Buel** has spent the past 30 years working with battered women, abused children, and juveniles within the legal system. Currently, Ms. Buel is a Clinical Professor at the University Of Texas School Of Law, having started, then co-directing their Domestic Violence Clinic. She also teaches “Domestic Violence and the Law,” criminal law, and torts courses. Ms. Buel is co-founder of the University of Texas Voices Against Violence program that has developed a system of comprehensive, coordinated services for victims of sexual assault, relationship violence, and stalking. She also co-founded the University of Texas Institute on Domestic Violence and Sexual Assault that focuses on research, pedagogy, and direct services. She serves as the faculty supervisor for the Survivor Support Network (SSN), a group of law and business students assisting abuse victims to achieve economic literacy and security; and the student group, Society Encouraging Excellence Through Diversity (SEED), that sponsors educational programs encouraging discourse, scholarship, and action on issues of race and culture. Professor Buel has served as Special Counsel for the Texas District and County Attorneys Association, providing domestic violence training, technical, and case assistance to prosecutors throughout Texas. For six years she was a prosecutor, most of that time with the Norfolk County District Attorney’s Office in Quincy, MA, helping to establish their award-winning domestic violence and juvenile programs. Previously, Ms. Buel served as a victim advocate, state policy coordinator, and legal aid paralegal.

As a domestic violence survivor, Ms. Buel has been committed to improving the court and community response to abuse victims. She was a welfare mother for a short time before working full time in the day and going to school at night for seven years to obtain her undergraduate degree in 1987. She then graduated *cum laude* from Harvard Law School in 1990, where she founded the Harvard Battered Women's Advocacy Project, the Harvard Women in Prison Project, and the Harvard Children and Family Rights Project.

Ms. Buel has written extensively on family violence issues, having published 30 articles and many more training manuals and diverse publications. She is a member of the American Bar Association's Commission on Domestic Violence, the Board of Directors of Texas CASA, the Texas Health Initiative on Domestic Violence Leadership Team, and numerous other boards and commissions. She is also currently an adjunct professor at Harvard Medical School.

In 1991, Ms. Buel received the Boston Bar Association's Public Service Award; and in 1992 she received both the Mass. Bar Association's Outstanding Young Lawyer's Award and the American Bar Association's Top Twenty Young Lawyer's Award. She narrated the 1992 Academy Award winning documentary "Defending Our Lives" and in 1996 was profiled by NBC as one of the five most inspiring women in America. In 1997, Ms. Buel was awarded the American College of Obstetricians and Gynecologists' Public Service Award and in 1998, she was given The University of Texas Law Fellowships Public Service Award. In 1999, Ms. Buel was given the National Organization of Victim Assistance (NOVA) Allied Professional Award and was awarded the 2001 American Bar Association's Fellows Award. In 2002, she received the Harvard Law School Gary Bellow Public Service Award and in 2003 she was given an Outstanding Teacher Award from Harvard Medical School, as well as being selected to take part in Leadership Texas. In 2004, she received both the Texas Young Lawyers Award for Service to the Public, for co-founding the Austin Young Lawyers Association & Volunteer Legal Services Domestic Violence Project; the City of New York Outstanding Achievement Award; National Women's History Project Award; and the U.T. Law School Thurgood Marshall Society Distinguished Lawyer Award. In 2005, Professor Buel was given the Henry B. Gonzales Civil Rights Award by the Texas Civil Rights Project, and in 2007 was given both the Girl Scouts Woman of Distinction Award and the ABA Rule of Law Award for Pro Bono Service with the China Project.

She is most proud of her son, Jacey, who works with high-risk, violent teens in Boston schools while attending his second year of law school.

## **Presentation Outline**

### **I. Client/ Community Legal Education**

#### **A. Critical to provide clients and staff with *culturally competent* resource information:**

- Brochures
- Posters
- Info on emergency financial help, faith guidance & legal services

#### **B. Safety plans**

(Adult & Youth): Place in waiting areas and bathrooms; plus *massively distribute* throughout community: Police, employers, churches, stores, COURTS, VISITATION CENTERS, schools, all public building, Laundromats; see [www.abanet.org/domviol](http://www.abanet.org/domviol) for a free copy; these are NOT copyrighted, can be adapted for local needs.

- Action plan for how to stay alive at home, work, school, court
- Change locks
- Avoid rooms with weapons (e.g., kitchen with knives)
- Keep protective order on person at all times
- Pack copies of key documents & spare clothes

#### **C. Legal Info Brochures: often available from Legal Aid, bar associations, local shelters, and national resources (see Section VII for additional options); e.g.,**

1. National Council of Juvenile & Family Court Judges, [www.ncjfcj.org/](http://www.ncjfcj.org/)
2. American Bar Association Commission on Domestic Violence, [www.abanet.org/domviol](http://www.abanet.org/domviol)

### **II. Abuse Victims Asking Specific Legal Questions**

#### **A. Batterer harassing victim, but has not committed new crime yet.**

1. Get victim STALKING KIT with calendar to document all information. Train victim to note date, time, person(s) involved, actions, level of FEAR & any relevant data.

2. STALKING KIT should, depending on case, include: cell phone, calendar, steno pad with pen, micro-cassette recorder, flashlight, door alarm, and disposable camera.
3. In Troy, N.Y., Radio Shack provides shelter with Stalking Kits; the State of Hawaii, in conjunction with private business, is issuing "stalking kits," including a cell phone from Verizon that can access 9-1-1; and in PA, the Greater Alle-Kiski Area Board of Realtors is helping collect items for the Stalking kits.
4. Identify whom in the police or sheriff's department victim can call to report in order to create a paper trail, and, if necessary, contact the defendant to warn him of his borderline unlawful conduct.

**B. Batterer violating protective order, but DA or judge not taking case seriously.**

1. Concisely document batterer's actions & contact victim advocate; if no response, then contact head of Domestic Violence Unit or DV Prosecutor; if no response, put concerns in writing as per Section III below.
2. If DA office still not taking seriously, discuss with victim the option of going to the press e.g., law student Lindsey Byers
3. Discuss with local DV Council organizing a Court Watch program to document the conduct of prosecutors and judges; for guidance contact (1.) [www.watchmn.org](http://www.watchmn.org) offering a Court Monitoring Program Manual and trainings, &/or (2.) [www.bwjp.org](http://www.bwjp.org) (Battered Women's Justice Project).

**C. Victim needs civil legal assistance to modify custody &/or visitation orders.**

1. If victim is income eligible for Legal Aid (180% of federal poverty guidelines), assist her in seeking their help.
2. If victim is over-income for Legal Aid, ask local bar association or Legal Aid for referral, e.g., reduced fee or pro bono panels.
3. If no pro bono or reduced fee programs exist in your community, make this an agenda item for your local DV Council. Then, enlist bar association and/or law school to start needed program(s); e.g., collaboration between Austin Young Lawyers and Volunteer

Lawyers Service in establishing The Domestic Violence Pro Bono Project.

**D. Batterer not paying child support, but victim cannot get AG, DA or court to enforce.**

1. Victim must document record of non-payment and payments, as well as all actions she has taken to achieve compliance. Write CONCISE letter to AG/ DA specifying exactly what she seeks, as per Section III.
2. Consider having community Court Watch include observations in the Child Support Court to document their noncompliance with enforcing orders; see, e.g., Travis County, Texas.
3. If victim needs emergency funds to tide her over, contact local churches, DV programs, and, if none exist, help start a DV Survivor Support Network as is run by volunteers and students at U. of Texas School of Law to provide any need for survivors, ranging from paying utilities and rent, to assisting with resume writing and rides to drug treatment; see: <http://www.utexas.edu/law/orgs/ssn/>

**E. Batterer is filing false allegations against the victim, causing her to miss much work and risk being fired.**

1. When faced with a batterer who fabricates, manipulates, or exaggerates the facts, the victim should have a lawyer to respond as soon as possible. The lawyer should be properly prepared with detailed knowledge of the record and applicable law. Since judges and juries do not appreciate being lied to, it is essential to reveal the batterer's falsehoods. It can be extremely helpful to have visitation center documentation of any batterer noncompliance.
2. The victim should write a list of all cases filed against her by this batterer, those case dispositions, how the filings have adversely impacted her, and any other relevant information about the dangerous implications of his overlitigious conduct and use of the courts to further abuse her.

**F. Court/ police/ custody evaluator/ advocate (or other professional) is using race/culture/religion stereotypes in mishandling her case.**

1. Identify who in the community can provide immediate, credible information, and ultimately, training; e.g., Haitian priest, professor of

Indian Law, NCJFCJ training material on working with Hispanic families.

2. It is essential to consider who can reach the intended party; e.g., do you need a judge to reach another judge? Given the proliferation of material now available, chances are high that the needed information exists and can be accessed with an internet search and asking local domestic violence advocates; e.g., <http://www.dvinstitute.org/>

**G. Batterer's lawyer is harassing victim and/or lying to her about case(s), possible consequences of following through with civil and/or criminal cases, or some other aspect impacting her safety.**

1. Each state has the equivalent of a Board of Bar Overseers, run by the state bar association, with written guidelines specifying how to file a complaint. It is highly recommended that the victim speak with an attorney for guidance in the process.
2. Lawyers must follow applicable ABA Rules of Professional Conduct. For example, Rules 3.1 (Meritorious Claims and Contentions), 3.3 (Candor Toward the Tribunal), 3.4 (Fairness to Opposing Party and Counsel), 4.1 (Truthfulness in Statements to Others), and 8.4 (Misconduct) of the ABA Model Rules of Professional Conduct mandate that lawyers act with good faith and honesty in dealings with the court, counsel, and third parties. A reminder of these obligations can sometimes suffice to cure dishonesty in an attorney.

**III. Recognizing Whom to Ask and Why**

- A. Identify who has the power to get victim remedy & strategize how to engage their assistance. If you do not know whom to contact, ask League of Women Voters or elected local or state officials.
- B. Teach victims how to determine who is the correct person to speak with; e.g., in addressing problems with changing social security numbers, contact *federal* senator's office as this is federal issue.

**IV. How to Ask Legal Questions**

- A. **CONCISELY** state:
  1. Legal problem including deadlines, key players, history of abuse (including convictions),

2. What you want person to do.
  3. Sample script to obtain lawyer for custody hearing: “Hello, my name is Sarah Justice from the XYZ and I’m calling on behalf of Jane Doe to find out if you can help her gain full custody of her children. Her ex-husband has filed for custody and a hearing has been set for February 14, 2008. Based on our information, the ex-husband has exhibited inconsistent and irresponsible behavior that causes us to be concerned for the children’s safety. For example, the visitation center reported that for the last three scheduled sessions, he has shown up for visits with a strong odor of alcohol on his breath and has been combative with their intake staff. We consider the situation serious and can provide written documentation. Can you represent her?”
  4. Sample script to ask immigration law question: ““Hello, my name is Sarah Justice from the XYZ and I’m calling on behalf of Maria Lopez whose husband is threatening to turn her over to the immigration authorities. She is currently undocumented, but her husband is a lawful permanent resident. They have two young children who were born in the United States. Can you meet with Ms. Lopez to advise her about her rights and options?”
- B. If the person you speak with cannot help, ask for a referral to someone who is likely to assist. If they say there are no options, call any or all of the following: governor’s office of constituent services, mayor’s office, state and/or federal legislators, city counselor or town selectmen, media (television and/or newspapers), churches, for someone from another county it is worth trying their consulate for funds to hire an attorney (e.g., Mexican consulate has paid for a private attorney to assist a Mexican National get custody back from her violent ex-husband). Try very hard to never find yourself saying there is nothing we can do.

## **V. On-Going Partnerships**

- A. Belong to local Domestic Violence Council/ Task Force and, if possible, actively participate on committees; will make it easier to get your issues prioritized.
- B. Ask local domestic violence and legal aid programs what councils exist to facilitate needed partnerships, or what need to be developed.

## **VI. Information Sharing and Confidentiality**

- A. Ensure your agency has clear, **written guidelines** regarding with whom you can discuss client issues, when, and why.
- B. Even if client gives you **written permission** to discuss her case, make sure you reveal the least amount necessary to achieve your goal.

## VII. Use of National Resources

- A. Know which resources are for professionals vs. consumers seeking direct assistance. Consumers can access materials on the professional's web sites, but will not be given case-specific guidance.

### B. Resources for Professionals (limited list → see [www.ncadv.org](http://www.ncadv.org) for more)

- ☆ **Asian and Pacific Islander Institute on Domestic Violence**, ph 415-954-9988 ext. 315; [apidvinstitute@apiahf.org](mailto:apidvinstitute@apiahf.org)
- ☆ **Faith Trust Institute** 2400 N. 45th Street #101 Seattle, WA 98103 206-634-1903 or [www.faithtrustinstitute.org](http://www.faithtrustinstitute.org); FaithTrust Institute is an international, multifaith organization working to end sexual and domestic violence. They provide communities and advocates with the tools and knowledge needed to address the religious and cultural issues related to abuse; they offer a wide range of services and resources, including training, consultation and educational materials.
- ☆ **Family Violence Prevention Fund** works with men and youth, promoting leadership within communities to ensure that violence prevention efforts become self-sustaining, and transforming the way health care providers, police, judges, employers and others address violence. [www.fvpf.org](http://www.fvpf.org).
- ☆ **Institute on Domestic Violence in the African American Community (IDVAAC) Technical Assistance** IDVAAC provides technical assistance to Supervised Visitation Program grantees to enhance communities' and visitation centers work with culturally diverse groups, including Telephone consultation, Site visits and on-site consultation, Training, Strategic planning and critical thinking, Linking communities with experts, Reviewing policies and procedures, Meeting with project staff & Facilitating consulting committee meetings or conducting focus groups. For more information call IDVAAC toll-free at (877) 643-8222, email Lauren Litton at [llitton@ispconsults.com](mailto:llitton@ispconsults.com).
- ☆ **MINCAVA Electronic Clearinghouse** [www.mincava.unm.edu](http://www.mincava.unm.edu) Minnesota Center Against Violence & Abuse providing research, education and access to violence related resources.
- ☆ **National Latino Alliance for the Elimination of Domestic Violence** [www.dvalianza.org/](http://www.dvalianza.org/)

### C. Resources for Consumers Seeking Direct Help

- **National Domestic Violence Hotline, 1-800-799-SAFE or 800-787-3224 TTY** for the deaf, to be referred to services in your area or receive immediate assistance in English or Spanish (or be connected to translators in more than 140 languages) + [www.ndvh.org](http://www.ndvh.org) has materials to download.
- [www.domesticviolence.org](http://www.domesticviolence.org) = web site with materials for victims to download

**VIII. Thank you for all you do; it truly takes all of us!**