



Screening and Safety Planning in Cases Where Domestic Violence Is An Issue

BACK TO BASICS

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Why Do Lawyers Need to Know About Domestic Violence?

- ▶ Women are more likely to be victims of homicide when they decide to separate from their husbands.
- ▶ The risk of homicide is highest in the first two months of separation and up to two years after separation.
- ▶ Between 30% and 50% of the women killed in the U.S. are killed by male intimate partners or ex-partners.

Why Do Lawyers Need to Know About Domestic Violence?

- ▶ Fathers who batter mothers are 2 times more likely to seek sole physical custody of their children than are non-violent fathers.
- ▶ Three times as likely to be in arrears in child support.
- ▶ More likely to engage in protracted legal disputes.
- ▶ Domestic violence underlies many of the nation's estimated 354,000 annual child abductions (1990).

Domestic violence appears in a wide variety of ways in civil proceedings, such as:

- ▶ Abused party seeks divorce and rehabilitative compensation;
- ▶ Abused party seeks temporary protective order;
- ▶ Abused party seek restraining order during divorce proceeding due to continued harassment by abuser (work, children's school and/or at home);
- ▶ Abused party seeks compensation for physical and psychological damage caused by abuser in lengthy marriage;

Civil Proceedings, Continued

- ▶ Abused party seeks supervised or limited visitation until abuser successfully completes treatment program for batterers;
- ▶ Abuser asks for change in parenting plan as way to maintain access to and control over the abused party;
- ▶ Termination of parental rights is sought as a result of physical abuse of the children;

Civil Proceedings, Continued

- ▶ Termination of the abused party's parental rights is sought with charges of failure to protect the children from the perpetrator's abuse;
- ▶ Abused party brings tort action for compensation for damages.

Rule 1.1 of the Model Rules of Professional Conduct

- ▶ A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.
- ▶ Uninformed lawyers may risk placing client and children in further danger.



What is domestic violence?

Behavioral Definition of Domestic Violence

- ▶ A pattern of behaviors including a variety of tactics that occur over time.
 - ▶ Some physically injurious and some not.
 - ▶ Some criminal and some not.
- ▶ Assaultive and coercive behaviors, including physical, sexual and psychological attacks, technological abuse, as well as economic coercion.

Physical Assaults

- ▶ Physical abuse may include spitting, scratching, biting, grabbing, shaking, shoving, pushing, restraining, throwing, twisting, slapping (with open or closed hand), punching, strangling, burning, and/or use of weapons (e.g. household objects--knives, guns) against the victim.
- ▶ Understanding seriousness requires determining context (i.e. “pushing” . . . down a flight of stairs, in front of a car, while pregnant, etc.)

Rape and Sexual Assault

- ▶ Complicated in DV cases by:
 - ▶ Failure of many victims to realize they have the right to say no to an intimate partner;
 - ▶ The reluctance of many victims to describe the assault to police, prosecutor, judge;
 - ▶ Slow recognition of legal system to understanding marital rape.
- ▶ Devastating psychological and physical consequences.

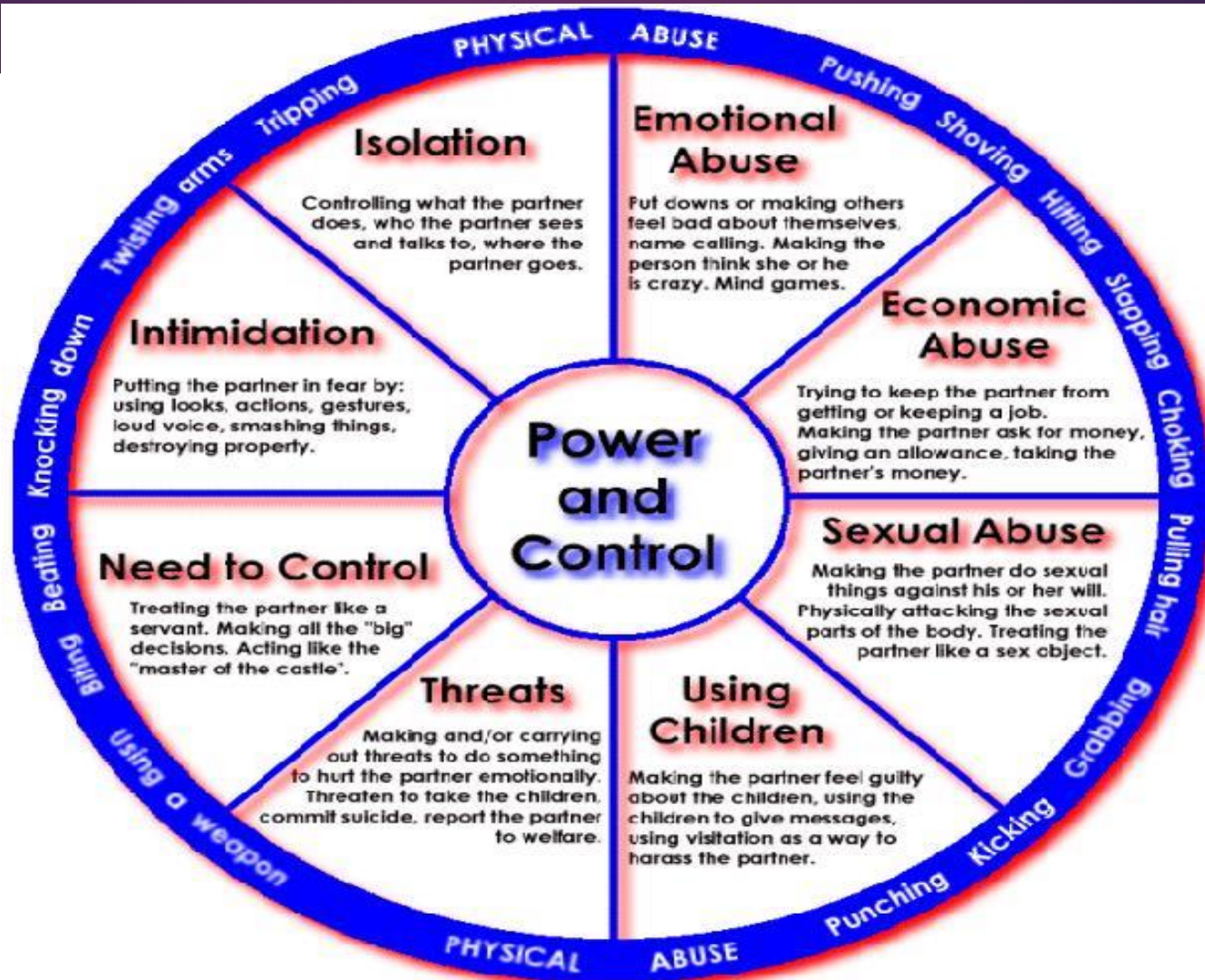
Psychological Assaults

- ▶ Threats of violence and harm
- ▶ Attacks against property or pets and other acts of intimidation
- ▶ Emotional abuse
- ▶ Isolation
- ▶ Use of children
- ▶ Minimization, denial and blame
- ▶ Looks different depending on status
 - ▶ E.g. disabled victim or immigrant victim

Technological Abuse

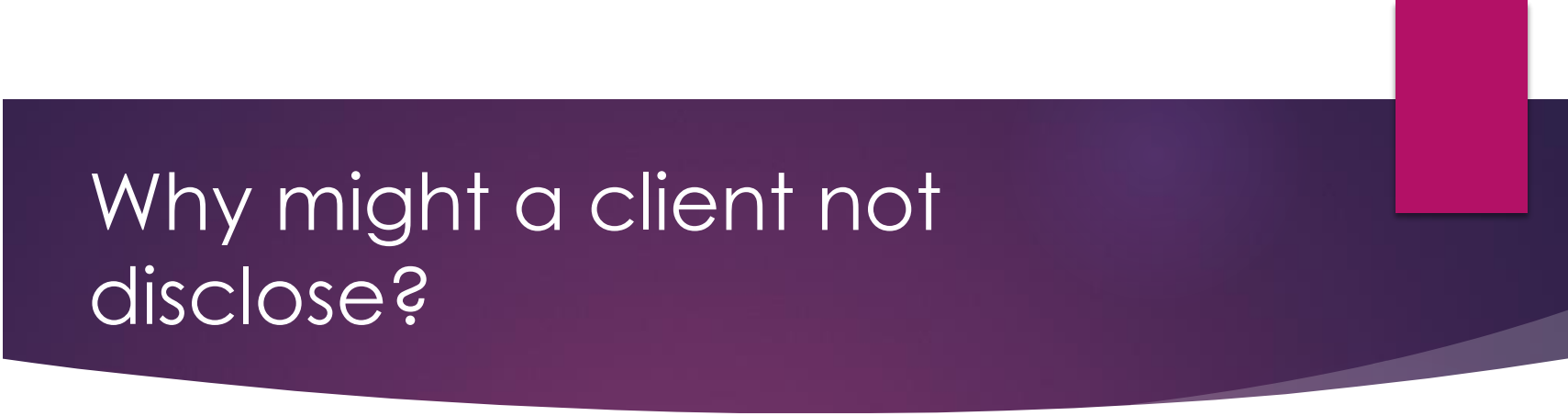
- ▶ Use of high tech spying tools to extend power and control
- ▶ Tracking calls made and websites visited
- ▶ Installation of Spyware on computers
 - ▶ Difficult to spot on computer
- ▶ GPS
 - ▶ Cell phone
 - ▶ Vehicle
- ▶ Now available easily and inexpensively

Power and Control Wheel



Control, Control, Control

- ▶ Control is exerted over the battered victim's movements, emotions, thoughts and potentially every aspect of her life.
- ▶ Must understand the pattern of behavior over time to understand the victim's experiences.



Why might a client not
disclose?

Ideologies to Overcome

- ▶ Mediated resolution of conflict
- ▶ Battered woman as passive, victimized, angry or vindictive
- ▶ Focus on alleged victim's behavior
- ▶ Damned if you don't leave, damned if you do

The Client: Screening Guidelines

- ▶ Not confined to “certain groups”
- ▶ Reluctance to self identify
- ▶ Screen all clients during initial interviews
- ▶ Avoid Harmful Assumptions or being judgmental
- ▶ Can’t properly strategize w/out all info

Basic Warning Signs

- ▶ Physical signs
 - ▶ Repeated bruises, broken bones;
- ▶ Not always visible
 - ▶ Slaps, shoves, threats, emotional and financial abuse, other controlling actions;
- ▶ Emotional abuse
- ▶ Use of the legal system
- ▶ Extreme jealousy

Don't Ask:

- ▶ Has he battered you or your children?
 - ▶ Doesn't identify self as battered woman
 - ▶ Won't admit if children battered
 - ▶ May not understand scope of question or definition of "battered" or "domestic violence"

Screening for Victims

- ▶ Do you feel safe at home?
- ▶ When you and your “spouse” argue, what happens?
Do you ever change your behavior because you’re afraid of the consequences?
- ▶ Does your partner/spouse ever make it hard for you to go to work or school?

Other Signs

- ▶ Who controls the finances? Does client have ready access to financial info?
- ▶ If the client has or had pets, have pets ever been injured or abused?
- ▶ How frequently does client or children need medical care? Did they receive it?
- ▶ Do either of the parents have a criminal record? If so, what for?

More Questions

- ▶ How does your partner feel about your separating from him or her?
- ▶ Has he ever threatened to do anything to you, himself or the children if you leave?

Screening potential batterers

- ▶ Have either you or your partner acted in ways that caused the other to become afraid?
- ▶ Are the two of you able to talk to each other without arguing?
- ▶ What happens when you argue?
- ▶ What allegations will your partner make about treatment of her or children?

Lethality Checklist

- ▶ Attempt to measure risk of lethality in relationship
- ▶ No real way to predict whether batterer will kill
- ▶ Ask:
 - ▶ Suicide threats?
 - ▶ Drug or alcohol abuse?
 - ▶ Threats to kill victim/children? Detailed?
 - ▶ Are Firearms present?
 - ▶ Escalation of violence? Breaking “rules”?

Special Considerations

- ▶ Be prepared for emotional outpouring of anger, frustration, hostility and depression;
- ▶ Listen sympathetically without bombarding victim with questions or advice during first part of interview;

Special Considerations

- ▶ Assess and help victim identify and prioritize present needs;
- ▶ Discuss legal options only after victim's physical safety and immediate needs are secured.

Special Considerations

- ▶ Consider battered woman's race, ethnicity, cultural background and legal status, especially if she is an immigrant.
- ▶ Extended families have strong presence in many ethnic groups;
- ▶ Women with developmental disabilities have among the highest rates of physical, sexual and emotional violence by partners and family members;

Special Considerations

- ▶ Extremely important for attorney or advocate to explore legal and nonlegal options;
- ▶ Emphasize need for follow-through;
- ▶ Don't pressure to choose option.

Special Considerations

- ▶ Recognize that victim may not be psychologically prepared to take legal action that would result in termination of relationship or arrest of abuser
- ▶ Understand why she doesn't leave

Why Doesn't She Just Leave?

- ▶ Question erroneously implies that leaving the batterer necessarily increases a victim's safety.
- ▶ Puts emphasis on what she didn't do, rather than all that she has done.
- ▶ Why not ask "Why does he abuse his family?"

Reasons for Staying

- ▶ Domestic violence victims stay for many valid reasons that must be understood by lawyers, judges, law enforcement and others in the legal community if they are to stem the tide of homicides, assaults, and other abusive behavior.
- ▶ Two of the most common reasons are
 - ▶ Fear of the batterer's violence;
 - ▶ Separation highly dangerous.

Separation Abuse

- ▶ Women are more likely to be murdered when attempting to report abuse or to leave an abusive relationship; (Wilson & Daly, 1993)
- ▶ The risk of homicide is highest in the first two months of separation; (Wilson & Martin, 1993)
- ▶ 73% of battered women seeking emergency medical services sustained injuries after leaving the batterer; (McGee, 2005)
- ▶ Nearly 75% of reported assaults take place after the separation of the parents. (US Dept. of Justice)

Reasons for Staying

- ▶ Insufficient funding and resources nationwide that result in a lack of shelters and victim advocacy programs to provide transitional support;
- ▶ Lack of real alternatives for employment and financial assistance, especially for victims with children;
- ▶ Dependence on the batterer for health care or medical needs of self or children;
- ▶ Lack of affordable legal assistance necessary to obtain a divorce, custody order, restraining order, or protection order;

Reasons for Staying

- ▶ Immobilization by psychological and physical trauma;
- ▶ Belief in cultural/family/religious values that encourage the maintenance of the family unit at all costs;
- ▶ Connection to the batterer through his access to the children;
- ▶ Continual hope and belief in the batterer's promises to change and to stop being violent.

When to refer?

- ▶ High Lethality and you cannot take the case.
- ▶ High Lethality and the client is overwhelmed.
- ▶ Still with the abuser.
- ▶ Might not be able to take.

Safe Representation

- ▶ Contact with your client:
 - ▶ Only talk to your client when you call about case;
 - ▶ Don't leave messages with other family members, on the answering machine or on e-mail;
 - ▶ Always ask you client if it safe to talk;
 - ▶ Block identification of your number. (*67)
 - ▶ Suggest that client block her number.

Safety Representation

- ▶ Send mail only when client has advised it is safe;
- ▶ Remind client to limit children's knowledge;
- ▶ Let client know about legal developments;
- ▶ Make sure your client is safe;
- ▶ Stress confidentiality, sensitivity and knowledge with staff;
- ▶ Don't disclose personal info in documents;
- ▶ Referrals.

Safety at Home

- ▶ Change locks and add deadbolts;
- ▶ Don't get apartment on first floor;
- ▶ Remove sharp objects/weapons from sight;
- ▶ Keep phone in room that locks from inside (cell phone w/preprogrammed numbers);

Safety at Home

- ▶ Plan and practice escape route;
- ▶ Teach children not to let batterer in house;
- ▶ Keep a bag packed for flight;
 - ▶ Important papers
 - ▶ Clothing for self and children
 - ▶ Money, checkbooks, credit cards, bank books
 - ▶ Necessary medicines

Safety at Home

- ▶ Let neighbors know what is going on, show them pictures;
- ▶ Get unlisted number and use block code;
- ▶ Trade cars with a friend or relative;
- ▶ Alter routines.

Advise your client:

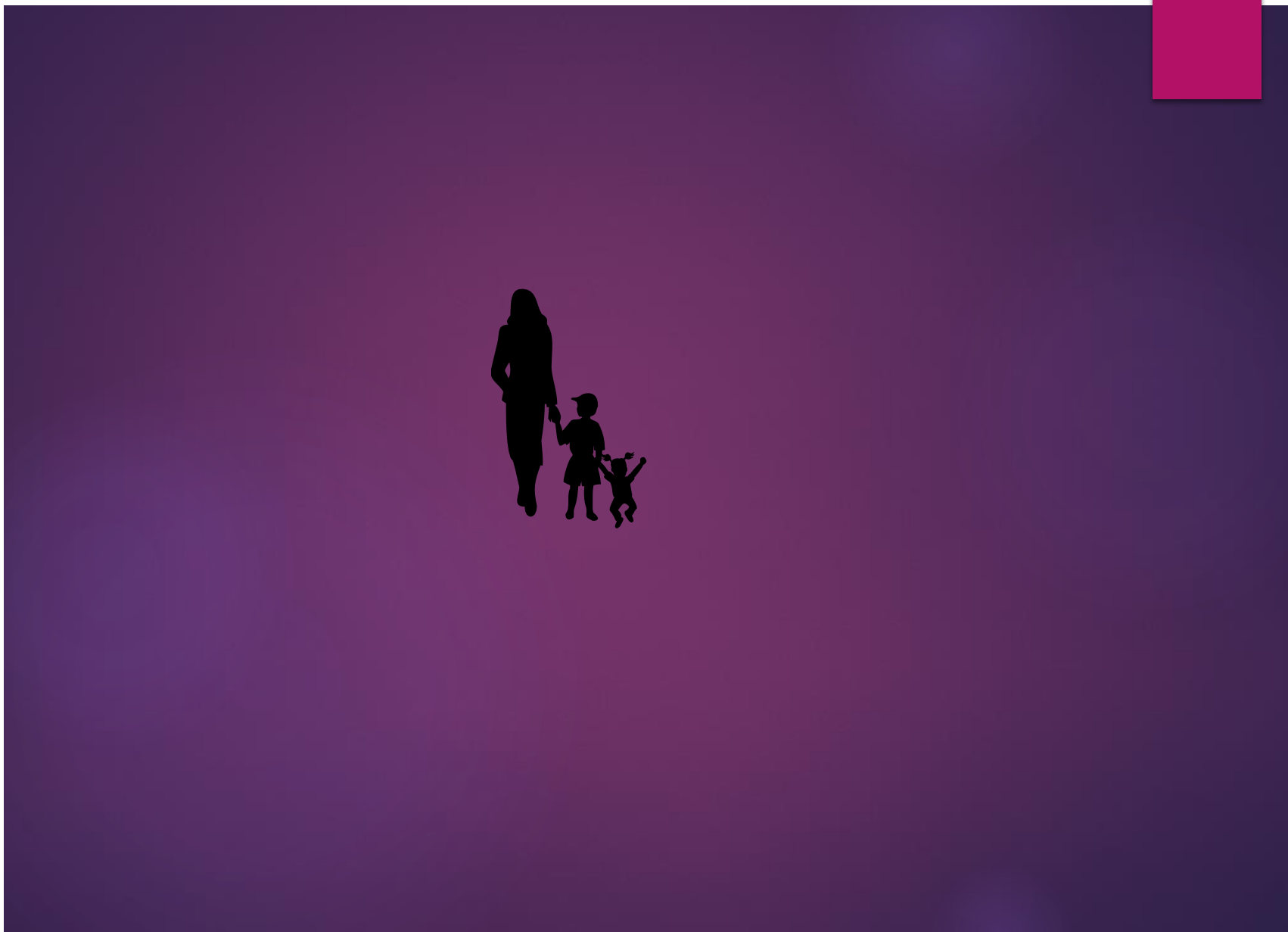
- ▶ To call 911 (get dispatcher and responding officer's names)
- ▶ Seek criminal charges for violence or violation of protection order;
- ▶ Seek medical treatment—Photograph all injuries;
- ▶ Record all contact in diary.

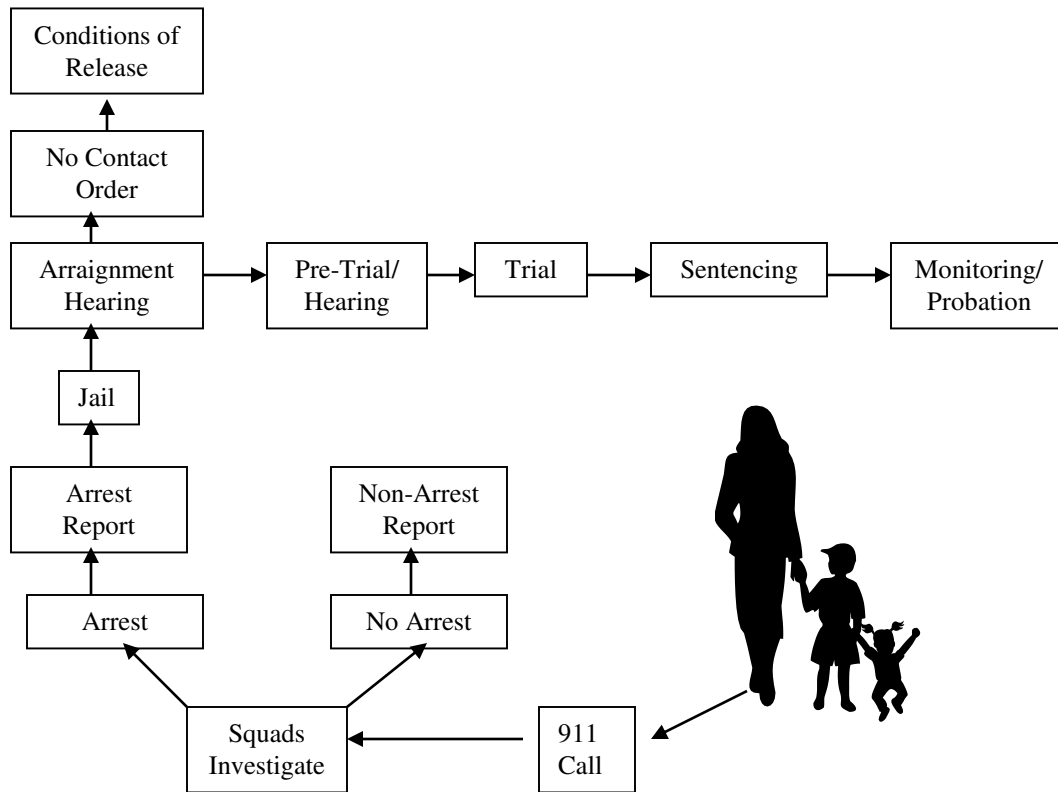
Safety in Court

- ▶ Arrive in court before or with your client;
- ▶ Position yourself between batterer and client;
- ▶ Do not permit batterer to speak with your client;
- ▶ Take same precautions with batterer's family members;
- ▶ Make sure client is safe when leaving.

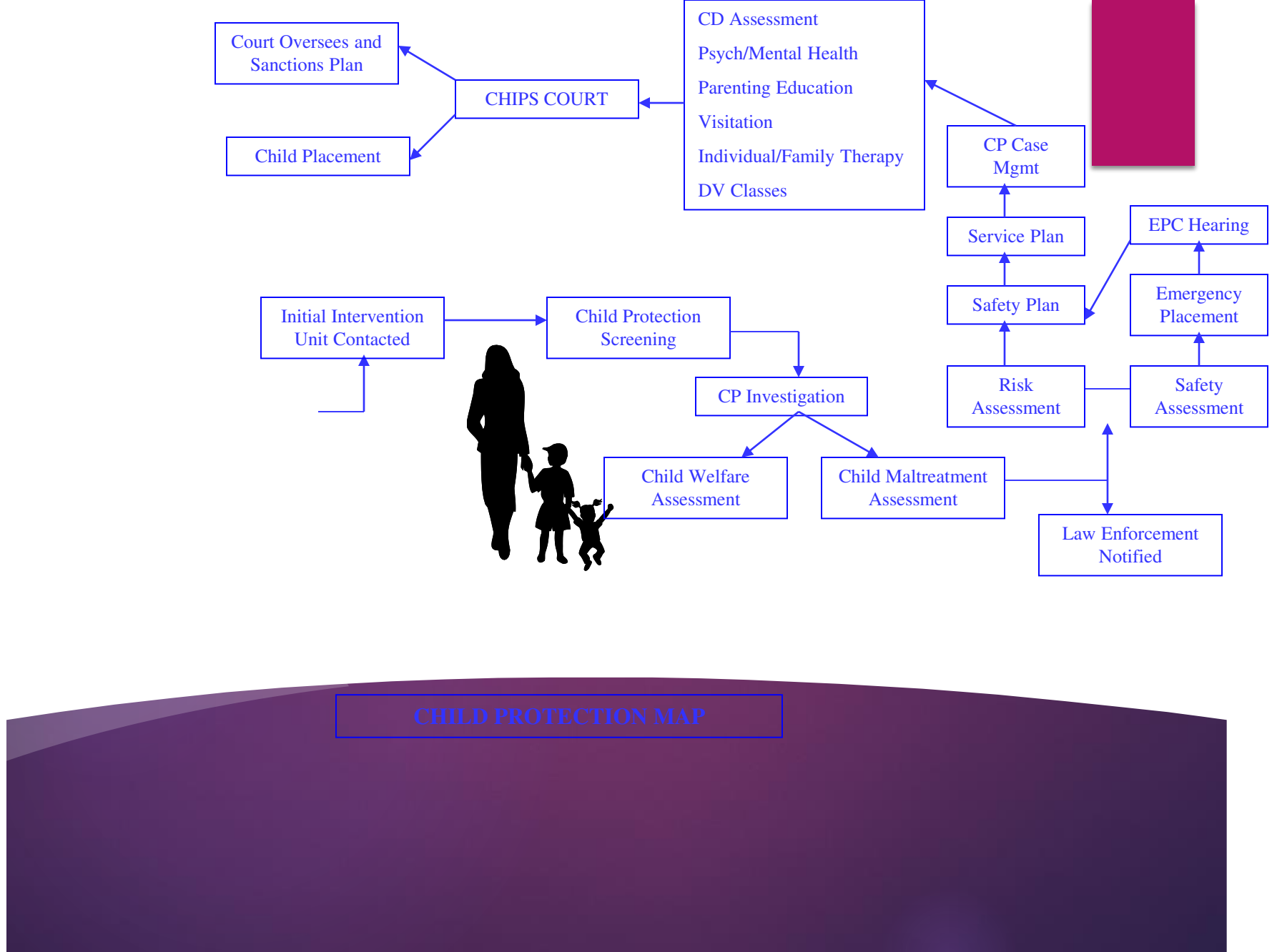
Safety at Work

- ▶ Inform employer of situation
- ▶ Give employer copy of protection order
- ▶ Determine workplace violence policies
- ▶ Arrange for security within and while leaving building
- ▶ Emphasize to employer and coworkers importance of confidentiality of locations, etc.

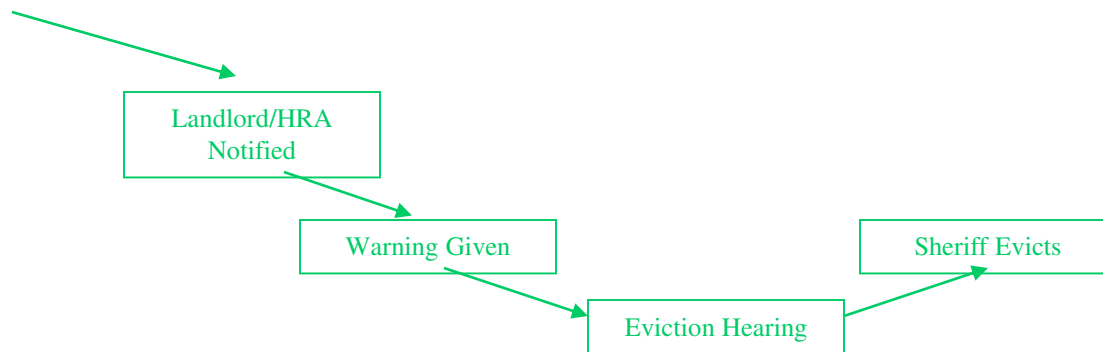




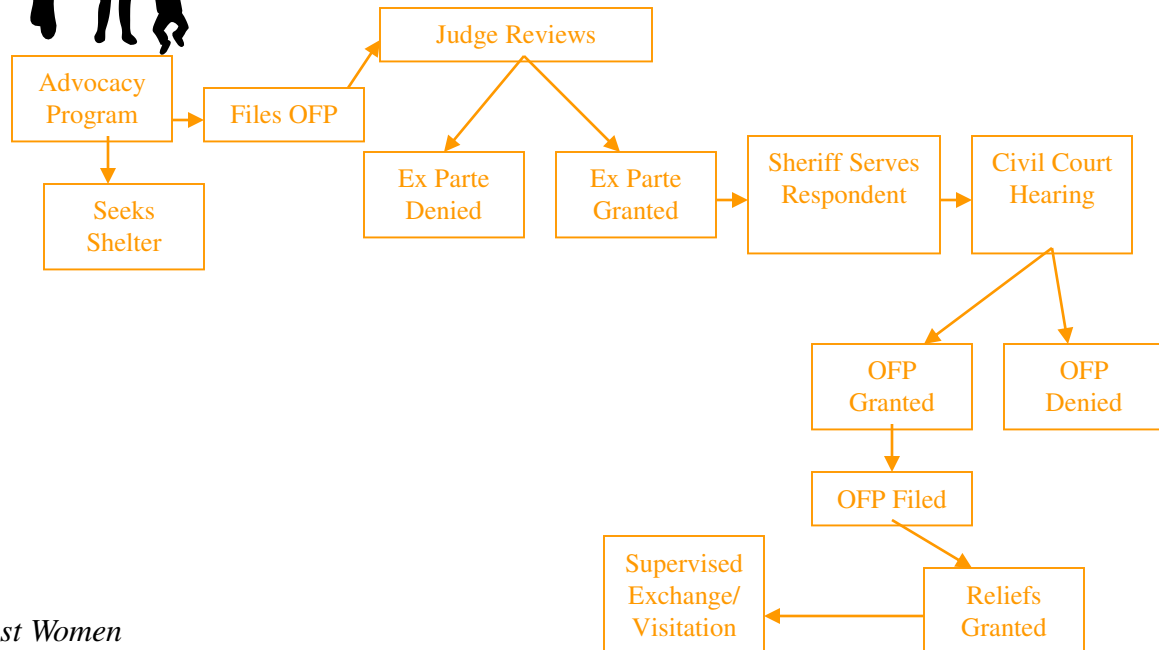
DOMESTIC VIOLENCE/ ARREST INCIDENT



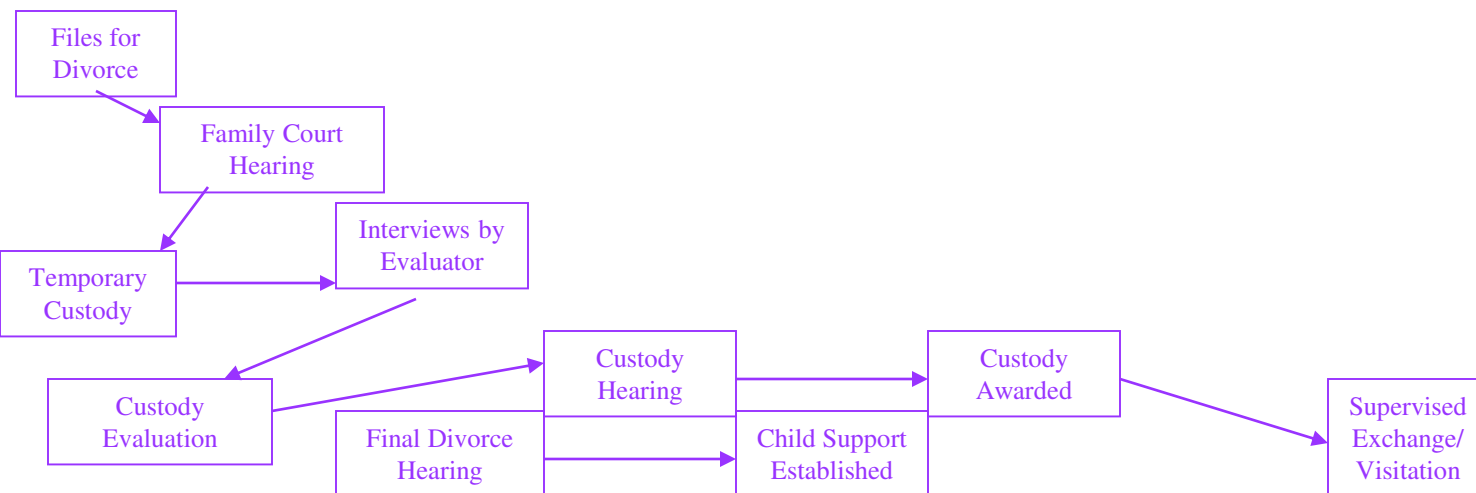
HOUSING MAP



ORDER FOR PROTECTION – CIVIL COURT PROCESS



CUSTODY MAP



QUESTIONS?

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