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Breaking the Cycle

Alumni Convocation addresses domestic violence — and a solution

A slap. A curse. A bruise to be covered over, against the neighbors’ prying eyes. A promise to change. A declaration of love.

Those are the sad elements of domestic violence, one of today’s most talked-about social issues in the wake of the O.J. Simpson murder case. Once considered by the public and even by the justice system as a “private matter” to be resolved in the home, not in the courtroom, domestic violence has come to be recognized as a crime requiring special attention.

UB Law School’s 19th annual Alumni Convocation faced some ugly truths about domestic violence — and studied some tools for breaking the cycle.

The convocation, held for the first time in the soaring new Center for the Arts, addressed the state’s Family Protection and Domestic Violence Intervention Act of 1994. The 125 people in attendance at the October symposium learned something of the psychology of battering, the opportunities the new law makes for intervention, and a media viewpoint on publicizing such cases.

As the Hon. M. Dolores Denman, president justice of the Appellate Division, Fourth Dept., said in her opening remarks, “More women are injured by domestic violence than by any other means. Society now recognizes that the problem is of epidemic proportions, affecting millions of men, women and children.”

Denman gave an overview of the domestic violence law, most provisions of which took effect on Jan. 1, 1995. Of special importance, she said, was a mandatory arrest policy that takes effect in July — police officers must arrest the offender in a domestic violence case, even if the victim asks them not to.

“Previously,” she said, “the police would sometimes try to mediate the dispute, minimizing the crime and treating the victim as somehow partly responsible — precisely the wrong message to send to the abuser, the victim and society.”

With the new law, she said, “In virtually all cases of domestic violence, the abuser will feel the immediate consequences of his conduct.”

The Hon. Vincent E. Doyle, Supreme Court justice in the Eighth Judicial District, served as moderator. He recounted some chilling statistics on the toll domestic violence takes:

- A woman is beaten every 12 to 15 seconds in the United States — from 2 million to 4 million women each year.
- At least 3 million children, ages 3 to 17, are exposed to this violence annually.
- There are as many homicides committed by wives against husbands as there are by husbands against wives.
- And in 1993, 1,421 American women died at the hands of their husbands or partners.

“The matter can no longer be treated as the usual fight at O’Brien’s house on a Friday night when Paddy comes home a little under the weather,” Doyle said.

State Sen. Stephen N. Saland, author of the new domestic violence law, talked about the genesis of the legislation. He said lawmakers held a series of public hearings throughout the state — hearings that made important contributions to the final law. For instance, he told of one Long Island woman who testified that, in leaving her abusive husband, she suffered financially because current law did not provide for an immediate order of support. As a result, Saland said, the new law provides for an order of support.

He, too, noted the importance of the mandatory arrest provision. “If there’s any message this bill can send out,” he said, “it’s this: It’s going to be treated as a crime. The full weight of the criminal law is going to be brought against you at every opportunity.”

Saland also said the law establishes a statewide registry of orders of protection, to be on line by April 1, 1995.

“There are some bumps and obstacles that may have to be overcome,” he said of the law’s implementation. “But we’ve established an entirely new format, and that new format is going to change the way we approach incidents of domestic violence.”

UB Law Professor Charles P. Ewing, who wrote the book Battered Women Who Kill, delved into the psychology behind domestic violence. He said battering typically occurs in a three-phase cycle: a period of growing tension, a battering incident, then a period of “loving contrition” that ends the cycle on a positive note.

Why do women stay in abusive relationships? Ewing said there are environmental factors at work, including threats by the batterer and significant financial obstacles.

As well, he said, several psychological forces are at work to keep the victim in the relationship. Society expects women to be the peacemakers and keep the family together. Often women blame themselves for the violence. The positive note on which the domestic violence cycle ends reinforces the victim’s hope that the batterer will change. (They almost never do, Ewing said.)
Finally, he said, victims show evidence of "learned helplessness" — having suffered again and again, they come to believe that there's no hope of changing their lives. "Sadly," he said, "battered women find themselves in life situations with repeated painful experiences over which they believe they have no control. They eventually cease trying to avoid the painful stimuli and stay in the relationship."

Erie County District Attorney Kevin M. Dillon told of an accused rapist who severely cut and assaulted his girlfriend. The woman at first agreed to press charges, then tried to drop the charges — going so far as to approach the newspaper and distribute fliers saying she was being victimized by the district attorney's office. The case, Dillon said, exemplifies some of the complexities of prosecuting domestic violence cases.

About the new domestic violence law, he noted that the state District Attorneys Association, of which he is president, supports the mandatory arrest provision. But, he cautioned, "mandatory arrest does not mean mandatory prosecution." For example, he said, if a Family Court proceeding finds against the petitioner, the district attorney's office would have to take a hard look at the case before proceeding in criminal court, where the standard of proof is tougher.

"But we will not automatically dismiss a criminal complaint because of reconciliation or divorce," Dillon said. "My obligation within the district attorney's office is not only to worry about the complainant, but also to worry about the next person down the road. We have an obligation to every future potential victim that that batterer may come into contact with."

Dillon praised a provision for training police about domestic violence, calling it "the most critical element of this bill." "We do have to retool and re-socialize judges, prosecutors, police officers," he said.

The Hon. Hugh B. Scott, formerly a Buffalo City Court judge, now a U.S. magistrate, discussed some technical aspects of proceedings under the new law while noting, "We need to understand the limitations of the judicial system. We can't as judges eliminate some of the social forces that affect why people behave and respond as they do."

Scott spoke of changing the culture of the judicial system, making the courts sensitive to domestic violence as a crime like any street-corner assault. In the past, he said, any case with the word "domestic" attached has "allowed for a kind of treatment much different from other cases. It's allowed for the court system to remain detached from the consequences of these cases."

The judge had praise for the database for orders of protection, saying, "This is going to make all the difference in the world for law enforcement. The police can make an arrest based on good solid evidence, rather than the word of one of the parties involved."

He cited a domestic violence case. People v. Jhon, which emphasized that prosecution for criminal contempt is the enforcement of a public concern, not simply a right of the individuals involved.

And he told of one Buffalo City Court case that made a difference in his own thinking: a woman who had been beaten by her partner so severely that she lost her right eye, then appearing in court trying to withdraw her complaint against him - even before a glass eye had been fitted.

Attorney David G. Stiller, who practices matrimonial law with the firm Stiller & Pieri, addressed three areas of interest regarding the new law.

One question his clients frequently ask, Stiller said, is: Can I get exclusive occupancy of the marital home? Accomplishing that, he said, is a difficult and drawn-out process in civil court. But, he said, it's much easier to obtain an order of protection which states that the offending spouse must stay away from the family home. That ex parte order has the effect, he said, of an order of exclusive occupancy.

In matrimonial law, Stiller said, the concept of "fault" is not an issue when a judge decides how the marital property will be divided up — unless the fault is "egregious." That would include such crimes as child abuse and an attempt to murder the spouse, he said. But under the new law, he said, domestic violence would be considered
egregious, perhaps leading the courts to award more property to the victimized spouse. Such a prospect, he said, "can help by penalizing the abuser financially."

Stillers said the advent of the domestic violence law will "open up a whole new area of civil litigation regarding malfeasance." Police departments will face civil liability if they fail to make an arrest in a domestic violence case, and consequently will err on the side of arrest. On the other hand, if there is proof that the arrest was made negligently, arrestees are more likely to sue for false arrest because the stigma of domestic violence is then attached to their name.

Finally, Barbara Ireland, editorial page editor of The Buffalo News, offered a media perspective on the crime of domestic violence.

Ireland noted that newspapers and other media reflect societal attitudes, and that increased coverage of domestic violence has mirrored the public's thinking. "Twenty years ago," she said, "were most people getting outraged at the black eye on the lady next door? No — they were ignoring it."

But the media, she said, have come a long way in addressing frankly such issues, partly as a response to the feminist movement. As women came into positions of influence at newspapers, she said, they began to introduce more issues of concern to women, including domestic violence.

The News decides which crimes to report on a case-by-case basis, Ireland said. "We cover about 1 percent of the cases handled by police in the Buffalo area," she said. "There's a continuum in choice of what is newsworthy. ... Usually, it isn't until somebody dies that there's a news story."

Domestic violence, she said, is covered like other crimes: based on the severity of the crime, the prominence of the people involved, and the presence of unusual circumstances.

The editorial page, Ireland said, is "the place where the newspaper as an institution steps out of its objective reporting role and expresses an opinion." The News editorialized in favor of the new domestic violence law, she said, and occasionally writes about failings in the police and justice systems that treat domestic violence "less seriously than it should be treated."

The convocation received major sponsorship from Marine Midland Bank, with additional support from Harold C. Brown & Co. Investment Services, Snyder Corp./Hyatt Regency Buffalo, and the Commonwealth Land Title Insurance Co.

At a luncheon that followed the morning's presentations, the Edwin F. Jaeckle Award — the Law School's highest honor — was presented to attorney Arnold B. Gardner and State Sen. Dale M. Volker.

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**Five Distinguished Alumni Receive Awards**

Five of the Law School's most accomplished alumni were honored on Friday, May 13, during the Law Alumni Association's 32nd Annual Meeting and Dinner.


Justice Doyle, recently appointed Administrative Judge of the New York State Supreme Court, Eighth Judicial District, was recognized "for his conscientious and diligent performance in the judiciary," where he has served for over 15 years. Doyle began his career as a trial lawyer, first as a public defender and later as a partner in the Buffalo law firm of Doyle, Diebold, Birmingham, Gorman & Brown.

He is presiding member of the Council of Judicial Associations and chairman of the Continuing Legal Education Committee for the New York State Bar Association. Doyle also lectures at the law school and for the Office of Court Administration, New York State Bar Association and the Erie County Bar Association. He is a former president of the Erie County Bar Association and the New York State Association of Justices of the Supreme Court. Previous honors include the 1993 Erie County Bar Association Matrimonial and Family Law Committee Outstanding Jurist Award and the 1988 Erie County Bar Association's Outstanding Jurist Award.

Terrence Connors was honored "for his leadership by example as a private practitioner." A trial attorney for over 23 years, he founded the law firm of Connors & Vilardo approximately eight years ago, concentrating in the area of litigation. Included among the firm's clientele is the Roman Catholic Diocese of Buffalo.

Connors teaches Trial Technique at UB Law School and is a frequent lecturer and author on trial practice for the New York State and Erie County Bar Associations. Last year, Connors headed Buffalo Mayor Anthony Masiello's transition team. He is a fellow of the American College of Trial