

AMERICAN BAR ASSOCIATION

CRIMINAL JUSTICE SECTION COUNCIL

MODERN DAY PLEA NEGOTIATIONS SEMINAR

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SAN FRANCISCO, CALIFORNIA

The Honorable Sheila M. Murphy (*Retired*)

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Plea bargaining can be done by the bundle. In women's court in Chicago, the alleged prostitutes would be brought in, given their rights, stand in a line, and state their name. After they pled guilty, most would be released, some would go to jail, and others to prison. In shoplifting cases, DUIs, truancy, curfew and other matters, women of all ages are swiftly dealt with . . . because judges do not know what they do not know.

Stephanie Covington began asking for gender specific pre-sentence reporting that included trauma. The Courts were uninformed about the sexual and physical abuse that was the reason girls and women ran away, self-medicated with alcohol and drugs, etc.

Gender matters.¹ The girls who run away are most often running from a family member who is sexually abusing them. Violence against girls and women is so wide spread that the United Nations defined violence against women as:

“Any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public or private life.”

(United Nations General Assembly, 1993)

According to Dr. Stephanie Covington, shame based feelings prevent women from speaking out in court at pre-trial conferences. They have been taught that to speak out will cause them to loose a relationship or their children.

¹With thanks to Dr. Stephanie Covington for all she taught me regarding the specific gender needs of women. Her information is: Stephanie S. Covington, PhD, LCSW, Institute for Relational Development, Center for Gender and Justice, 7946 Ivanhoe Avenue, Suite 201B, La Jolla, CA 92037, (858) 454-8528, (858) 454-8598 - Fax. Email: sscird@aol.com; www.stephaniecovington.com; www.centerforgenderandjustice.org

Probation departments, jails and prisons lack child care services and do not understand that women's treatment needs are different than mens. The environment of confrontation is frightening for a woman and often, she will plead guilty to protect her male partner. Prosecutors, defense lawyers, judges, social services, and probation officers need to have trauma/abuse assessments of women before plea bargaining. Lawyers and judges have the Canons of Ethics to consider in all aspects of their work. Is it ethical to plead a woman guilty without a mental health and substance abuse assessment?

As it stands now, abused women give rise to abused and neglected children. There is no place safe for these women and children. Children grow up with chronic stress in the terror zones of our homes and streets. As alcohol and drug abuse soars, the age that children are abused goes down.

Lawyers and judges cannot be silent. To be silent gives power to the sexual deviates and violent perpetrators who prey upon women. To inquire and protect is what is required of both lawyers and judges in our society.