

Intimate Partner Sexual Abuse: Adjudicating this Hidden Dimension of Domestic Violence Cases

The National Judicial Education Program Announces a New, Free Web Course and Resource for Judges and Other Justice System Professionals:

www.njep-ipsacourse.org

Sexual abuse is far more prevalent in cases involving other forms of intimate partner violence than is generally recognized. Recent research with battered women reveals that intimate partner sexual abuse is a hidden but frequent aspect of family violence with significant implications for the courts.

The term “intimate partner sexual abuse” encompasses a continuum of behaviors from verbal degradation relating to sexuality to felony-level sexual abuse and torture. Cases involving this type of abuse present complex challenges for the judiciary, beyond the overarching goal of protecting victims and their children while insuring due process for the accused. Intimate partner sexual abuse is an important factor in risk assessment; in decision-making in civil, criminal, family, juvenile and probate cases; and in custody and visitation determinations. Thus, it is important for the justice system to have strategies that encourage victims to disclose such abuse and resources for effective offender dispositions and management.

Intimate Partner Sexual Abuse: Adjudicating this Hidden Dimension of Domestic Violence Cases, provides current interdisciplinary research from law, medicine and the social sciences. Registrants for this course will learn about the implications for the courts of the severe impact of intimate partner sexual abuse, how the law itself often undermines victim safety, how to create a court environment in which victims feel safe disclosing, cultural issues that affect disclosure, which risk assessment instruments include intimate partner sexual abuse as a factor, how to assess the capability of batterer intervention and sex offender treatment programs to address intimate partner sexual abuse and more.

This web course was developed and written by the National Judicial Education Program, a project of Legal Momentum in cooperation with the National

Association of Women Judges. Instructional design and technology were provided by the Rozier E. Sanchez Judicial Education Center of the New Mexico Institute of Public Law at the University of New Mexico Law School.

The course was written with a focus on judges but the research and materials cited are useful for all justice system professionals. This Web site can also be used as a resource to be consulted as needed. The course consists of twelve modules, self-tests and answers, reflection questions, civil and criminal case scenarios, questions and commentary.

Course Modules and Topics Covered

- MODULE I:** Defining Intimate Partner Sexual Abuse and the Nature of the Problem
- MODULE II:** Risk Assessment When Intimate Partner Sexual Abuse is a Factor
- MODULE III:** Statutory Constraints—The Marital Rape Exemption and Its Legacy
- MODULE IV:** Why Victims Don't Report
- MODULE V:** Institutional Responses (Advocates, Clergy, Police, Prosecutors, Courts)
- MODULE VI:** Custody and Visitation When Intimate Partner Sexual Abuse is a Factor
- MODULE VII:** Jury Selection
- MODULE VIII:** Evidentiary Issues
- MODULE IX:** Marital Privilege and Confidentiality of Victim Records
- MODULE X:** Cultural Defenses and Cultural Evidence
- MODULE XI:** Orders of Protection, Pre-trial Release and Dispositions
- MODULE XII:** Recommendations for Improving Court Response to Intimate Partner Sexual Abuse

To register for this FREE Web course visit:
www.njep-ipsacourse.org

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Course Modules and Topics Covered

Module I: *Defining Intimate Partner Sexual Abuse and the Nature of the Problem*

Describes all aspects of intimate partner sexual abuse from forced sex acts to economic mechanisms of coercion and the profound impact on victims. Presents the research on the surprising prevalence of sexual abuse in the context of domestic violence and the typologies of marital rape. The module also addresses the numerous rationales for offender behavior and the misconception that there is an offender profile.

Module II: *Risk Assessment*

Research documents forced sex as a leading indicator of potential lethality. Domestic violence victims are most at risk of escalating physical violence, sexual assault and murder when they try to leave. The factors influencing post-separation sexual assault and risk to the victim are discussed in this module as well as the six types of lethality present in intimate partner sexual abuse cases – to the victim (murder or suicide), the offender (murder or suicide), the couple's children, and third parties such as family members and bystanders.

Module III: *Statutory Constraints*

The origins of and rationales behind the marital rape exemption and the current statutory exemptions and restrictions that make it difficult to bring marital rape cases.

Module IV: *Why Victims Don't Report*

This module addresses the numerous reasons victims do not report intimate partner sexual abuse including fear of the abuser, ignorance of the law and immigration concerns.

Module V: *Institutional Responses*

From the clergy to the courts, this module discusses the various ways social institutions help or hinder victims from leaving relationships where intimate partner sexual abuse is a factor and suggests ways these institutions can improve their response.

Module VI: *Custody and Visitation*

The issues judges should consider when determining custody and visitation awards to intimate partner sexual abuse offenders including heightened risk to the children of sexual

abuse and/or physical violence and the psychological impact on children of witnessing intimate partner sexual abuse.

Module VII: *Jury Selection*

Ways to identify biased jurors through *voir dire* and the difficulties of seating a jury in intimate partner sexual abuse cases because of the prevalence of sexual assault in society at large and the widespread myths and misconceptions about rape, particularly between intimate partners.

Module VIII: *Evidentiary Issues*

From rape shield laws to prior bad acts to the criteria and need for expert witnesses, this module discusses the numerous evidentiary issues present in intimate partner sexual abuse cases.

Module IX: *Marital Privilege and Confidentiality of Victim Records*

Determining the appropriateness of allowing spousal immunity in intimate partner sexual abuse cases and the importance of keeping victim counseling and medical records confidential.

Module X: *Cultural Defenses and Cultural Evidence*

The balance between allowing evidence about a victim's or offender's cultural background as a defense in intimate partner sexual abuse cases and the impact on ensuring justice and safety for the victim and the community.

Module XI: *Orders of Protection, Pre-trial Release and Dispositions*

This module explores the range of actions courts can take to ensure victim safety and offender rights in intimate partner sexual abuses cases, including whether and how various batterer intervention and sex offender treatment programs address the intersection of sexual abuse and physical violence and judges' role in insuring that the programs to which offenders are sent address this issue effectively.

Module XII: *Recommendations for Improving Court Response to Intimate Partner Sexual Abuse*

Numerous recommendations to improve access to justice and treatment for victims and offenders in intimate partner sexual abuse cases, as well as suggestions for judges' involvement in coordinated community response within the code of judicial conduct.

Developing Issues

This section includes material on evidence-based, post-*Crawford* prosecution and adjudication of intimate partner sexual abuse cases. New content about emerging issues in the law will be added to this section as they arise.