

Effective Advocacy on Behalf of Battered Women

By Loretta M. Frederick

I. Introduction

Advocacy on behalf of battered women whether by an attorney or lay advocate, can take many forms and must be undertaken in a manner responsive to the unique nature of the problem of violence. The considerations are similar, whether the advocate is one whose primary role is as a battered women's advocacy or, on the other hand, the advocacy takes place in the context of the provision of other types of assistance to the victim or perpetrator.

There can be limitations on the type of advocacy provided to battered women. For example, lay advocates are prohibited from engaging in the practice of law and attorneys are usually not in a position to provide a full range of non-legal advocacy services. In any event, the basic principles for such advocacy are constant.

These materials use the term "battered women" when referring to domestic violence victims. This terminology does not deny the existence of men who are assaulted by their female partners nor does it ignore the reality that there are gay male victims of domestic violence perpetrated against them by their partners. It does reflect the fact that anywhere between eighty-five and ninety-five percent of domestic violence victims are women battered by their male partners and that some other battered women are lesbians battered by their female partners. This terminology also reflects the fact that domestic violence against women is unique in that it usually takes place in the context of a pattern of threats and coercion which, along with the physical assaults, constitute the behavior commonly known as "battering".

II. The Characteristics of a Battering Relationship and How They Impact on Battered Women's Advocacy Needs

Battering is a multi-faceted pattern of control, punctuated and buttressed by physical violence. It is not an isolated physical assault, nor even a series of assaults. Battered women nearly always experience many forms of violent and other controlling behavior by the batterer. Taken together, these acts cause the woman's life, or parts thereof, to be subject to her abuser's whim or desire. Accordingly, she is forced to negotiate for her daily needs in a climate of fear of everything from assaults to insults. And she is used to trying to predict the abuser's reaction to her every move, word, desire and thought in order to avoid the violence which may follow any assertions of independence.

She is usually being pressured, threatened, or cajoled by the abuser, the abuser's family, and maybe her own family or children to reconcile, forgive and forget. She has been raised to believe that the success or failure of her relationship is a reflection of her worth as a woman; the battering is characterized as her failure to maintain the relationship. As she contemplates life apart from the abuser, she usually

finds herself contemplating poverty or at least a dramatic drop in her standard of living. She may not even know the status of the family finances. She is usually afraid of losing custody of the children to the abuser, a person more likely to have the financial and other resources necessary to winning the battle. She may be facing child protection problems relating to her "failure to protect the children." She may fear that she or the children or her parents will be hurt or killed--as has been threatened--if she terminates the relationship or challenges the abuser's control in other ways. She could also fear losing jobs or housing as a result of the abuser's constant harassment at those places.

And she may have discovered that she cannot rely on "the systems", such as law enforcement, child protection or the courts, to protect her or to treat her fairly and without class, race, gender and other biases. Meanwhile, the abuser is turning up the frequency and intensity of controlling techniques, including violence, as his control is threatened by her assertions of independence.

The results of this reality are many and each have an impact on which approach to advocacy for the battered woman is most appropriate. She may seem reluctant to take positions in opposition to the abuser's; she may express a desire to "fold" on every issue (e.g. child support, property division, visitation, etc.) in order to get child custody. She may reconcile or decide to dismiss her Order for Protection or dissolution action. She may simply have difficulty viewing her own interests as distinct from that of the abuser.

She may have trouble distinguishing any violent incident from the rest, remembering dates or details, and she may minimize the abuse that has occurred. She may be experiencing depression, anxiety and other problems which are circumstantial in origin. As such, she may be having trouble caring for others, such as the children.

Such a woman needs safety and support. She also needs to have the perception and the reality of strong, sensitive advocacy on her behalf.

III. Advocacy Principles as Applied to Working with Battered Women

- A. Give her credit for being in the best position to evaluate the risks of separation from the abuser. Let her do things at her own speed, but offer resources which will make her evaluation process an informed one.
- B. Explain all options, especially legal ones, in clear language. Check for comprehension and for questions she may have.
- C. Communicate to her that you are afraid for her safety and that of her children, if you are, and take the violence and threats (including potential lethality) very seriously.
- D. Gather, know about, and provide to her a list of resources for her to access. These include lay advocacy programs, support groups, legal advice and

representation, pro se remedies such as Orders for Protection, and criminal remedies. Meet the other people who she is being referred to; being able to refer to someone you know increases the usefulness of the referral.

- E. Reiterate whenever appropriate the fact that she is not responsible for the abuser's behavior and that the violence is not appropriate.
- F. Be aggressive, not conciliatory, in your dealings with the other party or his advocate. Studies show such an aggressive approach actually decreases the likelihood of post-separation abuse.
- G. Don't refer to a mental health professional unless you have spoken with her/him first, made sure that they are very familiar with battering as an issue, and discuss the dangers of inappropriate diagnoses or record keeping which can cost a woman custody of her children in subsequent litigation.
- H. Remember that she may view you as just another part of "the system", distrust you and disbelieve you. Don't take it personally or get defensive. Acknowledge it, ask her to directly question you in the event that she feels confused about your loyalties or your ability to do something for her. Don't promise things you can't get her.
- I. Remember that the criminal justice system is susceptible to pressure. Ask police to watch her house if that is necessary. Ask prosecutors why a case is being dismissed. Ask why charges which aren't reflective of the severity of the assault, are not more appropriately charged. Encourage the woman to report all crimes; encourage participation in the criminal justice process, without guiltting her to do something she doesn't see any benefit in doing.
- J. Don't assume the protection order process will work for her, that she will get treated appropriately, that the relief she gets will be helpful, or that she doesn't need an attorney or advocate at the hearing. Many women fall through the cracks as they try to negotiate the complexities of the court system alone.
- K. Delay the resolution of such problems as child custody contests if delay allows her the time to regain her strength and parenting abilities.
- L. Advocate forcefully for adequate financial support to allow her to make it on her own--whether it is from the state (public assistance) or from the other party.
- M. Remember that joint custody situations and ill-defined "reasonable visitation" schedules encourage more inter-parental contact and give the abuser more opportunities to harass or assault the woman. Neither is good for children in these cases.
- N. Explain alternative dispute resolution methods clearly, including the potential dangers of mediation. Advocate for her choice in this matter, regardless of whether her choice is one you would like to see her make.

- O. Try not to get impatient with her. It's her life and she knows what she has to do better than anyone else.
- P. Elicit information about the abuse in a sensitive, supportive, affirming manner. Don't ask if she has been "battered" or "abused". Ask about specific acts, starting with less secure forms of violence like shoving or pushing and moving to more serious acts, including death threats and sexual assaults.
- Q. Generally, don't encourage her to agree to court orders that confuse the issue of who is accountable for the abuse, such as mutual restraining orders.

Finally, advocates must bear in mind that each woman is the victim of this type of abuse primarily because she is a woman, that the culture effectively supports the control women partners in intimate relationships, and that the barriers to her freedom are many. Be not surprised if she isn't able to free herself this time; be delighted and amazed when she does.

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