

Domestic Violence Expert Witnesses: Tips to Help Prepare for Your First Case

by
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NATIONAL CLEARINGHOUSE FOR
THE DEFENSE OF BATTERED WOMEN
Working for justice for victims of battering charged with crimes

Domestic Violence Expert Witnesses: Tips to Help Prepare for Your First Case

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Table of Contents

Preface	ii
Introduction.....	1
What to consider before serving as an expert witness.....	3
Advocacy organization affiliation.....	3
Expert witness credibility	4
Independent status.....	5
Skill sets.....	5
Court proceedings, landscape, and witness etiquette.....	6
Documents you will need	7
Curriculum vitae	7
Summary of testimony.....	7
Preparation.....	9
Groundwork.....	9
How much case information in advance?.....	11
Referencing research in your testimony.....	12
Demeanor, testimony, and credibility.....	13
Why we don't use "battered woman's syndrome" testimony	13
Demeanor on the stand.....	14
Responding to questions on cross-examination.....	14
Conclusion: Speaking from experience.....	15
Appendix 1: Template for sample Curriculum Vitae (CV).....	16
Appendix 2: Working with the attorney – the importance of trial prep.....	22
Appendix 3: Template for sample summary of testimony.....	24
Appendix 4: Slide presentation.....	26
Appendix 5: Case information in advance	29
Appendix 6: About the authors.....	32

Preface

Between April 2013 and November 2016, the National Clearinghouse for the Defense of Battered Women conducted 15 webinars related to the use of expert witnesses. This paper is one (of four) papers based on webinars in that series. The other papers include:

Advocates As Expert Witnesses: Weighing Benefits and Drawbacks by Cindene Pezzell

Domestic Violence Expert Testimony: Legal Settings and Issues by Cindene Pezzell

Domestic Violence Expert Witnesses: Immigration Proceedings by Noël Bridget Busch-Armendariz and Edna Yang

The webinar series included webinars on weighing possible benefits and drawbacks of advocates being experts, use of expert witnesses in immigration proceedings involving victims of battering, lessons learned from the witness stand, and the use of expert witnesses in civil legal proceedings.

Download the papers from this series and other papers on expert witness-related topics at <https://www.ncdbw.org/publications>

Find the expert witness series webinars at http://www.ncdbw.org/experts_recordings.htm

Melissa Scaia and Scott Miller, the authors of this paper, are longtime anti-domestic violence advocates who provide expert testimony in criminal domestic violence cases and in custody trials within family court: Melissa since 2006 and Scott since 2011. Most of their expert testimony has been in Minnesota courtrooms, although Scott has also testified in federal military court. Between them, they have testified in over 30 trials. Of the cases in which Melissa and Scott have testified on behalf of the prosecution, there have only been three acquittals. They have not yet been asked to testify on behalf of a victim of battering charged with a crime. For further information about their background and experience, see Appendix 6: About the Authors.

Introduction

This paper is intended for new domestic violence expert witnesses and others who may be interested in becoming an expert witness, particularly in the role of testifying on behalf of the prosecution.¹ Prosecutors and other attorneys who are considering using a domestic violence expert may also find this a useful tool. Much of what we are presenting will also be relevant to an expert witness testifying for the defense in cases involving victims of battering charged with crimes.

Prosecutors ask us to testify when they believe the jury needs more information to better understand the decisions that victims of domestic violence make. Not every case requires expert testimony, but sometimes, without expert testimony, jurors might not be able to accurately evaluate the evidence they hear because of common and widely held misconceptions about domestic violence and battering.² For example, without expert testimony, a jury may not understand the many reasons why a victim might maintain a relationship with her batterer. A jury may conclude that her decision to stay with him or remain in contact is a reason to question her credibility.

This paper is based on our experiences testifying as experts in criminal prosecutions.³ It is not intended to be an overview of all the ways that expert testimony is presented in all situations. This paper is one in a series published by the National Clearinghouse for the Defense of Battered Women (National Clearinghouse). Together, the papers provide a foundation for domestic violence expert witnesses and cover many aspects of working as an expert witness, including benefits and drawbacks to advocates as expert witnesses, legal settings and issues, and testifying on behalf of victims of battering charged with crimes.

Though there are many topics that might come up during testimony, when we testify on behalf of the prosecution, we are typically asked to testify as to why a victim might:

¹ Because we have most often testified on behalf of the prosecution in criminal cases, the language used in this piece will reflect that experience. For example, since it is the prosecutor who calls us to testify, we will often refer to opposing counsel as “the defense attorney.” Again, most of the information in these pages applies to domestic violence expert witnesses in general, regardless of who calls them to testify.

² It’s the experience of the National Clearinghouse for the Defense of Battered Women that part of the role of an expert witness is to help the court and the jury understand *battering* as a form of domestic violence. Domestic violence (or domestic abuse) is the term more readily heard and used in the legal system and reflected in statutory language and case law. The term domestic violence tends to focus attention on acts of physical assault. An expert witness can help to explain the many facets of battering, which include the threat and use of physical assault as well as a wide range of coercive and controlling behaviors intended to exert power, induce fear, and control and limit the autonomy of an intimate partner.

³ As witnesses for the prosecution, we offer “general” testimony, and do not testify about the specific parties or allegations involved in the case being heard in court. “Party-specific” or “victim-specific” testimony is almost never offered on behalf of the prosecution, though such testimony is common in other types of court proceedings.

- Recant allegations of abuse by her partner.
- Stay in an abusive relationship longer than the average person may believe she should.
- Delay reporting the violence against her.
- Take the blame for actions of her abuser.
- Minimize the severity of the abuse she endured.

We approach testimony as neutral witnesses whose experience and information may help members of the jury come to a deeper understanding of the case before them. We are not fulfilling the aims of an agency or organization. For example, when we testify in criminal court, we act as independent consultants to the state. If we were to appear as agents of our organizations, our position as neutral witnesses could be challenged on grounds that we are subject to the direction of our organization's mission, vision, and goals. Our testimony isn't tailored for the prosecution or the defense. Rather, we testify as to what we know about battering and its effects, regardless of who is asking the questions.

Although we may reference research as part of our testimony, we primarily convey what we have learned by working directly with women who are battered and with men who batter. Both of us have been fortunate to have spent over sixteen years in this field using the Duluth Model method of organizing a community response to domestic violence.⁴ Because the Duluth Model bases interventions and strategies on the lived experience of victims (including children) and offenders, we have had many opportunities to learn about the decisions made by victims and the associated risks they must balance. We have spent many years facilitating classes with men who batter and listening to them talk about how they use the numerous tactics at their disposal to control and/or punish and dominate their victims.

⁴ The Duluth Model is "an ever-evolving way of thinking about how a community works together to end domestic violence." Among its core features are a commitment to shift responsibility for victim safety from the victim to the community and state; a shared philosophy, mission, and strategy; and an understanding of battering as a pattern of actions used to intentionally control or dominate an intimate partner. See "What is the Duluth Model" at <https://www.theduluthmodel.org/what-is-the-duluth-model/>

What to consider before serving as an expert witness

There are many things to consider when deciding whether to serve as an expert witness, from trial location to skills sets and documentation of qualifications. This section highlights some of the key issues that have come up for us and suggestions about dealing with them.

ADVOCACY ORGANIZATION AFFILIATION

If you work for a direct service organization that provides advocacy to victims of battering, you may not want to testify in the community where the organization is located.⁵ There are several possible ramifications of testifying in your “home” community:

- You may send a message to victims of battering in the community that you work too closely with the criminal justice system, thereby reducing their trust in your organization. Victims might hesitate to seek advocacy and services if they believe that you are too closely aligned with the criminal justice system.
- It may appear that the organization can't be trusted to maintain confidentiality when there is a close relationship between the expert witness who is also an advocate and the prosecution.
- You may damage trust by appearing to support the prosecution of a case where the victim truly wants a dismissal of the charges against her abusive partner.
- Depending on the size of the community, an expert witness who is also an advocate might have a harder time appearing unbiased or independent if the victim in the case has had previous contact with the advocacy organization.
- If you provide court-ordered programs or services to offenders, testimony on behalf of the prosecution may get presented as a conflict of interest or bias.

While it is best to testify outside of your organization's service area, we realize that this isn't always possible. Testifying in a case within your home community requires a plan for how to deal with or respond to the issues that are sure to arise.⁶

⁵ For more information about the pros and cons of community-based advocates testifying as expert witnesses, please contact the National Clearinghouse for the Defense of Battered Women. See *Advocates as Expert Witnesses: Weighing Benefits and Drawbacks* by Cindene Pezzell, 2016, in the National Clearinghouse expert witness series.

⁶ Consult the National Clearinghouse for assistance in identifying and planning to address issues related to testifying in your home community: <http://www.ncdbw.org/index.htm>; (215) 351-0010 or (800) 903-0111, Ext. 3.

EXPERT WITNESS CREDIBILITY

If you work directly with victims of battering as an advocate, the defense may use this fact to try to discredit you as a witness, given its obligation to put forward the best defense possible. You are likely to be questioned about bias, as well as your “agenda.” For example, advocates are organized to work for what a victim wants to do even if it’s contrary to what the advocate believes is in the victim’s best interest.

Understand the difference between being credible and being convincing.

This often gets wrongly interpreted as “advocates always believe whatever a victim says.” A defense attorney on cross-examination may try to make the case that what you’re doing on the stand is what you do in your job — i.e., acting as an advocate who will always do what the victim wants — and is therefore biased. If a defense attorney can establish that you are testifying as an advocate, they may have an easy time convincing jurors that your testimony isn’t credible.

An advocate who wants to testify as an expert should develop a way of explaining how prioritizing a victim’s needs is the work of an advocate, but is distinct from the knowledge gained over time about the impact of battering. In other words, advocates who also testify as expert witnesses should be prepared to explain why and how their role as an expert witness is different from their role as an advocate.

Prepare with the prosecutor in advance to meet this challenge if it comes up. Don’t attempt to articulate this nuance for the first time before a jury. For example, a well-prepared expert’s response to a defense attorney’s challenge of bias as an advocate might be: “My role as an advocate isn’t about whether I believe everything a victim tells me. It is about working toward an outcome she wants based on the experiences she has articulated. I have worked as an advocate for over ten years and spoken to hundreds of victims about the impact batterers have on their families. My role as an expert is to convey the experience of being battered to the court.”

INDEPENDENT STATUS

We recommend that you testify independently on your own time if you work for a domestic violence organization of any kind. You should be paid for the time you spend working on a case by the party that is requesting testimony rather than your employer organization. If you are paid to testify by the domestic violence organization you work for, it would be reasonable to expect that you are acting in a way that is consistent with the organization's mission, thereby opening a credibility problem. Most domestic violence agencies don't have expert witness testimony built into their mission. You may find yourself having to explain how the testimony you are giving does or does not meet the mission of the organization that's paying you. If, for example, you are being paid by the state then you are free to explain your role as an independent expert working on behalf of the prosecuting agency that hired you. The defense would prefer that you spend the bulk of your testimony defending issues of credibility rather than spending time on what you know about battering.

If you work for an advocacy organization, make sure that you aren't prohibited from working as an expert witness, even if you plan to do so on your own time. Some organizations have policies prohibiting employees from engaging in outside employment, particularly when that employment relies on the skills and experiences gained while working at the organization.

SKILL SETS

Though most, if not all, domestic violence advocates are experts on domestic violence, not all advocates have the necessary skills to be an effective expert witness. Having expertise is different from the ability to convey that expertise. It is important to evaluate your own background and strengths before deciding whether to take on the role of an expert witness.

Experience providing training on the topics typically asked of an expert in court is a particularly relevant skill set. A trainer must be able to articulate complex circumstances in a clear, concise manner. This skill is valuable in court because the defense may object to overly wordy or imprecise testimony and the judge may limit the length of your answers. If you don't have experience as a trainer — or if it has been a while since you've regularly done so — it is particularly important to practice how you will articulate what you know so that you can make the most of the time provided to testify. As a trainer, you also develop examples of what you've learned listening to women and men talk about their experiences. To be able to draw on these examples as needed can help illustrate a point being made.

It is important to understand the difference between being credible and being convincing. It isn't an expert's role to convince the jury of anything. The expert's role is to competently and concisely answer the questions asked by either attorney in the case. If that is done well, the jury is likely to receive your testimony as credible and make it easier for them to determine if and how your testimony is relevant to the case.

COURT PROCEEDINGS, LANDSCAPE, AND WITNESS ETIQUETTE

As an expert witness, you will need a working knowledge of the rules of court, what objections mean, what a qualifying hearing is, and other common features of a legal proceeding, along with a general idea of how to present oneself in court as a witness. For a general overview and helpful tool, see *Introducing Expert Testimony to Explain Victim Behavior in Sexual and Domestic Violence Prosecutions* by Jennifer Long (August 2007).⁷ When deciding to become an expert witness, it is invaluable to sit down with a prosecutor and with a defense attorney and see how what you know will be examined from both sides. Make an appointment with a local prosecutor and/or defense attorney and ask them to orient you on how expert testimony is used and examined in your jurisdiction.

It's hard to know how to be a witness in court if you don't know the different roles people play during a trial. If you have never testified in criminal court, consider taking a workshop or class on how to testify in court. Many law enforcement training centers conduct such classes. Ask if you can sit in on one. As an alternative — or in addition — sit in on several trials and watch testimony from those who are experienced in testifying, such as seasoned patrol officers or other expert witnesses. If you are comfortable with the order and procedure of criminal court and the roles people play

How Scott prepared before testifying as an expert for the first time:

I called a local prosecutor and public defender who were two of the best attorneys in my community. We all knew each other through the work of our local child advocacy center. I told them I had been called to testify in a different jurisdiction and wondered if they would be willing to question and grill me regarding my testimony to lay foundation as an expert on battering and its effects. They were both extremely helpful by giving me an understanding of their approach to testimony, strategies, and rules. After I was done, I had a picture of what was being asked of me and the time spent was essential in preparing me for my first trial.

⁷ Published by the National District Attorneys Association American Prosecutors Research Institute. Download at http://www.ndaa.org/pdf/pub_introducing_expert_testimony.pdf.

— for example, what to do when the opposing attorney objects — then you will be more apt to relax and focus on answering the questions asked.

DOCUMENTS YOU WILL NEED

CURRICULUM VITAE

Attorneys working for the state are typically required to give notice to the defense that an expert may be called to testify. As an expert witness, you will be asked to submit a current resume and a curriculum vitae (or CV) to the prosecutor, who will share it with the defense attorney and the court. Your resume and CV should be professional and accurate.

A resume and a CV share much in common in that they both highlight professional expertise and background. So why would an expert witness provide both? The two documents provide a prosecutor or other attorney who is considering an expert witness with different but complementary information. The primary differences between a resume and a CV are length and focus. A resume is short — typically one or two pages — and includes education, work history, and a summary of skills. A CV is a longer and more thorough account of professional experience and expertise, including such details as professional training obtained and delivered, achievements, awards, honors, publications, research, and, for an expert witness, a list of all relevant expert testimony.

Putting together a CV for the first time can be challenging. It includes a record of workshops you attended and/or training you conducted, along with any articles, training curriculum, or other publications you have authored or co-authored. If you have been working ten or more years in the field, it can be difficult to accurately reconstruct all these trainings and identify the publications. *Accuracy is essential.* Include *only* those events for which you can provide an accurate title, date, and location and for which you have an accurate memory of the content. Include only those publications where you had a clear role as an author, co-author, or editor.

Appendix 1 provides a template for organizing and constructing an expert witness CV. If you are just beginning to work as an expert witness you will not have a history of court testimony and your CV will emphasize professional experience, training, and publications. As you gain experience your CV will include the trials — civil and criminal — and any other legal proceedings that you have testified in. Keep the list of court testimony and other sections of the CV current and accurate. Update it each time you testify or a prosecutor requests your CV, or establish a schedule to review and update on a regular basis.

SUMMARY OF TESTIMONY

You may also be asked to provide a summary of your testimony or what you will testify to. We use “Battering and Its Effects” (see Appendix 3) as a general explanation of why women who are battered may recant or stay in abusive

relationships. Although such a summary can't cover exactly what we will be testifying to (since we don't know the allegations being raised in court or know all the questions in advance), it does provide an overview of what we generally testify about. We also include content on the various risks a woman who is battered may have to balance if she has children. We include an explanation of how the risks batterers pose and the tactics they use can complicate a victim's ability to make decisions that are safe for her children as well as herself. The summary of testimony doesn't have to be a long document, but should give the opposing side an idea of what you will be testifying to. There might be other documents that a court requires. Check with your local prosecuting authority and develop what you need well in advance of being requested for a trial.

Preparation

GROUNDWORK

We prefer to receive trial notice at least three to four weeks in advance. This allows time to plan for a vacation day, set a date prior to trial to go over testimony with the prosecutor if the case doesn't resolve, and build in personal time for any other necessary prep, such as making travel arrangements, meeting work deadlines, etc. We send the prosecutor our resume, PowerPoint slides (see Appendix 4), CV, fee schedule, and summary of our testimony. In return, the prosecutor sends a subpoena⁸ for the date agreed to. If we haven't worked with a prosecutor before or if they indicate they haven't used an expert witness in a domestic violence case, we will often include the previously mentioned publication, *Introducing Expert Testimony to Explain Victim Behavior in Sexual and Domestic Violence Prosecutions*, as a resource for how to use expert witnesses.⁹

If the case doesn't resolve prior to trial through a guilty plea¹⁰ or other disposition, trial prep can take anywhere from thirty minutes to two hours or more depending on the prosecutor's familiarity with our work and experience with using an expert witness. The prosecutor will

Working with the Attorney

Domestic violence expert testimony is not "one size fits all." The attorney and the expert need to prepare in advance to ensure clarity on how the expert will be used and the issues that will be addressed through expert testimony.

- Do you have the information you need ahead of time to determine whether you are the right expert for the case? If you are the right expert, do you have the information you need to prepare to testify?
- Do you have enough notice?
- Is the lawyer going to adequately prepare you for trial?

See Appendix 2 (Working with the Attorney: The Importance of Trial Prep) for questions to ask and planning tips.

⁸ A subpoena is an order to appear in court. Some attorneys are required to issue them for all witnesses they might use during a trial. Sometimes subpoenas are not required. The idea of being subpoenaed can seem scary to experts, particularly if the subpoena is served upon the organization the expert works for and not to the expert him/herself. If you would prefer not to be subpoenaed, or would prefer that subpoenas be sent somewhere other than your organization, talk with the prosecutor beforehand about your concerns.

⁹ http://www.ndaa.org/pdf/pub_introducing_expert_testimony.pdf

¹⁰ Some prosecutors find that including an expert in their criminal case improves their ability to negotiate a plea agreement.

determine what slides they want to exhibit for testimony (if the judge has allowed the use of slides) and how they will lay the foundation for our expertise and develop questions that draw the testimony they believe will help the jury understand the

The National Clearinghouse has heard from other experts who believe that testifying frequently for both the prosecution and the defense tends to bolster their credibility in the eyes of the judge and jury. These experts believe that because they testify for both the prosecution and the defense, they are less likely to be perceived as advancing a personal or political agenda.

case-specific circumstances. Anticipating the questions that will be asked is an important step for a well-prepared witness. The prosecutor knows the facts of the case and develops questions that invite a general answer they feel will be helpful to explain the complexities of their case.

For example, the prosecutor may believe that it would be helpful for the jury to understand the tactic of emotional abuse. The following is an example of a question-and-answer about emotional abuse that may be used during a prep session to help the prosecutor determine whether the witness's answer would be helpful to their case.

Q. What is emotional abuse, and how does a batterer use emotional abuse against his partner?

A. Emotional abuse is a tactic employed by men who batter to diminish a woman's self-worth, instill a belief she isn't competent enough to make it without him, or punish her for doing something he has demanded she stop doing. Because he has established power over her and she is in fear of him, the experience of hearing over and over how defective or at fault she is often results in her coming to believe this herself.

You may want to add a short example from experience if it seems appropriate. If your response gives context to the issue the prosecutor wants to highlight, then the prosecutor may move to the next topic. However, often the prosecutor will have a specific aspect they want explained that wasn't adequately addressed by the answer. The prosecutor may ask a follow-up question, such as:

Q. How does name calling play a role in the tactic of emotional abuse?

A. Having read hundreds of police reports over the years, it is my experience that it's extremely rare to read a police report where a suspect refers to his partner by name. The suspect, for example, refers to her as a "bitch" or "whore." In our groups for male offenders, it's a rule that they must refer to their partner by her first name because it denotes respect. In my experience, it's a struggle for many men in group to use her name because they don't see her as an equal to them. In fact, some men will refuse to talk rather than use her given name.

This may be enough of an answer to put a piece of evidence into perspective — such as a video tape of the defendant's arrest where he is screaming that she's a "cunt,

where, bitch” — or give context to a portion of the victim’s testimony. Or, the prosecutor may have additional questions about emotional abuse. The point of trial prep is for the prosecutor to become familiar with what you know and what you can testify to regarding complex facts of the case. As a witness, your role is to provide the prosecutor with thoughtful, succinct responses that may include an example that helps illustrate the point of your answer. If you and the prosecutor are prepared, the prosecutor will have a list of questions to ask you and you will have a good idea of the range of questions that you will be asked.

HOW MUCH CASE INFORMATION IN ADVANCE?

Some experts — and we are among them — testify “cold,” with very little information about the case and the specific allegations against the defendant. We believe that we are more likely to be perceived as independent witnesses if we do not have familiarity with the parties or the case before the court. We must know the gender of the defendant and victim, however, because the context of violence can differ, for example, if the defendant is a woman accused of assaulting a man versus a man accused of assaulting a woman, or if the alleged violence occurred in a same-sex relationship. Additionally, it is helpful to know what the charges are to ensure that our testimony will be relevant to the case. For example, our testimony would be relevant in a stalking case by a former intimate partner, but not in a stalking case with a defendant unknown to the victim.

While we would both be willing to testify for the defense, it is less likely we would be asked to do so — at least in the communities where we frequently testify on behalf of the prosecution. By using us as experts, defense attorneys would have to agree that our work and expertise qualifies us to testify, which would undermine their ability to argue we are not experts and to challenge our credibility in future cases in which we are the prosecution’s witness.

While we typically testify with very little information about the case in advance, some expert witnesses will have a basic knowledge of the allegations that will be raised in court. Still other experts review as much information as possible (such as witness interviews, police reports, and other discovery materials) before taking the stand. Though experts often have their personal preferences, they should work with the

Slide Presentation

Some judges and jurisdictions allow the use of slides or other visual aids during expert testimony. Our purpose in providing slides to the prosecutor (see Appendix 4) is primarily to strengthen understanding of battering and the subject-matter that we typically testify to as expert witnesses. Slides may not be relevant in every case and whether they are used is a decision made by the prosecutor in consultation with the expert witness, subject to local court rules and practice.

attorney who hired them to determine which approach is the best in each case. Appendix 5 is a summary prepared by the National Clearinghouse that illustrates the range of specific case information that an expert might have in advance and the drawbacks and benefits for each approach.

REFERENCING RESEARCH IN YOUR TESTIMONY

It is our experience that prosecutors prefer expert witnesses in domestic violence cases who don't rely on research as the mainstay of their testimony. Research can be overly abstract and more easily challenged concerning validity and acceptance in the field. The research available may not be specific enough to the issues in the case to be of any assistance to the jury. However, if you believe that a piece of research will bolster the testimony you give based on your experience, then make sure you give the prosecutor ample time to read it in advance and decide if it's useful. Make sure you thoroughly understand the research that you plan to cite. Choose research that has appeared in respected, peer-reviewed journals in the field, such as *Violence Against Women* (journal), or from federal agencies such as the Department of Justice or the National Institute of Justice.

Demeanor, testimony, and credibility

If you are an advocate or work for a community domestic violence organization, it's likely you have been to your local courthouse numerous times. You may know many of the people who work at the courthouse and greet them with humor or share personal conversations. When you are scheduled to testify, however, the seriousness of your purpose should dictate your demeanor. You will appear before a group of jurors who have been selected to determine a person's guilt or innocence, a decision that will have serious consequences for both the victim and the defendant. You should approach the task you have been given with the same seriousness as the jurors.

When approaching a courthouse in our role as expert witnesses, we are focused. We may have notes to review while waiting to be called. We might be sitting and waiting quietly for an hour or more before we testify. We tend to engage only with the prosecutor or victim witness staff and we keep our conversation focused on the task at hand. We wear clothing appropriate for court and we approach and take our oath with the seriousness the process demands. If you take the oath with a casual attitude, the jury may take you the same way. You have credibility when you walk into the courtroom. Only you can diminish it.

WHY WE DON'T USE "BATTERED WOMAN'S SYNDROME" TESTIMONY

We testify to battering and its effects as opposed to what is called "battered woman's syndrome." Battered woman's syndrome (BWS) is a theory developed in 1978 by Lenore Walker. The BWS theory is tied to the cycle of violence concept and to anger management as a rehabilitative intervention. These theories have been widely discredited due to several factors, primarily their limited ability to explain the diversity of women's experience when battered (see *Update of the "Battered Woman Syndrome" Critique* by Mary Ann Dutton with contributions from Sue Osthoff and Melissa Dichter, August 2009).¹¹ As such, "battered woman syndrome" can be easily attacked by the defense.

¹¹ Domestic violence experts have critiqued the phrase "battered women's syndrome" because (1) it implies that there is one syndrome which all battered women develop (and thereby suggests that people without the "syndrome" therefore cannot be battered); (2) it has medical connotations which suggest that victims of battering suffer from some sort of illness or pathology; and (3) expert testimony on domestic violence isn't limited to victims' psychological responses to violence. Nonetheless, "battered women's syndrome" language still appears frequently in statutes and case law. *Update of the "Battered Woman Syndrome" Critique*, published in the Applied Research Forum of the National Online Resource Center on Violence Against Women (VAWnet). Download at http://www.vawnet.org/research/summary.php?doc_id=2061&find_type=web_desc_AR.

DEMEANOR ON THE STAND

When testifying, understand that the defense may interrupt, will certainly challenge at least some of your answers to questions, may take a condescending tone regarding your education credentials, or may even try to get you to agree with them through questions that misrepresent what you've already testified to. Don't take this personally. The defense attorney is doing the job they are obligated to do. The prosecutor will have an opportunity to follow-up after the defense and may allow you an opportunity to offer context to any testimony given under defense questioning. It's the prosecutor's role to decide if any testimony needs clarifying. The prosecutor may decide what the defense was focused on doesn't impact the case they are building and thus will let it go. Be as respectful to the defense attorney as you are with the prosecutor. They are both doing their job and the jury is weighing the case each is making. Any change in demeanor on the expert witness's part in relation to the defense or prosecution could indicate to the jury that you have an agenda or overt bias. This can take away from your credibility. Remember, the only two advocates in the courtroom are the prosecutor and defense attorney.

RESPONDING TO QUESTIONS ON CROSS-EXAMINATION

The defense may also attempt to control the pace of questions and answers, but understand that you, the witness, control the pace. When asked a question, take time to formulate your answer before speaking. Keep breathing. If you were asked two questions, ask for the question to be repeated. When you allow the defense to rush your answers, you may either end up saying yes to something you don't agree with or appear to be debating, both of which can impact your credibility. If you don't understand the question, say you don't understand and the defense will need to rephrase it, ideally with more clarity. The defense will sometimes ask you implausible but possible questions. Your credibility could be suspect if you suggest something isn't possible when the jury knows that it is. For example, if the defense poses the following question: "Could it happen that a woman who isn't battered gets mad at her husband and calls 911 and tells the police a lie, and then recants her testimony because she feels bad and knows it's not true?" An answer might be: "Yes it's possible; but in my experience, I've never known of an instance where that was the case."

Conclusion: Speaking from experience

Testifying in general can be a scary thing. Not long after one of the authors started working in this field, he was asked to testify as a fact witness¹² in a domestic abuse trial. Scott went to his mentor and founder of the Duluth Model, Ellen Pence, and told her he had reservations about testifying. Ellen asked him what they were. He explained that he was apprehensive because the defendant was a really dangerous guy. She replied, “But you’re fine with the victim going up there, right?” Ellen was always good at putting things in perspective. We can all come up with a million reasons to avoid testifying. Ellen herself never testified as an expert witness because she didn’t relish the idea of being “badgered” by a defense attorney.

We all have our reasons, but most of our reluctance to testify is based on the unknown. The more you know about the process, the less anxiety you will have. Watch criminal trials in a variety of court settings. Ask prosecutors questions about their strategy in court. Ask defense attorneys if they would be willing to share how they approach these cases. You will begin to understand courtroom strategy. Also, the quality of your testimony, as with most expert witnesses, is contingent on the questions laid out by the prosecutor. As expert witnesses, we have a great deal of information and experience to draw from. It’s up to the prosecutor to formulate general and specific questions to give us the space to convey what we know.

Finally, have confidence in what you know. In our work in domestic violence organizations, we interact with victims and offenders on a frequent and routine basis. This contact gives us a great deal of insight into the patterns and experiences of victims of battering and those who use battering to control and dominate an intimate partner. You won’t be expected to testify about what you don’t know. You will be asked to share what you already know. It’s like taking a test where you walk into the room with all the answers, but don’t yet have all the questions. The rest is just procedure, “court speak,” and strategy — all of which can be learned.

¹² Fact witnesses and expert witnesses give different kinds of testimony. Fact witnesses are asked about things specific to the case in court, and may include things they personally witnessed. Expert witnesses give opinion testimony based on their expertise, and usually do not have any personal knowledge about the case in which they are testifying. See *Domestic Violence Expert Testimony: Legal Settings and Issues* (Cindene Pezzell, 2016) in the National Clearinghouse expert witness series.

Appendix 1: Template for sample Curriculum Vitae (CV)

Curriculum vitae (commonly abbreviated as CV or Vita) is a Latin term meaning "courses of life." A CV is an overview of a person's accomplishments relevant to expertise, position, or field of study. It summarizes education, professional skills, proficiency, and experience. While used primarily in academic settings, courts also require a CV for expert witnesses. A CV also helps the prosecutor or defense attorney considering the use of an expert witness evaluate whether the expert is a good fit for the case in question.

There is no single format for a CV; rather, it is specific to the job or role or kind of expertise being offered. The CV of an expert witness who has built their expertise through working with victims of battering will look different from the CV of an expert witness who is a licensed mental health professional or one who has acquired expertise through research. It is a living document, however, and should be updated frequently. Add publications, presentations, and testimony as an event occurs or on a quarterly schedule. While there is no single format, there are common content areas, including:

- Full contact information, including phone and e-mail
- Professional, academic, and other relevant publications
- Presentations and training given and relevant topic areas
- Training, accreditations, or certifications
- Any areas of specialization or research
- Awards and positions of professional responsibility
- Membership in professional organizations
- Testimony and any accreditation as an expert witness

In addition, a CV should reflect the following qualities:

- Brief, clear statements
- Material presented in reverse chronological order (i.e., most recent first)
- Material limited to relevant professional experience (i.e., no information about family, hobbies, or non-professional interests)
- Accurate statements, without exaggeration or padding
- Free of spelling errors

- Presented on plain paper using a standard, black font such as Times New Roman or Courier) and without unusual formatting, paper, or colors

This CV template can be used as a guide to building your own. It is based on co-author Scott Miller's CV, but is not a replica; citations have been edited and adapted.

Vita
[Expert Witness Name]

Business name (if any)
Email address
Phone number
Mailing address

Month & Year

PROFESSIONAL AND ACADEMIC PUBLICATIONS ON DOMESTIC VIOLENCE

- ✓ List each item separately.
- ✓ Include the following information for each item listed:
 - Title of publication and, if applicable, title of journal in which it appeared
 - Author or co-author role
 - Publisher
 - Date of publication
 - Type of publication unless clear from title (e.g., journal article, training curriculum, professional development or practice paper)
 - How to obtain the item cited (e.g., website for free download or link and/or address for items available for purchase)
- ✓ Confirm that all web links work.
- ✓ List items in reverse chronological order (i.e., beginning with the most recent publication date and working backward).

EXAMPLES:

- "Duluth Addresses Witness Intimidation," co-author. Battered Women's Justice Project, July 2015. Online article. Access at <http://www.bwjp.org/resource-center/resource-results/duluth-addresses-witness-intimidation.html>.
- "Creating a Process of Change for Men Who Batter," co-author. Domestic Abuse Intervention Programs, 2011. Guide for facilitating groups with men who batter. Available for purchase; information at <http://www.theduluthmodel.org/>.
- "Discussing the Duluth Curriculum: Creating a Process of Change for Men Who Batter," editor. *Violence Against Women Journal*, Sage Publications, September 2010, Vol.16: 1007-1021. Edited interview. Abstract available at:

<http://vaw.sagepub.com/content/16/9/1007.short>

Request full text from authors via ResearchGate:

https://www.researchgate.net/publication/45650778_Discussing_the_Duluth_Curriculum_Creating_a_Process_of_Change_for_Men_Who_Batter.

PROFESSIONAL PRESENTATIONS AND TRAINING CONDUCTED

- ✓ List items in reverse chronological order (i.e., beginning with the most recent presentation or training and working backward).
- ✓ Include the following information for each item listed:
 - Title and subject (unless clear from the title)
 - Co-trainer, if applicable
 - Event and audience
 - Sponsoring organization
 - Date
- ✓ Be as thorough as possible with relevant examples. For example, the CV of one of the authors of this paper includes 128 presentations delivered between 2002 and 2016.

EXAMPLES:

- “Understanding Men Who Batter and the Impact on Victims” and “Trial Advocacy Exercises: Directs of a victim behavior expert.” United States Naval and Marine prosecutors, Naval Justice School, Naval Station Newport, Newport, RI, August 10, 2016.
- “Creating a Process of Change for Men Who Batter.” National training by Domestic Abuse Intervention Programs, Duluth, MN, July 18-20, 2016.
- “Understanding Men Who Batter and the Impact on Victims.” Workshop for the Minnesota 5th Judicial District family court, Chaska, MN, February 19, 2016.
- “Can he change? What would it take for him to change?” Presented with Melissa Scaia. National webinar series by Domestic Abuse Intervention Programs, December 17, 2015.
- “Understanding Men Who Batter and the Impact on Victims.” Workshop for Domestic Violence Coordinated Courts, State of Illinois 17th Judicial Circuit Court, Rockford, IL, October 8, 2015.
- “Identifying, Documenting and Charging Intimidation.” Presented with Rhonda Martinson. National webinar by the Battered Women’s Justice Project, June 19, 2015.

DOMESTIC VIOLENCE-RELATED TRAINING CONTENT TOPICS

- ✓ Summarize the primary content areas reflected in the professional presentations listed above.

EXAMPLE:

Training to local and national audiences has included the following topics:

- Risk evaluation and monitoring in cases of domestic violence
- Battered women who have used force
- Domestic violence theory
- Working with men who batter as fathers
- Forensic interview training for child sex abuse investigations
- Multidisciplinary team training for child protection teams who respond to child abuse
- Building collaboration between community advocacy programs and men's nonviolence programs
- Collaboration between advocacy organizations and child protection
- Implementing a coordinated community response to domestic violence
- Organizing a men's nonviolence program

OTHER RELEVANT EXPERIENCE

- Prepared domestic violence reports in the form of affidavits for civil custody determinations.
- Prepared domestic violence assessments to determine dangerousness or parenting time.
- Conducted forensic interviews in child sex abuse cases for criminal investigations.
- Served as national trainer for the Domestic Abuse Intervention Programs on the following topics: working with men who batter, working with men who batter as fathers, and utilizing a Coordinated Community Response to domestic violence.
- Participated as invited guest of the "Judicial Roundtable on Batterers Intervention Programs" Office on Violence Against Women, U.S. Department of Justice, August 5-6, 2009, Washington, D.C.
- Participated as invited guest of "Batterer Intervention: Doing the Work and Measuring the Progress," National Institute of Justice, U.S. Department of Justice, and Family Violence Prevention Fund, Bethesda, MD, December 3-4, 2009.

PROFESSIONAL TRAINING COMPLETED

- ✓ List items in reverse chronological order (i.e., beginning with the most recent presentation or training and working backward).
- ✓ Include the following information for each item listed:
 - Training or event name
 - Sponsoring organization
 - Date
 - Sessions attended or training topics

EXAMPLES:

- “Abusers 201: Essential, Up-to-Date Information about Abusers and Abuser Interventions.” National conference by EMERGE (Boston, MA) and the Battered Women’s Justice Project, Washington, DC. November 4 - 5, 2013. Sessions attended: Model Program Practices in Promoting Abuser Engagement and Accountability, Faith Community Responses to Abusers, Restorative Justice for Victims and Abusers.
- “Understanding Risk in Cases of Battering.” End Abuse Wisconsin Statewide SART/CCR Conference, Rothschild, WI. June 16, 2015.
- “Forensic Interview Training Clinic.” 40-hour training on conducting forensic/investigative interview with children in suspected abuse cases. APSAC. Seattle, WA, July 30-August 3, 2012.
- “Reframing Domestic Violence as Coercive Control.” 2-part webinar by Dr. Evan Stark and the Battered Women’s Justice Project. April 19 and May 21, 2012.
- “Creating a Process of Change for Men Who Batter – Advanced Comprehensive Training.” 2-day supplemental training to basic course. Domestic Abuse Intervention Programs, Duluth, MN. April 29-30, 2004.
- “Creating a Process of Change for Men Who Batter – Comprehensive Training.” 3-day foundation training on facilitating groups for men who batter. Domestic Abuse Intervention Programs, Duluth, MN. March 3-5, 2004.

COURT TESTIMONY

Provide a numbered list of all relevant expert testimony, since you may be asked how many times you have testified. Construct the list in reverse chronological order: i.e., begin with the most recent event and working backward. Include the following information for each trial or other legal proceeding:

- ✓ Specific court-qualified content area
- ✓ Date of testimony
- ✓ Presiding judge or decision-maker
- ✓ Court name and location
- ✓ Case name

EXAMPLES [case name, location, court, individual names, and other identifying details have been redacted]:

1. Court-qualified as an expert in an 18-count domestic violence case, July 13, 2016 by the Honorable Roberta Smith, Tenth Judicial District, Any City, MN, in State of Minnesota vs. John Doe.
2. Court-qualified as an expert in a first-degree burglary, felony domestic abuse, felony fear domestic case, March 15, 2016 by the Honorable Judge Abner Fuller, Seventh Judicial District, Our Town, MN, in State of Minnesota vs. Richard Smith.
3. Court-qualified as an expert in a strangulation, terroristic threats, criminal sexual conduct domestic case, November 3, 2015, by the Honorable Judge Fred Flintstone, Second Judicial District, Any City, MN, in State of Minnesota vs. Charles North.
4. Court-qualified as an expert in civil custody case, July 12, 2015 by the Honorable Judge George Jetson, Eighth Judicial District, Big Town, WI in Deal vs. Deal.
5. Court-qualified as an expert in an aggravated assault against domestic partner case, April 9, 2015 by the Honorable Military Judge Marion Wood, Navy and Marine Corp Trial Judiciary, Eastern Judicial Circuit, Camp Lejeune, NC.
6. Court-qualified as an expert in a first-degree burglary/terroristic threats/no-contact order violation case against an intimate partner, March 20, 2015, by the Honorable Fred Flintstone, Second Judicial District, Any City, MN in State of Minnesota vs. Bob Barker.

Continue and list all related testimony. Scott's CV includes 22 examples of court-qualified testimony between 2011 and 2016.

Appendix 2: Working with the attorney – the importance of trial prep

Do you have the information you need ahead of time to determine whether you are the right expert for the case? If you are the right expert, do you have the information you need to prepare to testify?

Depending on the attorney's experience in using expert witnesses in domestic violence cases, they may not have a clear vision of the expertise the case requires or the scope of testimony the expert could offer. Because domestic violence expert testimony is not "one size fits all," it is important that the attorney and the expert prepare prior to testimony so there is clarity on how the expert will be used and what issues need to be addressed. Many experts have their own preferences about how much case-specific information they need before they will testify in a case. It is a good idea to discuss these preferences with the attorney seeking your testimony, and the reasoning behind those preferences.

Keep in mind that the attorney calling you to testify may have a legal or strategic reason behind the amount of information they would like you to review. An attorney who is new to using experts may not know what strategies are typically used. Depending on the local rules of court and statutes governing expert testimony, you may want to start with not knowing any facts of the case until there is an understanding with the attorney requesting the testimony as to what strategy will be used. See Appendix 5, Case Information in Advance, for an overview of benefits and drawbacks to different approaches.

Even experts who testify "cold" (i.e., without any specific knowledge of the facts being presented in a case) need to know some basic information to determine whether they are the right expert for the case, and, if so, to prepare to testify.

Questions you can ask the attorney include:

- What kind of case is it? (Civil, criminal, etc.)
- What are the charges or causes of action? (Is it an assault case? A tort?)
- Do the alleged actions fit within a pattern of abuse and control within an intimate partner relationship? If not, the expert's testimony is unlikely to be relevant.
- Are there any aspects of people's cultures, identities, or lives that might affect the testimony being sought and/or whether you are the right expert to testify in the case? For example:
 - Is it a same-sex relationship?
 - Are the parties both adults?
 - Are there other family members involved in the abuse?

- Are any of the parties an immigrant? Is the abuse related to immigration status?
- Do any of the parties have a disability? Is the abuse related to disability?
- Are any of the parties deaf or hard of hearing?

Do you have enough notice?

Experts should not feel pressured to testify in cases when they don't have adequate time to prepare and/or arrange their schedules. As you gain experience testifying, you will learn how much lead time you need based on your situation and the circumstances of the case. It is helpful for newer experts to estimate the prior notice they will require so that attorneys seeking their services will know the expert's requirements up front. Considerations in estimating the notice you will need include:

- Your employer's requirements for taking a day off (if testifying on your own time)
- Time needed to prepare for the case (on your own and with the attorney)
- Any prior travel or child care arrangements required
- Any complications related to the case that require additional time
- Whether the attorney is requesting a written report prior to testimony¹³

Is the lawyer going to adequately prepare with you for trial?

Adequate pretrial preparation with the attorney is crucial. It is a good idea for experts to let attorneys know that prep time is necessary, even when the attorney and expert have worked together before. Trial prep gives attorneys the chance to ask questions of the expert, evaluate whether the answers given are helpful and relevant to the case, and design their questioning accordingly. It also gives the expert the opportunity to get a good idea of the issues they will be asked about on the stand.

When attorneys fail to prep their experts before trial, there are many things that could go wrong. For example, the lawyer could ask a question that the expert cannot answer or frame questions in a way the expert does not understand. The lawyer and expert could look unprepared and unprofessional to the jury.

Trial prep keeps testimony focused, clear, and relevant to the issues in the case. Time spent with preparation ensures that the expert will be a useful resource to the fact finder.

¹³ Reports aren't usually requested in cases where experts give general testimony (i.e., testimony that is not based on interviews with the victim). However, some jurisdictions require experts to submit non-specific summaries of what their testimony commonly includes (see Appendix 3: Template for Sample Summary of Testimony).

Appendix 3: Template for sample summary of testimony

Battering and Its Effects on Victims

Presented by Scott Miller and Melissa Scaia

There is great diversity in how victims of battering will respond to the abuse, threats, and risks posed by an abuser. There are also many ways victims will respond to the interventions created by the criminal justice system. Most victims see the criminal justice process as contrary to their safety and their family's long-term well-being. The reasons for this are numerous. For example, some abusers will leverage appeals such as "our children will never see me again" as a means of getting victims to prioritize their children's need for them as a parent over the violence they've committed. Additionally, victims of battering know that every decision they make which adversely affects the abuser may end in physical or emotional violence. When an offender is facing jail or prison time, victims often feel that the abuser will hold them responsible. There are victims who call 911 looking for help in the moment but don't necessarily want long term interventions like endless court hearings, probation supervision, or jail time. These women will often be relying on a resource he brings to the family like a car, watching the kids, insurance, a job, etc., and can't lose this resource without jeopardizing an important component of her and her children's stability.

Because the abuser poses so many risks to her safety and well-being, victims must weigh the many consequences for the decisions they must make. For each victim, the calculations are complex, which makes their determinations varied and difficult to understand for those who live outside the experience of being battered. For example, members of the public may believe that if an abuser physically beats their partner, the victim should just leave. Or, if the abuser has committed a crime, the victim should tell the truth about it on the witness stand. These very common perceptions ignore how the batterer's violence functions in the family and how it creates a significant power imbalance between the abuser and victim. That power differential gets used by the abuser to coerce, threaten and direct the victim to act in ways the abuser approves of. The power differential and the threat it poses is one of the complexities that victims must consider when deciding whether to testify, stay in the relationship, or participate in the prosecution. Immigrant women must contend with barriers used by the abuser such as language, threats of deportation, losing children, and oftentimes a complete lack of understanding about how the federal, state, and local criminal and human service systems work. Women with a physical disability face a host of barriers, including needing the abuser for mobility, food, or self-care and related needs that might be jeopardized if he's convicted. Batterers create a relationship of dominance over their partners and use not only the examples above but also attachments like the love a

victim has for her children, the victim's faith, or ties to her cultural community to maintain power and control over her.

For victims who have children, decisions about safety, staying or leaving the relationship, and how and under what circumstances the children spend time with the abuser tend to be some of the most complex questions they face. Many victims want the abuser to have contact with the children because they know their children may want that. However, a victim may have to consider how the abuser will use court testimony to blame her and to influence how the children view their protective parent. A victim's wish to get the abuser help is a rational one, considering their commitment to the family and their children. Victims may also want limitations on contact to ensure safety for themselves and the children. For a victim, balancing so many complex elements — such as the children's desire to see the parent who has been abusive, hoping the abuser gets help, staying safe with the decision to testify either in criminal or family court, and what to say and what the impact will be — often results in strategies that those who aren't being battered will struggle to understand.

Conclusion

The outcome of a criminal justice process on the abuser will affect the victim emotionally, economically, and may increase the likelihood of further threats, coercion, and violence against her and/or the children. Decisions to stay or leave a relationship, call for help, or endure abuse are ones that have long term impacts on the victim. The criminal process ends in an event that could greatly influence the immediate and long-term consequences for her. Many women decide not to participate because so much rides on the outcome. For people who have not had the experience of being battered, their understanding typically isn't linked to the risks a victim must constantly weigh. For the woman who is battered, very little is decided without accounting for the threat of further abuse and violence. It is that difference which makes the decisions made by victims of battering so difficult to interpret by those outside that experience.

Appendix 4: Slide presentation

Slides may not be relevant in every case and whether they are used is a decision made by the prosecutor in consultation with the expert witness, subject to local court rules and practice. Some judges and jurisdictions allow the use of slides or other visual aids during expert testimony. The following examples are not intended to be used as-is, but to illustrate the kinds of content and approaches that might be used in developing a slide presentation.

SLIDE 1

Battering

Battering is a systematic, ongoing pattern of tactics such as intimidation, coercion, and violence, as well as other tactics of control to establish and maintain a relationship of dominance over an intimate partner.

SLIDE 2

Battering

A relationship of dominance resulting in a system of power and control tactics, including:

- Physical and sexual violence
- Fear
- Threats
- Intimidation
- Coercion
- Grounded in a belief of entitlement over women

SLIDE 3



SLIDE 4

The Six "F"s that keep victims of battering from leaving their abusers

- **Fear** – Of violence committed and what he has threatened to do if she leaves.
- **Finance** – She and her children are dependent on his money. They have no financial means to live away from him.
- **Future** – She remembers how he treated her when they first met. He says he loves her and he makes promises to change. "Because he was nice in the beginning, he might change..."
- **Father** – She knows how much the children love/want him. She wants them to know their father. Or, he has threatened to take/harm the children if she leaves.
- **Family** – She's scared to lose her family or be told it's her fault the relationship ended. She also may fear the consequences for being blamed for breaking up the family.
- **Faith** – Her religion may tell her to submit and to forgive his violence. She may have been told her God-given role as a woman is to keep the family together.

SLIDE 5

For each woman and her children, what risks are generated by...

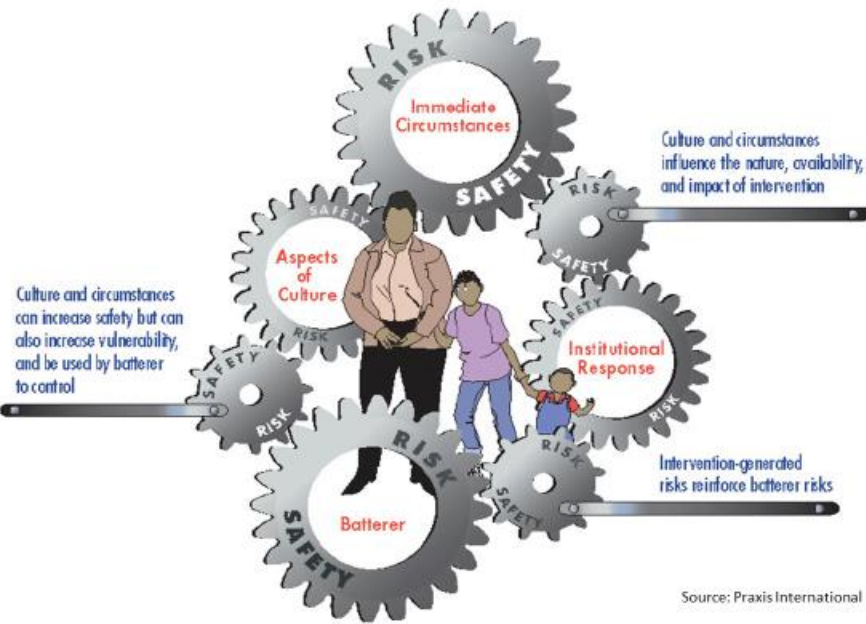


Figure 9: The Complexity of Risk and Safety¹

Appendix 5: Case information in advance

How much information about the case might expert witnesses have in advance?
 Chart by Cindene Pezzell, Legal Coordinator
 National Clearinghouse for the Defense of Battered Women
 2016

How much specific case information does the expert have?	Benefits to expert and/or case	Drawbacks to expert and/or case
Little to none	<ul style="list-style-type: none"> • Experts are less likely to be challenged on bias. • Testimony is more likely to seem spontaneous rather than rehearsed. • Fact finders are more likely to find the expert credible when testimony explaining counterintuitive behavior matches the facts of the case. • The expert and the attorney invest less time and resources. 	<ul style="list-style-type: none"> • It is more difficult to tailor the expert testimony to the specific facts of the case, particularly when working with an attorney who is unaccustomed to using DV experts. • Experts will be limited in their ability to help the attorney identify aspects of the case in which expert testimony will be helpful. • Not all DV cases involve the same issues, so it might be hard to know whether the expert has the right expertise for the issues in the case. • If expert testimony becomes routine in many DV cases in one jurisdiction, the impact and efficacy of that testimony may diminish.

How much information about the case might expert witnesses have in advance?
 Chart by Cindene Pezzell, Legal Coordinator
 National Clearinghouse for the Defense of Battered Women
 2016

How much specific case information does the expert have?	Benefits to expert and/or case	Drawbacks to expert and/or case
<p>Basic description of the allegations that will be presented</p>	<ul style="list-style-type: none"> • Experts can anticipate what issues might be relevant, allowing for better preparation. • Experts can more easily avoid cases in which they don't feel like they have the requisite expertise. • Fact finders are more likely to find the expert credible when testimony explaining counterintuitive behavior matches the facts of the case. 	<ul style="list-style-type: none"> • A simple "sketch" of the case might not be enough for experts to anticipate how their testimony might be most helpful, particularly without thorough prep and/or when issues arise that the attorney hasn't anticipated but the expert might have. • Experts might make incorrect assumptions about what will be asked of them in court, particularly in cases where the "other side's" theory of the case is unclear. • Experts may be asked on the stand about how they know what they know about the case. To respond by saying "everything I know the attorney told me" might sound biased to the fact finder.

How much information about the case might expert witnesses have in advance?
 Chart by Cindene Pezzell, Legal Coordinator
 National Clearinghouse for the Defense of Battered Women
 2016

How much specific case information does the expert have?	Benefits to expert and/or case	Drawbacks to expert and/or case
Thorough knowledge of all the evidence that will be presented in the case	<ul style="list-style-type: none"> • Experts will have more information to help in deciding which cases to accept. • Experts can be more helpful to the attorney seeking to use expert testimony in determining what the testimony can and should focus on. 	<ul style="list-style-type: none"> • Experts might be perceived as biased/not neutral by fact finders who know that they reviewed the case before deciding to testify for a certain "side." • Experts might give testimony that is too closely aligned with the facts of the case, which could render the testimony inadmissible (particularly when offered on behalf of the prosecution).

Appendix 6: About the authors

Scott Miller has been working in the women’s movement since 1985 and for the Domestic Abuse Intervention Project (DAIP)—the “Duluth Model”—since 2000. Scott coordinates Duluth’s Coordinated Community Response to domestic violence, serving as both a system advocate and coordinator of the men’s nonviolence program. Scott trains nationally and internationally on the components of the Duluth Model of intervention. He is a co-author of the DAIP men’s nonviolence curriculum, *Creating a Process of Change for Men Who Batter*. From 2001 to 2015, Scott was trainer and forensic interviewer for First Witness Child Abuse Resource Center in Duluth, conducting interviews of children suspected of being physically or sexually abused. He has trained nationally on how to conduct interviews with children and work from a multidisciplinary team approach in the investigation of child abuse.

Melissa Scaia is the Director of International Training for Global Rights for Women. She is a former executive director of Domestic Abuse Intervention Programs and was the executive director of Advocates for Family Peace for 17 years. She has lead and organized two coordinated community responses to address domestic violence in Minnesota. She has co-facilitated groups for men who batter and for women who use violence and is a consulting trainer to national organizations, including the Battered Women’s Justice Project and the National Council of Juvenile and Family Court Judges. As a qualified expert in the state of Minnesota, she testifies as an expert witness on domestic violence in criminal court cases. She wrote her master’s thesis on the effects of domestic violence on children and her doctoral dissertation proposal on supervised visitation, children, and domestic violence. She is the co-author of *Addressing Fatherhood with Men Who Batter* (with John Downing and Laura Connelly) and *Turning Points: A Nonviolence Curriculum for Women* (with Ellen Pence and Laura Connelly). She has been selected for numerous roundtable advisory discussion groups for the Office on Violence Against Women and the National Judicial Institute on Domestic Violence. She is a member of the National Consulting Group on Batterers Intervention Programs and a National Advisory Committee Member for the Joyful Heart Foundation (established by actress Mariska Hargitay to support survivor-based healing).