

Domestic Violence in NC:
An Action Plan
for Caring Professionals

Domestic violence continues to plague North Carolina families. We have made huge strides, but there is more to do. A caring professional can make a difference. Safety planning is critical and can save a life.

*- Lisa Angel, Chair of the North Carolina Domestic Violence Commission
and a Board Certified Family Law Specialist with Rosen Law Firm*

FIRST STEPS

Here are some shocking statistics:

- In 1996, among all female murder victims in the U.S., 30% were slain by their husbands or boyfriends;
- In 2000, 1,247 women and 440 men were killed by an intimate partner in 2000;
- In 2001, there were 691,710 nonfatal violent victimizations committed by current or former spouses, boyfriends or girlfriends;
- In 2001, intimate partner violence made up 20% of all non-fatal crime experienced by women;
- Each year, up to 4 million women are physically abused by their husbands or live-in partners.

These are the statistics from the FBI and the United States Justice Department, Office of Violence Against Women that track “domestic violence”.

How should you, as a caring professional, deal with a victim of domestic violence? The first step is to identify a victim of domestic violence.

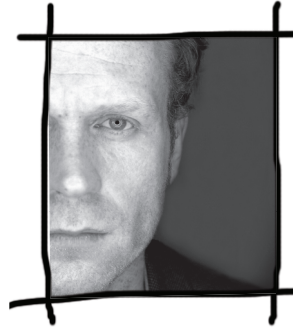
It is imperative that you ask your client, patient, or member these questions to screen for domestic violence:

- Does your spouse ever do anything that you might not describe as “abuse,” but made you frightened?
- What happens when you and your spouse disagree? How does your spouse react?
- Does your spouse own any weapons? Where were they when you argued?
- Has your partner ever destroyed things? Your property?
- Has your partner ever threatened or hurt the children?
- Are you in a relationship where you are being physically hurt? Threatened? Treated badly?
- Has your partner ever forced you to have sex? Forced you to engage in sexual acts you were uncomfortable with?
- Has your partner prevented you from leaving the house? From seeing your friends?
- Does your partner make you account for your every minute? Does your partner check up on you constantly? Check your mileage?
- Does your partner control the family finances? Dole out small amounts of money for you to spend?
- Does your partner accuse you of having an affair?
- Does your partner behave in an overprotective manner?
- Has your partner ever threatened you with a gun or dangerous instrument?
- Are you afraid?
- What do you need to be safe?

Explore these areas with your client, patient, or member:

- What does she or he mean when she or he says they “fight” with a spouse.
- Who controls finances in the marriage and how.
- Has your client, patient, or member’s spouse isolated her or him by alienating friends and family, interfering with employment, or moving the family to a location where your client, patient, or member has no support.

If you believe she or he is a victim of domestic violence, you should talk about the abuse, and not hope it goes away with the filing of divorce or separation proceedings, or even with the filing of an application for an order against domestic violence. Often, the act of taking legal action can spur more abuse.



Many battered women and men will not describe themselves as “abused” or as “victims of domestic violence” - even if they are staying in a domestic violence shelter.

- Affirm that abuse is wrong by saying things like “That was wrong” or “That makes me concerned for your safety”.
- Criticize the abusive acts, not the other spouse. Calling the abuser “a creep” or other descriptive term can make your client, patient, or member feel like you’re criticizing her or him for staying.
- Talk to your client, patient, or member in a non-judgmental way about why she or he remained in an abusive relationship and why she left. Your client, patient, or member’s reasons for staying and leaving will often give you insight into what was happening. For instance, lack of resources, waiting for a child to get into school may lead to a choice to stay; involving a child in the violence or a particularly scary incident may prompt someone to leave.
- Ask about whether a violent spouse caused any injuries and describe what you mean by “injury”. Many will not view bruises, scrapes, or soreness as injuries.
- Do not react to descriptions of abuse with horror, flinching or other natural emotion – your client, patient, or member may stop disclosing in an effort to protect you.
- When preparing your client, patient, or member and yourself to talk to a judge or jury about abuse, remember to slow down and paint a vivid picture.

It is also important that you create a safety plan for your client, patient, or member:

- Work with a domestic violence service provider for individualized safety planning if you and your staff need assistance. The resources listed at the end of this article have full length plans to help create comprehensive plans.

- Check in about the safety plan each time you meet by asking what she or he would do if the batterer approaches.
- Make your own safety plan about how to safely communicate with she or he.
- Plan for safety at court appearances.
- Technology presents special safety concerns; make sure any safety plan addresses these issues.

North Carolina Law

Just what is domestic violence? According to North Carolina law, “domestic violence” occurs when one intimate partner uses physical violence, threats, stalking, harassment, or emotional or financial abuse to control, manipulate, coerce, or intimidate the other partner. A simpler definition is “the physical, sexual, and emotional maltreatment of one family member by another.”

In 1979, North Carolina responded to the problem of domestic violence by enacting Chapter 50B, the Domestic Violence Act. The Act establishes that domestic violence comprises attempting to cause or intentionally causing bodily injury, and placing a person in fear of “imminent serious bodily injury” by threatening the use of force. Relief under this Act is available when the parties are related as follows: are current or former spouses; are persons who live together or have lived together; are related as parents and children or as grandparents and grandchildren unless the child or grandchild is under the age of 16; have a child in common; are current or former household members; or are persons of the opposite sex who are in a dating relationship or have been in a dating relationship.

The Act provides a number of legal remedies, the most important of which is a Domestic Violence Protective Order (also called a Restraining Order or DVPO). The restraining order can contain any of the following: direct the batterer to refrain from threatening, abusing, following, harassing, or otherwise interfering with the victim; grant the victim possession of the residence and exclude the batterer; order eviction of batterer from residence and assist victim in returning to it; grant temporary custody of minor children and establish of visitation rights; order spousal support and/or child support; order possession of personal property; prohibit the batterer from purchasing a firearm; order the batterer to complete a treatment program. The restraining order can be entered for up to one year and can be renewed multiple times for “good cause.” Orders that are entered on or after October 1, 2005 may be renewed for up to 2 years rather than one year.



*As a caring professional,
you should be aware
of the provisions of
North Carolina's
Domestic Violence Act.*

North Carolina's criminal code also covers many acts of violence that commonly occur in abusive relationships, such as assault on a female; communicating threats; assault by pointing a gun; domestic criminal trespass; harassing phone calls; injury to a pregnant woman; assault with a deadly weapon; assault in the presence of a child; sexual battery; stalking; violation of a protective order.

Other State Law Remedies

The Uniform Child Custody Jurisdiction and Enforcement Act includes many new provisions helpful in meeting the needs of victims of domestic violence forced to take their children and seek refuge in another state. A court can refuse jurisdiction by reason of an abuser's conduct, and a court may enter orders providing for the safety of the child and the person ordered to appear with the child. This alternative might be important when safety concerns arise regarding victims of domestic violence or child abuse traveling to the jurisdiction where the abuser resides.

The Uniform Interstate Enforcement of Domestic Violence Protection Orders Act establishes uniform procedures that enable courts to recognize and enforce valid domestic protection orders issued in other jurisdictions. This uniformity will enable courts to treat such cases consistently, thereby better serving the needs of victims of domestic violence.

Federal Law

In the last ten years, many other laws have been passed that victims of domestic violence can be used to pursue legal

rights. The federal Violence Against Women Act makes federal crimes of many acts of domestic violence.

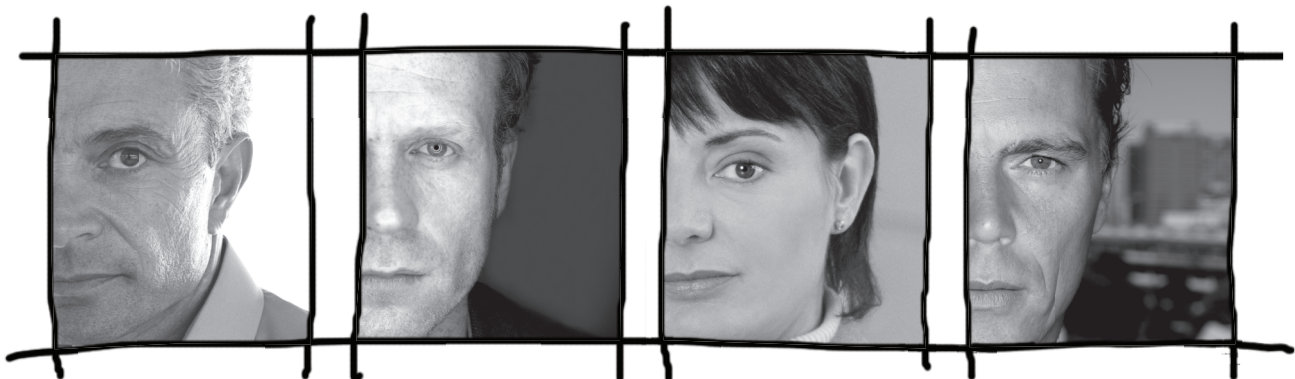
- It is a federal crime for a person to cross state lines or enter or leave Indian country with the specific intent to kill, injure, harass or intimidate that person's intimate partner, if in the course of or as a result of such travel the suspect commits or attempts to commit a violent crime.
- It is a federal crime to cause an intimate partner to cross state lines or enter or leave Indian country by force, coercion, duress or fraud, and during, as a result of, or to facilitate such conduct or travel, commit or attempt to commit a crime of violence.
- It is a federal crime to cross a state line with the specific intent to kill, injure, harass or intimidate another person, if in the course of, or as a result of such travel, the defendant places such person in reasonable fear of death to, or serious bodily injury to, that person or that person's immediate family.
- It is a federal crime to use the mail or any facility of interstate or foreign commerce (including the Internet) with the intent to kill, or injure, or place in reasonable fear of death or serious bodily injury, a person in another State or within the special maritime or territorial jurisdiction of the United States, or to engage in a course of conduct that places such person in reasonable fear of death, or serious bodily injury to themselves, their intimate partners, or a member of their immediate family.
- It is a crime to travel, or travel into or out of Indian country, with the specific intent to violate the portion of a valid protection order that prohibits or provides protection against violence, threats, repeated harassment, contact, communication with, or physical proximity to another person.

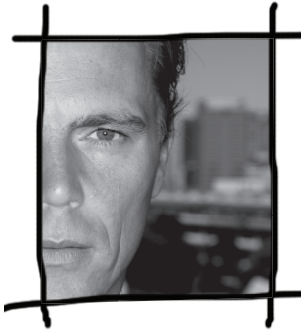
- It is a crime to cause a person to cross state lines, or enter or leave Indian country, by force, coercion, duress or fraud, and during, as a result of, or to facilitate such conduct or travel, engage in conduct that violates the portion of an order of protection.
- It is a crime for a person to possess a firearm while subject to a court order restraining such person from harassing, stalking, or threatening an intimate partner or the child of an intimate partner.
- It is a crime to knowingly to transfer a firearm to a person subject to a court order that restrains that person from harassing, stalking, or threatening an intimate partner or the child of an intimate partner.
- It is a crime to possess a firearm after conviction of a misdemeanor crime of domestic violence, even if the conviction occurred before the law's effective date.
- It is a crime to knowingly transfer a firearm to a person who has been convicted of a misdemeanor crime of domestic violence.

Federal law now also provides that a civil or criminal domestic protection order issued by a court in one state or Indian tribe shall be accorded full faith and credit by the courts of other states or tribes, and enforced as would their own orders. This means that a person coming from another state to North Carolina with a domestic violence restraining order can enforce that order in North Carolina.

Victims of domestic violence that constitutes a federal crime have certain rights. These rights include:

- The right to be treated with fairness and with respect for the victim's dignity and privacy.
- The right to be reasonably protected from the accused offender.
- The right to be notified of court proceedings.





Under North Carolina law victims of domestic violence are entitled to unemployment insurance in certain circumstances.

- The right to be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.
- The right to confer with an attorney for the Government in the case.
- The right to restitution.

Federal law also provides civil, as opposed to criminal, remedies. Civil remedies under federal law, however, are difficult to pursue, and the United State Supreme Court has not been particularly supportive of these rights.

Even though there are many legal remedies available, it is critical that you advise your client, patient, or member to leave the marital home if domestic violence is continuing and to get to a domestic violence shelter.

Resources

- Jordan Drew, ed., The Impact of Domestic Violence on Your Legal Practice: A Lawyer's Handbook (2d ed., ABA Commission on Domestic Violence, 2004).
- Edward S. Snyder and Laura W. Morgan, Domestic Violence: Ten Years Later, 19 J. Amer. Acad. Matrim. Law. 33 (2003).
- Family Law Quarterly Symposium Issues on Domestic Violence, Spring 2005 and Summer 1995 (ABA Section of Family Law).
- ABA Commission on Domestic Violence website: www.abanet.org/domviol.
- CDVLAW listserve (restricted to attorneys representing victims), access via ABA Commission on Domestic Violence website listed above.
- The Domestic Civil Law Manual: Protective Orders and Family Law Cases (2002); a manual for litigators published by the ABA Commission on Domestic Violence.

Too often, even when a person has been subject to physical, sexual, or emotional maltreatment by a family member, he or she denies it not only to others, but to him or herself.

Safety Planning

- The National Center for the Victims of Crime: www.ncvc.org
- National Network to End Domestic Violence: www.nnedv.org
- The National Council of Juvenile and Family Court Judges: www.ncjfcj.org
- North Carolina Commission Against Domestic Violence: www.nccadv.org
- Domestic Violence in North Carolina at the Rosen Law Firm: www.rosen.com/domesticviolence

Rosen Law Firm

helps divorcing families successfully navigate one of life's most difficult chapters. All too often the divorce process becomes confrontational, chaotic, and vindictive. Rosen Law Firm offers a structured approach that leads to certainty and finality. With our guidance, clients find the divorce process one in which reflection and goal-setting allow them to learn and grow. Clients emerge from their inevitable sense of loss to feeling confident they will find a fresh start while transitioning to a new phase of their lives.

Rosen Law Firm focuses on serving our clients' needs in a number of ways. Our multi-disciplinary teams of mental health, financial, and legal professionals combine their unique skills to provide a level of service that is almost impossible for any single professional to achieve. Our team is trained in and uses a variety of approaches for ending a marriage, including collaborative divorce, mediation, lawyer-led negotiation, and, when appropriate, litigation in court. This range of options allows our clients to choose the path to resolution that works best for their family's specific situation. Our fixed-fee agreements allow our clients to focus on the end result of the process rather than becoming increasingly anxious about per hour costs. Providing clients with secure, online, 24-hour access to every document in their case file helps our clients feel in touch with what is happening in their divorce and reduces stress and anxiety.

The experience of divorce is frequently painful, discouraging, and filled with hostility. These feelings can be destructive to ongoing relationships between parents and their children. Recognizing this, Rosen Law Firm inspires our clients through our belief that divorce doesn't need to be a terrible experience. We provide hope as we work toward resolutions that maintain ties and dignity.

For its success in satisfying clients, even in the midst of divorce, Rosen Law Firm was awarded the First Citizens Bank Pinnacle Award for Amazing Customer Service. Our focus on client service has also helped our firm grow into the largest of its kind in the state. Rosen Law Firm clients are regularly surveyed to ensure that our high standards of service are maintained and to determine what else we might do to improve. We are extremely proud of the trust placed in us by our clients; who regularly say they would refer us to a friend or family member.

ROSEN LAW FIRM

Divorce is Different Here