

Responsible Representation of Victims of Domestic Violence, Sexual Assault & Stalking

Training Outline

This outline is designed to be used by two or more persons to present about the background and significance of the Standards of Practice, and to train on how to implement the Standards into practice. The outline includes all of the coordinating Power Point slides, so that presenters can use this document solely to conduct the presentation. The “Learning Points” include all of the information on the slides in narrative form and also includes additional information that the presenter should state. Any instructions/explanations for the presenters is in italics. The timing is set for approximately 3 minutes on each substantive slide.

Conference: Equal Justice Works Conference, Phoenix, AZ. Friday, May 14, 2010, 3:45 p.m. – 5:15 p.m.

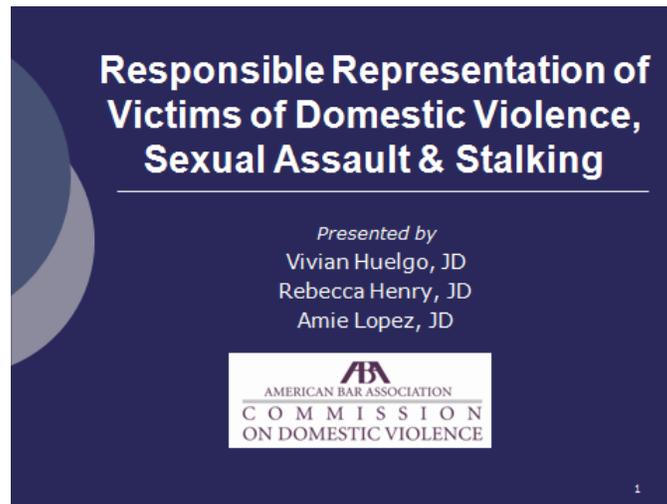
Faculty: Rebecca Henry, Vivian Huelgo and Amie Lopez

Materials needed: Power point projector, laptop, screen, 2 microphones (if available), easel with paper and markers

Setup of room: Round tables of 8 or 10 participants

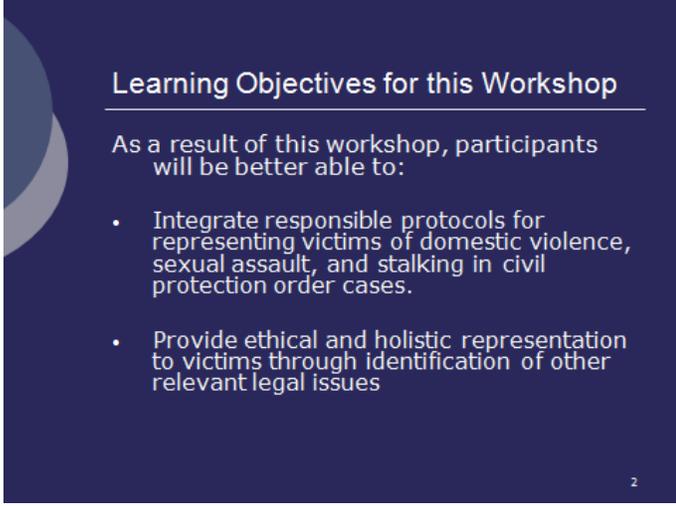
A. INTRODUCTION AND LEARNING OBJECTIVES (3:45 – 3:50)

SLIDE 1



Begin the workshop with brief introductions of the speakers and the topic of the presentation. If there are less than 30 participants at the session, go around the room and have them introduce themselves.

SLIDE 2



Learning Objectives for this Workshop

As a result of this workshop, participants will be better able to:

- Integrate responsible protocols for representing victims of domestic violence, sexual assault, and stalking in civil protection order cases.
- Provide ethical and holistic representation to victims through identification of other relevant legal issues

2

Review the learning objectives of this segment with the participants.

Explain that the first 40 minutes of the presentation will focus on the first learning objective and the second 40 minutes of the presentation will focus on the second learning objective, including a small group activity.

B. INTRODUCTION TO STANDARDS OF PRACTICE FOR LAWYERS REPRESENTING VICTIMS OF DOMESTIC VIOLENCE, SEXUAL ASSAULT AND STALKING IN CIVIL PROTECTION ORDERS (3:50 – 4:00)

SLIDE 3



Overview of the Standards

- Targeted to assist attorneys representing victims in civil protection order cases
- Also a good overview for advocates, judges, court personnel and victims
- Organized into 2 major sections
 - Ethical duties of ALL lawyers representing domestic violence, sexual assault and stalking victims
 - Procedural Responsibilities

3

The Standards will be handed out to participants. Staff will discuss the purpose of the standards and outline the organization of the booklet)

C. ETHICAL OBLIGATIONS (4:00 – 4:15)

SLIDE 4



Attorney's Ethical Duties

- Competent Knowledge of CPO Law
- Competent Knowledge of Related Legal Issues
- Competent Knowledge of DV/SA/Stalking
- Culturally Competent Representation
- Effective Client Communication
- Client Safety
- Scope of Representation

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-Competent knowledge of CPO laws – including who qualifies (relationship, type of abuse), what remedies are available, burden of proof, jurisdiction, firearms, etc. (See commentary) (p.3)

-Competent knowledge of dv/sa/stalking – including increased risk, effects on relationship w/ attorney, leaving many times (p.24)

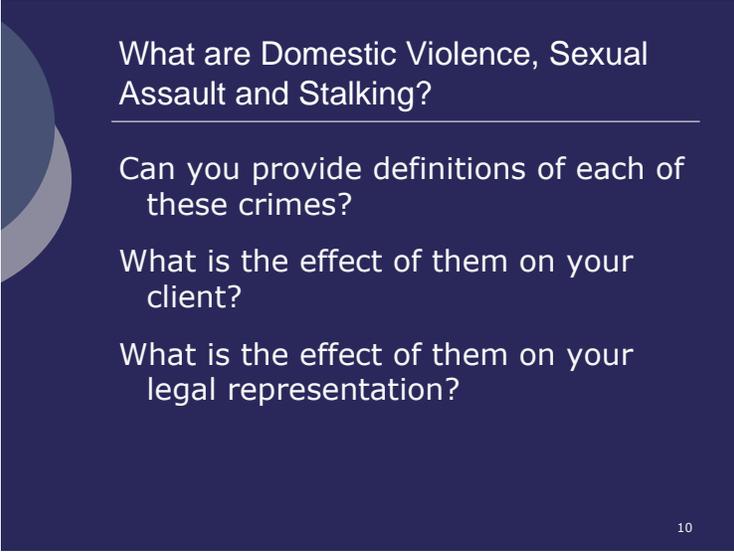
-Cultural competence – beyond nationalities and ethnicities, religion, SES, etc. relates to relationship w/ lawyer, trust of system, etc. (p.26)

-Effective client communication – meaningful exchange, trust, trauma, interpreters (p.28)

-Client safety – comprehensive safety planning and lethality assessments, ongoing process (p.33)

-Client-Centered Representation – counsel about legal options, but defer to client, legal capacity, scope of representation, holistic rep. (p.35)

SLIDE 5



What are Domestic Violence, Sexual Assault and Stalking?

Can you provide definitions of each of these crimes?

What is the effect of them on your client?

What is the effect of them on your legal representation?

10

Refer to definitions section, page 1

- "Domestic violence" is the physical abuse, alone or in combination w/ sexual, economic or emotional abuse, stalking, or other forms of coercive control, by an intimate partner or household member, often for the purpose of establishing and maintaining power and control over the victim.

- "Sexual assault" is any type of non-consensual touching or sexual penetration, however slight. Sexual assault may be perpetrated by an intimate partner (including a spouse), a non-intimate person known to the victim, or a stranger.

Effects on legal representation

-Safety – for you and the client (get to that later)

-Communication

-client-centered (more on that later)

SLIDE 6

Cultural Competency

Ensure representation and access to justice for all victims:

- > Persons with Disabilities
- > Survivors who are Limited English Proficient
- > Economic Issues
- > Elder Abuse
- > Mental Health Issues

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- *The lawyer should be aware of the culture of the client and of how violence is understood within that culture.*
- *In particular, the lawyer should understand how the culture of the client may affect client-lawyer communication and trust, identification and presentation of evidence, and remedy selection.*
- *Commentary emphasizes “cultural competence” and cross cultural differences. These issues extend beyond differences in ethnicity and language, and encompasses difference among individuals based on a variety of factors including race, religion, education, socioeconomic status, gender, sexual orientation and age.*
- *Cultural differences exist in the ways survivors may react to the violence they experience, interact with police, lawyers and judges, describe events, etc.*
- *Some examples of culturally competent practice: not assuming that a particular cultural group share the same values, being aware of the lawyer’s own cultural values and biases, and developing creative, flexible solutions which reflect a client’s priorities and cultural beliefs.*

- (Pages 26-28 of the Standards – C. Culturally Competent Representation has more detail and examples)

D. PROCEDURAL CONSIDERATIONS (4:15 – 4:30)

SLIDE 7

Procedural Considerations

- > Office Intake
- > Basic Procedural Obligations
- > Pre-hearing Responsibilities
- > Hearings
- > Post-Hearing Responsibilities

7

-Office intake should be conducted by a person trained to work with survivors (p.40)

-Basic procedural obligations – (a) obtaining interpreter, (b) advising about confidentiality, (c) establishing limits of lawyer’s role, (d) create a trusting relationship, (e) appropriate documentation, (f) interview client about goals, review file, and determine whether CPO is best remedy, (g) advise about civil system and procedure – also criminal and CPS, (h) inform about all legal remedies and help plan for self-sufficiency (p.41)

-Pre-hearing responsibilities – client interview and discovery, identify legal issues including interstate jurisdiction, timely file, custody, privacy, prepare order, rights in other forums, local rules

-Hearings – (a) prepare, (b) make the record, (c) safety in courtroom, (d) careful w/ negotiations (p.54)

-Post-hearing – make sure client understands outcome, order, expiration, service requirements, violations, appeal possibility, and when client relationship ends (p.55)

E. INTRODUCTION TO ISSUE SPOTTING TOOL (4:30 – 4:35)

SLIDE 8

Comprehensive Issue-Spotting

A Tool for implementing the Standards of Practice with each client

- Designed to be used with existing intake and referral mechanisms
- Identifies specific legal and non-legal concerns for victims in a variety of areas
- Serves as a quick-reference for referrals

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Recognizes that there are always more issues than one attorney can handle—doesn't mean that attorney shouldn't screen and refer

Encourages lawyers to research available resources

Encourages lawyers to know how to ask about and respond to legal issues in a variety of practice areas

SLIDE 9

A dark blue slide with a light blue circular graphic on the left side. The title "Comprehensive Issue-Spotting" is at the top, followed by a horizontal line. Below the line is a bulleted list of five items: Safety, Criminal Matters, Sexual Assault, Stalking, and Immigration. A small number "9" is in the bottom right corner.

Comprehensive Issue-Spotting

- Safety
- Criminal Matters
- Sexual Assault
- Stalking
- Immigration

9

SLIDE 10

A dark blue slide with a light blue circular graphic on the left side. The title "Comprehensive Issue-Spotting" is at the top, followed by a horizontal line. Below the line is a bulleted list of five items: Children: Custody, Disabilities & Deafness, Financial Concerns: Income & Consumer Debt, Employment, and Housing. A small number "10" is in the bottom right corner.

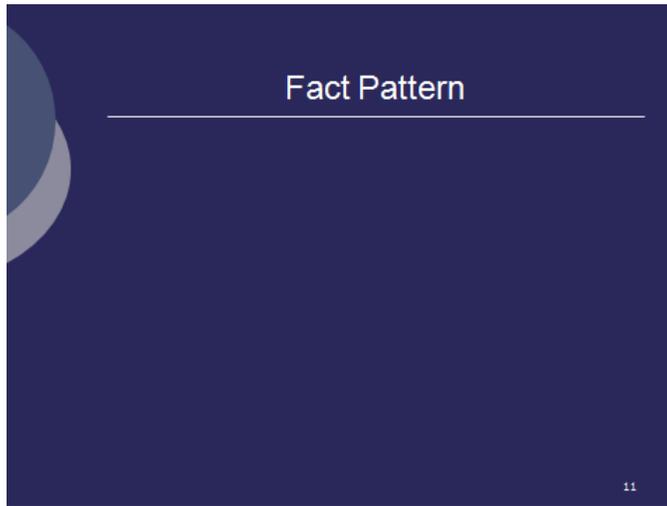
Comprehensive Issue-Spotting

- Children: Custody
- Disabilities & Deafness
- Financial Concerns: Income & Consumer Debt
- Employment
- Housing

10

F. SMALL GROUP ACTIVITY (4:35 – 4:50)

SLIDE 11



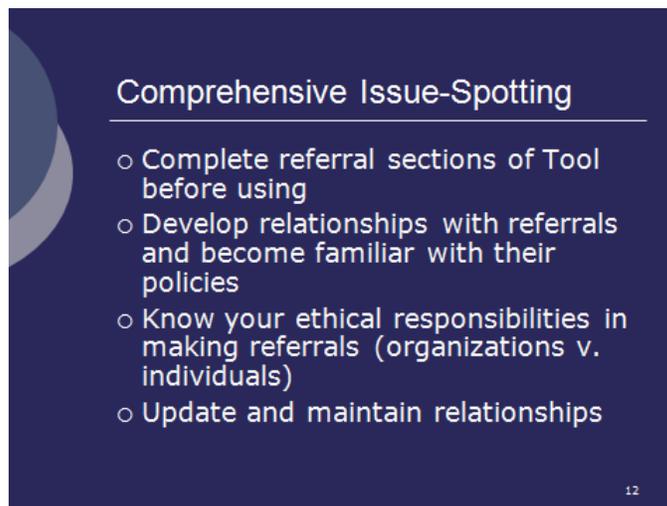
A fact pattern is read aloud and distributed to the tables. Each table will work through the fact pattern using the Issue Spotting Tool. The groups will be assigned a specific section of the Tool to work. Each group will have to report out on what they discussed, so each group should designate a reporter and a note taker. Staff will walk around the room to assist the small group discussions.

G. REPORT BACK AND LARGE GROUP DISCUSSION (4:50 – 5:10)

Each table reports back on what they have discussed. Faculty facilitates the discussion, sums up points, and provides clarification as necessary.

Staff sums up the activity with final thoughts on Issue Spotting.

SLIDE 12



H. CLOSING (5:10 – 5:15)

SLIDE 13

Thank you!

- The Standards and Issue-Spotting Tool are free for download at the Commission's website: www.abanet.org/domviol
- For hard copies, email abacdvt@staff.abanet.org
- For technical assistance, email abacdvt@staff.abanet.org

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Announce that hard copies of the Standards or technical assistance implementing the Standards is available by emailing abacdvt@staff.abanet.org. The Standards are free for download at the Commission's website: www.abanet.org/domviol.

Announce upcoming trainings.

Announce publications...

We also have the following materials we brought here with us, including: