

# Table of Contents

Acknowledgements ..... iii  
About the Editor ..... v  
Preface ..... ix

## **PART 1: VIOLENCE AGAINST WOMEN: WHAT IS IT AND HOW COMMON IS IT?**

Introduction ..... P1-3

### **Chapter 1: Battering**

Necessary Issues for Understanding Battered Women ..... 1-1  
“Battered Women”: What Does This Phrase Really Mean? ..... 1-5  
Expert Testimony on Battered Women ..... 1-8

### **Chapter 2: Rape and Sexual Assault**

Rohypnol and GHB: Terrifying Date-Rape Drugs ..... 2-1  
Wife Rape: Ignored by Providers, More Devastating to Victims ..... 2-6  
New Findings About Marital Rape and Flaws in the NCVS Study ..... 2-8

### **Chapter 3: Stalking**

Anti-Stalking Statutes ..... 3-1  
State Supreme Court Decisions Uphold Stalking Laws ..... 3-5  
MOSAIC™ Computer Programs Help Predict Dangerousness ..... 3-6  
Three More State Stalking Statutes Withstand Constitutional Challenges:  
    Michigan, California, and Illinois ..... 3-7  
Texas Supreme Court Overturns State Stalking Statute ..... 3-11  
Texas Stalking Statute Found Unconstitutionally Vague ..... 3-11  
Minnesota Supreme Court Finds That Stalking Statute Requires Proof  
    of Specific Intent ..... 3-13  
Three More Stalking Cases Upheld ..... 3-14  
Stalking: More Books, More Knowledge, But No Easy Solutions ..... 3-16  
Alaska Stalking Statute Upheld Against Constitutional Attacks ..... 3-17  
New Stalking Statute in Texas ..... 3-18  
Stalking Study Shows That Most Stalking Involves Intimates, Seriously  
    Impacts Victims, and Receives an Inadequate Response ..... 3-18  
National Stalking and Partner Abuse Studies Confirm That Men  
    Are the Aggressors ..... 3-22  
Results of Australian Study of Stalking ..... 3-25  
Stalking Often Linked to Sexual Assaults ..... 3-27

### **Chapter 4: Pornography**

Two New Books on Pornography’s Effects ..... 4-1

**Chapter 5: Homicide**

- New York Commission on Domestic Violence in Families ..... 5-1  
 New York City and San Francisco Release Domestic Violence Homicide Data .... 5-5

**Chapter 6: Sexual Harassment**

- Law in Peer-Created Sexually Hostile Educational Environment  
 Cases Still Developing ..... 6-1  
 Classroom Sexual Harassment and the Law: A Pennsylvania Experience ..... 6-1

**Chapter 7: Workplace Violence**

- Postal Service Adds Workplace Violence to Complaint System ..... 7-1  
 Federal Court Finds No Protection Against Dismissal From Employment Due  
 to Spousal Violence ..... 7-1  
 Workplace Violence ..... 7-2

**PART 2: WHAT CAUSES MEN TO ABUSE**

- Introduction ..... P2-3

**Chapter 8: Causes of Violence**

- Do Head Injuries Cause Wife Abuse? ..... 8-1  
 The Origins of Violent Behavior: “Ghosts from the Nursery” ..... 8-3

**PART 3: VULNERABLE POPULATIONS**

- Introduction ..... P3-3

**Chapter 9: Child Sexual Abuse**

- Kids in Court: State Legislation Needed to Help Child Witnesses ..... 9-1  
 A Guide for Parents of Incest Victims ..... 9-2

**Chapter 10: Child Witnesses to Domestic Violence**

- Disney Produces Children’s Video for ABA Commission on Domestic Violence .. 10-1  
 Making the Invisible Victims of Domestic Violence Visible ..... 10-2  
 The Cycle Goes Round and Round: Creating Batterers? ..... 10-4

**Chapter 11: Racial Minorities**

- Race Matters: Culture, Negative Culture, and Family Violence ..... 11-1  
 African-American Women’s Experiences With Abuse ..... 11-3  
 African-Americans Are No More Abusive Than Others ..... 11-6

**Chapter 12: Gay and Lesbian Issues**

- First Conference on Abuse of Gay and Lesbian Elders ..... 12-1  
 Sexual Assault Increase Against Gays and Lesbians ..... 12-2  
 Courts Recognize Same-Sex Sexual Harassment ..... 12-3

**Chapter 13: Immigration**

- Domestic Violence as a Basis for Asylum ..... 13-1  
 Immigrant Wins Rehearing in Political Asylum Case in Which Bulgarian  
 National Had Been Sexually Assaulted ..... 13-1

**Chapter 14: Rural America**

Domestic Violence in Rural America .....	14-1
--	------

**Chapter 15: Teens**

Dating Violence Among Adolescent Batterers: A Profile of Restraining Order Defendants in Massachusetts .....	15-1
---	------

**Chapter 16: Abuse of Older Women**

The Dorothy System: Tracking Nursing Home Staff Who Abuse Patients .....	16-1
Family Violence in Later Life, Situations of Elder Mistreatment Often Form of Domestic Violence and Require Interdisciplinary Solutions .....	16-3

**Chapter 17: Jewish Community**

Rabbinic Court Intervenes to Free Victims .....	17-1
Domestic Violence in the Jewish Community .....	17-1

**Chapter 18: Poverty**

Preventing Homelessness by Empowering Battered Women Through Vocational Opportunities .....	18-1
Letter From Donna Shalala .....	18-4
Women, Welfare, Work, and Battering .....	18-5
A Preliminary Look at Client Experiences With the Good Cause Exemption to Child Support Cooperation Requirements .....	18-9
New Studies on Domestic Violence and Welfare Reforms; Many Welfare Reforms Constitute Human Rights Violations .....	18-16
Important Symposium on Relationship of Domestic Violence and Welfare .....	18-19

**Chapter 19: Abuse of Women With Disabilities**

Mental Retardation Compounds Rape Trauma .....	19-1
Abuse Instead of Respiration Therapy, Aggravated by Hospitals' Failures .....	19-4

**Chapter 20: Service Providers**

Our Clients May Affect Us: Vicarious Traumatization .....	20-1
---	------

**PART 4: PREVENTION, INTERVENTION, AND ENFORCEMENT**

Introduction .....	P4-5
--------------------	------

**Chapter 21: Confidentiality**

Protecting a Battered Woman's Whereabouts From Disclosure .....	21-1
FCC Issues Caller ID Rules for Interstate Calls .....	21-6
Medical Records Confidentiality Act .....	21-7
Domestic Violence Agencies Lose Suit to Remove FCC Caller ID Protection in California .....	21-8
Courts Divided on Constitutionality of Driver's Privacy Protection Act .....	21-10
New York Court Holds That Criminal Defendant May Not Compel Psychiatric Examination of Witnesses .....	21-12

**Chapter 22: Health**

Stark and Flitcraft on Battering and Women’s Health . . . . .	22-1
When Abusers Choke Their Victims . . . . .	22-4
Health Watch . . . . .	22-6
Childhood Sexual Abuse Makes Survivors’ Dental Experiences More Stressful . . . . .	22-8
Rape Victims Use of Health Services . . . . .	22-9

**Chapter 23: Therapists**

Most Therapists Need Training in Domestic Violence . . . . .	23-1
Domestic Violence Seldom Considered in Psychologists’ Child Custody Recommendations . . . . .	23-3

**Chapter 24: Mandatory Reporting**

AMA Opposes Mandatory Medical Reporting . . . . .	24-1
Kentucky Coalition’s Concerns About Mandatory Reporting . . . . .	24-2
Mandatory Medical Reporting: Pro and Con . . . . .	24-4
Mandatory Reporting of Domestic Violence and Coordination With Child Protective Services . . . . .	24-4

**Chapter 25: Police Response**

Training Makes Big Difference . . . . .	25-1
Massachusetts Upholds Warrantless Domestic Violence Arrest . . . . .	25-2
Domestic Dispute Does Not Automatically Authorize Unconsented, Warrantless Police Intrusion . . . . .	25-2

**Chapter 26: Evidence: Collection and Use**

Admissibility of Hearsay Evidence Under the Excited Utterance Exception in Abuse Prosecutions . . . . .	26-1
Rethinking Some Criminal Evidentiary Issues Raised in the O.J. Simpson Murder Case . . . . .	26-8
Perpetrator’s “Grooming” of Child Victims Should Be Admissible to Explain Relationship and as a Rebuttal to Character Evidence of Defendant . . . . .	26-11
Medical Protocol Enables Victim’s Statements to Hospital Personnel to Be Admitted to Prove Batterer’s Identity . . . . .	26-15
Pregnancy Calendar Admissible in Murder Prosecution . . . . .	26-16
Department of Justice Issues 11 Portable Guides for Investigating Child Abuse . . . . .	26-16
CODIS–DNA Profiling: A New Tool Against Rapists . . . . .	26-17
CODIS Success Story . . . . .	26-20
Color Atlas of Sexual Assault: The Definitive, New Resource for Clinicians . . . . .	26-20

**Chapter 27: Sexual Assault Examination (SANE)**

Tulsa’s Sexual Assault Nurse Examiner Program: A Unique Community-Based Team Approach . . . . .	27-1
Community Based Sexual Assault Nurse Examiners: A New Role for The Visiting Nurses Association . . . . .	27-3

**Chapter 28: Orders of Protection (Restraining Orders)**

Two-Thirds of Civil Protection Orders Are Never Violated; Better Court and Community Services Increase Success Rates . . . . .	28-1
What Is Wrong With Mutual Orders of Protection? . . . . .	28-4
Minnesota Court Holds Mutual Restraining Orders and Mediation Inappropriate in Domestic Violence Cases . . . . .	28-9
Iowa High Court Holds Battered Woman Correctly Held in Contempt for Letting Partner Into Home . . . . .	28-10
Courts Have Inherent Power to Punish Contempts of Their Orders . . . . .	28-11
Contempt And Jail Appropriate for Restraining Order Violations . . . . .	28-11
New Jersey Holds “I’ll Bury You” and Profaning Spouse’s Lover Are Not Harassment . . . . .	28-12
A Typical Week of Restraining Orders in Massachusetts . . . . .	28-13
Turning Off Ex-Wife’s Phone Service Is Not Domestic Violence in New Jersey . . . . .	28-18
Connecticut Court Finds Unborn Child Insufficient Basis for Protection Order . . . . .	28-18
Minnesota Trial Court Erred in Finding No Evidence of Present Fear in Denying Order for Protection . . . . .	28-19
Connecticut Permits Permanent Protective Orders . . . . .	28-20
Review of Recent Domestic Violence Protective Order Cases . . . . .	28-20
Sublessees Are Not Cohabitants for Domestic Violence Purposes in California . . . . .	28-26
Washington Court Finds That No-Contact Order Does Not Unconstitutionally Infringe on Right to Marry . . . . .	28-27
In New Jersey, Batterer’s Failure to Obtain Counseling Justified Reinstatement of Restraining Order . . . . .	28-29
New York’s Highest Court Allows Maximum Penalty for Each Violation of a Protective Order . . . . .	28-29
Resumption of Relationship Does Not Cancel Order of Protection: “Learned Helplessness” Requires That Order Remains Enforceable Until Changed by a Court . . . . .	28-30
Recent Cases Regarding Relationship Requirements for Domestic Violence Offense . . . . .	28-31
The Implications of Full Faith and Credit for Protective Orders . . . . .	28-33
Massachusetts Court Refuses to Enjoin Statewide Registration of Domestic Violence Orders . . . . .	28-37

**Chapter 29: Full Faith and Credit**

VAWA Protection Order Violation Conviction Upheld by Second Circuit . . . . .	29-1
---	------

**Chapter 30: Prosecution**

Factors Influencing Case Outcomes in Domestic Violence Trials . . . . .	30-1
Forcing Women to Testify in Criminal Cases: Blame the Government, Not the Victim, for the Justice System’s Inertia . . . . .	30-7
Forcing Women to Testify Against Their Will: Does This Protect or Prejudice Women Who Are Abused? . . . . .	30-10
Prosecuting Without the Victim . . . . .	30-13

**Chapter 31: Criminal Law**

Florida Court Holds Weapons Search Justified in Domestic Disturbance	31-1
Prior Acts of Domestic Violence Admissible in Murder Case	31-2
Recent Appellate Court Decisions Shape California’s Criminal Spousal/Cohabitant Abuse Provision	31-3
Criminal Liability for Spouse’s Uninvited Entry	31-5
A Criminological Perspective: Redefining “Battered Women” for Use in Legal Proceedings	31-11
A Rebuttal to Lee Bowker’s Article on the Battered Woman Syndrome Index	31-14
Bowker’s Response: On the Advantages of a Multidisciplinary Approach to Battered Woman Syndrome in the Courts	31-16
Domestic Violence and Substance Abuse as Factors Explaining Why Violent Crime Is Rising Fastest Among Middle-Agers	31-19
California Court Upholds Convictions for Threat Crimes	31-22
Violation of Restraining Orders as Basis for Burglary	31-22
Five States Hold Criminal Contempt Does Not Bar Later Prosecution on Double Jeopardy Grounds	31-24
Where Criminal Mischief Is Not a Crime	31-27
Federal District Court in Kansas Finds Victim’s Statements and Appearance Alone May Constitute Probable Cause	31-31
Court Dismisses Cases When Sexual Assault Victim Too Sick to Testify	31-32
A Modest Proposal for a New Way to Use Child Sexual Abuse Accommodation Syndrome Evidence	31-34
Court Adopts Problematic Legal Test for Therapeutic Hypnosis	31-38
Statutory Protections Shield Child Victims Who Are Called to Testify	31-40
Kids in Court: State Legislation Needed to Help Child Witnesses	31-46
Prosecuting a Sexual Sadistic Murder After 20 Years	31-47

**Chapter 32: VAWA Criminal Provisions**

First VAWA Interstate Violation of Restraining Order Crime Charged	32-1
Fifth Circuit Finds Sentence Proper for Interstate Domestic Violence Offense	32-2
Courts Use Federal Prohibition Against Interstate Threats to Convict Domestic Abusers	32-2

**Chapter 33: Firearms**

Firearm Restrictions if Convicted of Misdemeanor Domestic Violence Offense	33-1
U.S. District Court Broadly Interprets Federal Statute Prohibiting Batterer’s Possession of Firearm	33-2
Courts’ Examination of Federal Prohibition on Batterers’ Possession of Firearms	33-3

**Chapter 34: Battered Women as Defendants**

Civil and Criminal Courts Use Expert Testimony Regarding Battered Woman Syndrome	34-1
Unsuccessful Attempt to Use Battered Woman’s Syndrome Evidence as Part of Insanity Defense to Manslaughter Charge	34-2
Expansion in California of Admissibility of Expert Testimony on Battered Women’s Syndrome in Self-Defense Claim	34-3
Prosecutor’s Use of Expert Testimony on Effects of Battered Women’s Syndrome Upheld	34-5

Recent Cases Involving Battered Woman’s Syndrome . . . . .	34-8
State Court Decisions Regarding the Use of Battered Woman’s Syndrome Testimony . . . . .	34-10
<b>Chapter 35: Prevention</b>	
Sexual Assault Prevention Programs: Is It Ever Too Young to Start? . . . . .	35-1
There’s No Excuse: The National Public Education Campaign . . . . .	35-4
<b>Chapter 36: Risk Assessment, Lethality, Death Review</b>	
Establishing Domestic Violence Death Review Teams . . . . .	36-1
<b>Chapter 37: VINE</b>	
Notifying Victims of Perpetrator’s Release: A New System May Save Lives . . . . .	37-1
New Jersey County Joins VINE . . . . .	37-3
<b>Chapter 38: Treatment and Services for Victims</b>	
Study Finds Rape Crisis Programs Do Work . . . . .	38-1
Assigned Counsel Problems Suggest Solutions . . . . .	38-3
The Woman’s Advocacy Project: The Legal Brand of Victim Assistance . . . . .	38-5
<b>Chapter 39: Victim Behavior</b>	
The National Domestic Violence Hotline Questionnaire for Identifying Abuse . . . . .	39-1
Victims’ Rights Amendment Helps Battered Women More Than Other Victims . . . . .	39-2
How Receptive Are Battered Women to Being Offered Voluntary Support Services? . . . . .	39-5
<b>PART 5: COURT DECISIONS, LEGISLATION, AND CIVIL LAW REMEDIES</b>	
Introduction . . . . .	P5-3
<b>Chapter 40: Divorce and Mediation</b>	
Mediation Regulated for Benefit of Domestic Violence Victims . . . . .	40-1
A Critical Look at Janet Johnston’s Typology of Batterers . . . . .	40-2
Divorce Mediation and Domestic Violence . . . . .	40-8
Effect of Domestic Violence on Distribution of Assets in Dissolution Proceedings . . . . .	40-9
<b>Chapter 41: Custody, Visitation, Paternity, and Relocation</b>	
Domestic Violence Presumption in Child Custody Determination . . . . .	41-1
Courts Divide on Importance of Domestic Violence in Custody Cases . . . . .	41-2
Medical Protocols Needed to Establish Paternity of Children Born Out of Wedlock . . . . .	41-4
In Louisiana, Seven Incidents Over Six Years Constitute History of Family Violence . . . . .	41-7
Even Strongly Worded Statute May Not Prevent Batterer From Receiving Custody . . . . .	41-8
Massachusetts High Court Requires Findings in Custody Cases When One Parent Abuses the Other . . . . .	41-8
New York’s High Court Eases Relocation Test . . . . .	41-9
Recent Custody Cases Involving Domestic Violence . . . . .	41-10

New York Requires Judges to Consider Domestic Violence in Custody Actions . .	41-13
Abuser's Rights Are Narrowly Construed Under Domestic Violence Protection Act: No Visitation Rights for Non-Father . . . . .	41-14
North Dakota Statutory Presumption Allows Batterer to Be Awarded Custody Only When Abused Parent Is Unfit . . . . .	41-15
Review of Custody Decisions Involving Domestic Violence . . . . .	41-18
In Missouri, Court Must Allow Evidence of Possible Molestation in Custody Relocation Dispute . . . . .	41-22
Father's Emotional Abuse of Mother Properly Considered in Child Abandonment Determination . . . . .	41-23
Uniform Adoption Act Considers Domestic Violence in Placement and Termination . . . . .	41-24

## **Chapter 42: Civil Law and Remedies**

General Injunctive Relief Available to Victims of Domestic Violence . . . . .	42-1
Attorney's Fee Advantages of Suing in Tort . . . . .	42-2
Mediation Regulated for Benefit of Domestic Violence Victims . . . . .	42-2
Massachusetts' Anti-SLAPP Statute Used to Dismiss Abuser's Retaliatory Litigation . . . . .	42-3
Suing: Domestic Violence Cases in Civil Court . . . . .	42-5
Practice Tips for Attorneys Representing Victims in Domestic Violence Tort Litigation . . . . .	42-8
Elements of Interpersonal Domestic Violence Torts: Bringing Traditional Actions . . .	42-9
Elements of Interpersonal Domestic Violence Torts: Some Non-Traditional Alternatives . . . . .	42-13
Battered Women's Syndrome as a Cause of Action . . . . .	42-16
Decedent Wife Must Overcome Very High Burden in Wrongful Death Suit . . . . .	42-18
Federal Courts Split on Police Tort Liability . . . . .	42-19
Continued Litigation on Officials' Duty to Protect in Domestic Violence Cases . . . . .	42-21
Courts Divide on Whether to Join Divorce and Abuse Action Arising During Marital Relationship . . . . .	42-24
Three Promising New York Tort Cases . . . . .	42-25
Municipal Liability for Domestic Violence Homicides . . . . .	42-27
Panel Established in Massachusetts to Aid in Combating Retaliatory Litigation Efforts . . . . .	42-28
Jury Awards Family \$3.4 Million in Kmart Abduction . . . . .	42-29
Insurance Company Liability for Sexual Assault . . . . .	42-34
Landlords' Liability for Sexual Assaults on Tenants . . . . .	42-38

## **Chapter 43: VAWA Civil Rights Remedy**

Federal District Courts Split on Constitutionality of VAWA Civil Rights Remedy .	43-1
Two More U.S. District Court Decisions Split on VAWA's Constitutionality . . . . .	43-3
All Courts to Address the Issue Uphold Constitutionality of VAWA Civil Rights Remedy . . . . .	43-5
Conflicting Commentaries on the Constitutionality of the Civil Rights Provision of the Violence Against Women Act . . . . .	43-8
VAWA Continues to Withstand Constitutional Scrutiny . . . . .	43-11

**Chapter 44: Sexual Harassment**

Law in Peer-Created Sexually Hostile Educational Environment Cases	
Still Developing . . . . .	44-1
Three Sexual Abuse and Harassment Suits Fail Against Schools . . . . .	44-1
United States Supreme Court’s Sexual Harassment Trilogy Sets	
New Standards . . . . .	44-2

**Chapter 45: Workplace Issues**

Postal Service Adds Workplace Violence to Complaint System . . . . .	45-1
Workplace Violence . . . . .	45-2

**PART 6: SOCIETAL BARRIERS AND BACKLASH**

Introduction . . . . .	P6-3
------------------------	------

**Chapter 46: Welfare Issues**

New Studies on Domestic Violence and Welfare Reforms; Many Welfare	
Reforms Constitute Human Rights Violations . . . . .	46-1

**Chapter 47: Backlash**

The Simpson Verdict and the Rights and Problems of Juries and Families . . . . .	47-1
Batterer Manipulation and Retaliation in the Courts: A Largely Unrecognized	
Phenomenon Sometimes Encouraged by Court Practices . . . . .	47-3
“Gag Order” Held Beyond a Florida Court’s Authority . . . . .	47-9
Backlash Against the Abused Victim in Custody Disputes . . . . .	47-10

**Chapter 48: False and Recovered Memory**

Aggressive Strategies for Plaintiffs’ Counsel – Debunking the “False Memory	
Syndrome” Myth in Traumatic Memory Cases . . . . .	48-1
Studies That Support the Reality of Traumatic Amnesia of Child Sexual Abuse . . . . .	48-7
More on the False Memories Debate . . . . .	48-8
Recent Recovered Memory Dialogue . . . . .	48-12
Spectral Coverup . . . . .	48-13
Courts Consider Liability of Psychiatrists to Parents Accused of Child	
Sexual Abuse . . . . .	48-16
Arizona Supreme Court Re-Examines Statute of Limitations for Repressed	
Memory Claims . . . . .	48-18

**Chapter 49: Child Protection**

The Backlash Against Child Protection . . . . .	49-1
Father’s Emotional Abuse of Mother Properly Considered in Child	
Abandonment Determination . . . . .	49-3
Uniform Adoption Act Considers Domestic Violence in Placement	
and Termination . . . . .	49-4

**PART 7: OFFENDER TREATMENT, PROGRAMS, AND SANCTIONS**

Introduction .....	P7-3
<b>Chapter 50: Sanctions, Treatment, and Programs for Abusers</b>	
Illinois Mandates Batterers to Pay Restitution to Shelters .....	50-1
Domestic Violence and Forfeiture .....	50-1
Idaho Requires Mandatory Counseling for Batterers .....	50-2
Do Batterer Programs Work?: A 15 Month Follow-Up of Multi-Site Evaluation .....	50-3
<b>Chapter 51: Discipline of Attorney and Judges for Abuse</b>	
Disciplining Attorneys Who Have Battered Their Partners .....	51-1
John T. Seaman's Sodomy and Disbarment Case .....	51-6
Attorney Publicly Reprimanded for Domestic Violence Conviction .....	51-7
<b>Chapter 52: Megan's Laws</b>	
Supreme Court Refuses Challenge to Megan's Laws in New York and New Jersey .....	52-1
Update on Megan's Law Litigation .....	52-5
<b>Chapter 53: Prevention</b>	
National Domestic Violence Hotline Is More Than Just an Information and Referral Service .....	53-1
<b>Chapter 54: Sexually Violent Predator Laws</b>	
Supreme Court Finds Sexually Violent Predator Law Constitutional .....	54-1
<b>Appendix 1. Literature and Media Reviews .....</b>	<b>AP1-1</b>
<b>Appendix 2. Violence Against Women Act .....</b>	<b>AP2-1</b>
<b>Indices</b>	
Table of Cases .....	T-1
Topical Index .....	I-1