

# DOMESTIC VIOLENCE REPORT™

LAW • PREVENTION • PROTECTION • ENFORCEMENT • TREATMENT • HEALTH

Vol. 18, No. 4

ISSN 1086-1270

Pages 49 – 64

April/May 2013

## On the Meaning of the Decrease in DV: An Exchange

*Editor's Note: DVR received the following two letters in response to Professor Zimring's article in the last issue of DVR. Here are the letters, together with Professor Zimring's reply.*

### To the Editor:

As Professor Frank Zimring argues in the last issue of **Domestic Violence Report**, the downward trend in partner assault between 1993 and 2010 reported by the National Crime Victim Survey (NCVS) is probably valid.<sup>1</sup> So is the corresponding decline in intimate partner homicides during this period, mirroring the overall decline in violent and fatal crimes. The outstanding questions are: what do these downward trends tell us about partner abuse, how can they be explained, and what does this imply for preventing violence against women.

Despite its importance as a way to record crimes not reported to police, the well-known methodological problems with the NCVS have led researchers to distrust its conclusions about abuse. The general problem of underreporting is greatly aggravated by the facts that the NCVS uses telephone surveys with "all" household members, directs respondents to report only the most serious crimes they have suffered recently, and classifies six or

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## New Insights on the Process of Victim Recantation

by Amy E. Bonomi, David Martin, Rashmi Gangamma and Jeff Grabmeier

Prosecutors and advocates have known for years that witness tampering is a significant problem in domestic violence cases, and that victims recant and/or refuse to testify in a considerable number of cases. For domestic violence cases that reach the court system, as many as 80% may involve victims who recant their story and/or refuse to testify.<sup>1</sup> As the Supreme Court recognized in **Davis v. Washington**, 547 U.S. 813, 833 (2006), "[t]his particular type of crime is notoriously susceptible to intimidation or coercion of the victim to ensure she does not testify at trial."

Researchers attribute victim recantation and refusal to testify to many factors.<sup>2</sup> For example, studies based on victim reports or case files link recantation to perpetrators' threats and victims' fear of retaliation. Research has also correlated victim non-participation in prosecution with victims' financial dependence on the perpetrator; their belief that the crime is not serious enough to warrant

prosecution; their psychological vulnerability; their perceptions of an unsympathetic criminal justice response and poor access to advocates; and their emotional attachment to the perpetrator.

Despite the availability of important existing information on why victims recant and/or refuse to testify, prior research is limited because it focuses on data that are assembled *retrospectively* from case files and victim interviews. Little is known about how the victim's decision-making process unfolds in real time through interaction with the perpetrator; about what motivates victims in the moment to change their stance towards prosecution efforts. Our study is the first, to date, to explore the process in "real time" of how and why victims arrive at their decision to resist prosecution. Based on an analysis of audio-taped telephone conversations between domestic violence perpetrators and their victims that were recorded

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## VAWA Finally Passes

In February 2013, VAWA was finally reauthorized by a vote of 78-22 in the Senate and 286-138 in the House. **DVR** will cover the new VAWA provisions in the next issue.

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during the pre-prosecution period, we delineate a five-stage process associated with victim recantation.

## Methods

Our sample included 17 opposite-sex couples, in which the male perpetrator was being held at a Washington State detention facility for felony-level domestic violence and made telephone calls to his victim. All parties were aware they were being recorded through an automated message at the beginning of each call. The legality of audiotaping telephone calls made from Washington State detention facilities was upheld by the Washington Supreme Court in *State v. Modica*, 186 P.3d 1062 (Wash. 2008). We analyzed 30 to 192 minutes of conversational data for each couple, taped during the pre-prosecution period, to explore two research questions:

1. What interpersonal processes were associated with the victim's intention to recant, including what was the couple discussing before and after it became clear that the victim would recant her story; and
2. How did the couple construct the recantation plan once the victim indicated an intention to recant?

Narrative summaries were written for each couple, cross-checked against the audio-tapes and processed

in in-depth discussions, and tested in a theoretical model developed based on emergent themes.<sup>3</sup>

## Results

Our analysis revealed a five-stage process of victim recantation (see Figure 1, p. 58). The first stage, *accusation*, typically began with a heated argument between the parties about the abusive event and their resistance to each other's accounts (Stage 1). This was followed in the second stage by the perpetrator's *minimization of the abuse* and *appeal to the victim's sympathy* that served to reverse the roles in the couple's relationship with the perpetrator presenting himself as the "victim" (Stage 2). Stage 3 involved *bonding*, that is, the couple invoking images of life without each other. This stage was followed by *solicitation*, that is, the perpetrator's fervent requests begging the victim to recant (Stage 4). Once the victim agreed to recant, the final stage consisted of *collusion*, that is, the couple collaborated to construct the recantation plan that they would present to the court. That plan involved their redefinition of the abuse in a manner that absolved the perpetrator. Following is an elaboration of each of the stages.

**1. Accusation.** Typically, in this first stage, which occurred in the first and second conversations, couples engaged in *accusation*—a heated argument revolving around the event leading

to the abuse charge. In these early conversations, victims accused the perpetrator of his abusive behavior, and exercised agency by "telling the truth about what happened." However, the victim's agency eventually unraveled in response to the perpetrator's minimization of the abuse event, the perpetrator's appeals to her sympathy, and the couple's expressed need to keep their relationship and family intact.

**2. Minimization of Abuse/Appeal to Victim's Sympathy.** In the second stage, the *perpetrator minimized the abuse* and tried to convince the victim that what happened was not that serious. In one couple, where the victim suffered attempted strangulation and a severe bite to the face, the perpetrator repeatedly reminded the victim that he was being charged with "felony assault," while asking whether she thought he deserved the felony charge. Eventually, the perpetrator wore down the victim and she agreed that he did not deserve a felony charge.

An event in the second stage that occurred next was the critical step in the process of recantation. Namely, the *abuser appealed to the victim's sympathy* by describing how much he was suffering in jail, how depressed he was, and how much he missed her and their children. This tactic of appealing to the victim's sympathy reversed the roles in the

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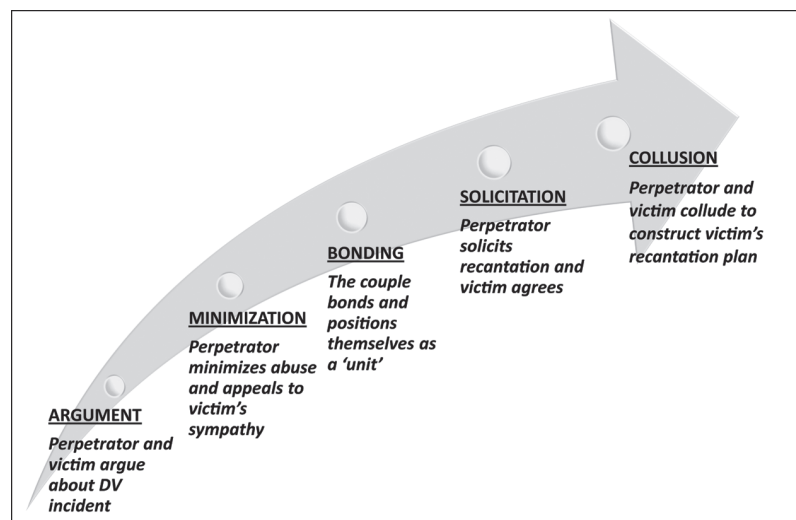
Domestic Violence Report is published bimonthly by Civic Research Institute, Inc., 4478 U.S. Route 27, P. O. Box 585, Kingston, NJ 08528. Periodicals postage paid at Kingston, NJ and additional mailing office (USPS # 0015-087). Subscriptions: \$165 per year in the United States and Canada. \$30 additional per year elsewhere. Vol. 18, No. 4. April/May 2013. Copyright © 2013 by Civic Research Institute, Inc. All rights reserved. POSTMASTER: Send address changes to Civic Research Institute, Inc., P.O. Box 585, Kingston, NJ 08528. *Domestic Violence Report* is a trademark owned by Civic Research Institute and may not be used without express permission.

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Figure 1. DV Victim Recantation: A Five-Stage Process



couple's relationship. The perpetrator assumed the role of "victim" and the victim assumed the role of his caretaker.

In one couple, the victim initially refused to help the perpetrator and even threatened to talk to the police about previous incidents of violence. However, her stance softened when the perpetrator became increasingly anxious and threatened suicide. He screamed: "You're making me go crazy ... They're telling me they're gonna press charges then, damn ... You wanna see a motherfucker suicidal?" His panic was evident as the victim continued to threaten him with pressing charges. Finally, he asked in a distressed tone: "Can I say goodbye? Can I say something? Nobody loves me though, right?" This was a crucial point where the victim's tone changed drastically; she sounded concerned that he may actually have harmed himself. The remaining conversations revolved around the victim trying to assuage the perpetrator's anxiety and promising to do her best to help him get out of jail.

**3. Bonding.** The third stage was marked by *bonding*, that is, the couple's invoking of images of life without each other and bonding over love, dreams, and memories. At the same time, they positioned themselves as a unit in opposition to others who "don't understand them." When reminding each other of

life alone and/or bonding over love, dreams, and memories, both the perpetrator and victim tended to express sadness and regret, but also relief that they were connecting over common ground. One victim played the couple's "theme song;" the refrain from Dave Matthews' lyrics ("Stay or leave/I want you not to go/But you did") reinforced the tenuousness of their relationship posed by the perpetrator's jail time. In response, the perpetrator cried and invoked an image of their earlier connection: "There is our song (sniffling, crying) ... it reminds me of our time at the spa." The victim added: "I could feel your spirit moving with the song."

**4. Solicitation.** The fourth stage was characterized by the perpetrator's direct *solicitation* of the victim to recant. In this stage, the perpetrator asked the victim to recant her accusations against him and the victim complied. Minimizations of the abuse also occurred during the fourth stage, but typically by this point, couples' narratives coalesced around the perpetrator's account of what happened. One perpetrator instructed his victim to say she lied to police so that she would serve jail time instead of him; he used a sympathy appeal by reminding the victim that she would only do a few days in jail whereas he faced 60 to 90 days "in the hole":

P: But you've just gotta say ... what you wrote on, in the statement is a lie, that you're just mad at me 'cause you thought I was cheatin' on you with your cousin. If you say that.

V: (laughing) Okay.

P: If you say that, they'll automatically let me go.

V: Okay.

P: Alright?

V: Uh-huh.

P: You know I love you?

V: Mmm ...

P: 'Cause like, you know, but they might give you five or ten days [i.e., give you five or ten days in jail if you said you lied to police], but that's better than me doing sixty to ninety days.

V: Me?!

P: Yeah, but they, but they, babe, that's better than me doing sixty to ninety days ... I just spent five days in the hole. You can't do five days for me? Would you rather me sit in here for sixty to ninety?

**5. Collusion.** Finally, the fifth stage was marked by *collusion*, that is, collaboration over what should be said or done in court. In this stage, the couple constructed the recantation plan. Typically, they resorted to three strategies: redefining the abuse event to protect the perpetrator; blaming the State for the couple's separation; and exchanging specific instructions on what should be said or done in court or when interacting with legal representatives. In this final phase, the couple's agency was "up" as they worked together on the various strategies to get the perpetrator out of jail.

## Discussion

Our analysis showed that a victim's recantation intention was influenced by the perpetrator's minimization of the abuse and appeals to her sympathy through descriptions of his suffering from mental and physical problems, intolerable jail conditions, and life without her. The intention was solidified by the couple invoking images of life without each other and bonding over love, dreams, and memories. Once the victim arrived at her decision to recant,

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the couple constructed the recantation plan by redefining the abuse event to protect the perpetrator, blaming the State, and exchanging instructions on what should be said or done.

Direct threats were rarely used. In only one case did the perpetrator directly threaten the victim: "If you go against me on this one, it's gonna be the worst mistake you ever make in your whole life." While the threat of further violence was likely present in all couples, perpetrators in our study used other sophisticated strategies to persuade their victim, namely, minimizations,<sup>3</sup> and descriptions of their suffering. These strategies triggered sadness, guilt, and sympathy in their victim, which served to strengthen the case for changing her story to protect him. Despite perpetrators' persuasion, our results also point to the victim's expressed desire to keep the relationship intact,<sup>4</sup> and strategies that the couple used to shape the recantation plan; for example, by blaming the State, the couple assumed the united role as "victim" against an "unfair judicial process."

While the principal factors identified in our study included minimization, sympathy appeals, and emphasizing the couple's desire to stay together, couples also discussed financial troubles, a factor known to motivate some victims to recant.<sup>5</sup> Financial troubles were not specifically discussed in relation to recantation, but could have motivated victims; interviews with victims would be needed

to answer this question. Another factor was the presence of children and how that might have influenced the victim to recant. Most couples in our sample had children; while only one victim identified her child's needs as the primary motivation for recanting, other victims could have been internally processing their children's needs and may have acted to recant accordingly.

Our findings advance knowledge through identifying strategies that perpetrators used to persuade their victim and also strategies that the couple used to preserve their relationship. Our study points to the need for recantation frameworks that recognize *both* the abusive behavioral tactics used by perpetrators and two other critical relationship processes:

1. The needs and desires of the victim<sup>6</sup> in maintaining the violent relationship, even though the relationship would possibly be deemed by others as "harmful" and "unhealthy." Recognition of the victim's needs and desires ensures the victim's agency is acknowledged in determining the outcome of these relationships.
2. The interplay of emotions between members of violent couples. The perpetrator's use of sympathy appeals was successful in manipulating the victim's emotional state, shifting her from a place of moving forward with prosecution to resuming caretaking of the perpetrator. Perpetrators' sympathy appeals were typically accompanied by displays of their distressed emotional state (*e.g.*, anxious and sad), which

augmented the appeal's power over the victim's emotions; upon hearing the perpetrator's distressed plea for help, the victim responded by helping to restore his emotional well-being.

An expanded conceptualization of recantation would inform training of criminal justice professionals to recognize, beyond threats, the complex interpersonal processes—including sympathy appeals and minimization—that serve to keep violent relationships intact. Our findings also point to the importance of providing supportive assistance to victims,<sup>7</sup> including having a trusted victim advocate work with victims throughout the criminal justice process to prevent and defend against the perpetrator's sophisticated techniques. Our results suggest that recantation is a byproduct of the actions of sophisticated perpetrators. This finding points to the need for prosecutors to redouble their efforts in recantation cases to hold perpetrators accountable for their actions.

#### End Notes

1. J.S. Meier (2006). *Davis/Hammon*, domestic violence, and the Supreme Court: The case for cautious optimism, *First Impressions*, 22, 22-26.

2. See, *e.g.*, J. Meier, *id.*; L.A. Zoellner, *et al.* (2000). Factors associated with completion of the restraining order process in female victims of partner violence, *Journal of Interpersonal Violence*, 15(10), 1081-1099 (threats and fear of retaliation); C.M. Camacho & L. F. Alarid (2008). The significance of the victim advocate for domestic violence victims in municipal

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14(4), 427-444; B. Hart (1993). Battered women and the criminal justice system, *American Behavioral Scientist*, 36(5), 624-638 (financial dependency); S.C. Hare (2006). What do battered women want? Victims' opinions of prosecution, *Violence and Victims*, 21(5), 611-628 (not serious enough to prosecute); Goodman, *supra* this note (psychological vulnerability); H.N. Bui (2001). Domestic violence victims'

behavior in favor of prosecution: Effects of gender relations, *Women and Criminal Justice*, 12(4), 51-76; K. Cox (2000). Domestic violence prosecution: When the victim recants or is uncooperative, *Tenth Circuit Legal Advisor*, Jerry Hill, *State Attorney*, 14(1), 1-8; Ellison, *supra* this note; Hart, *supra* this note (their perceptions

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of an unsympathetic criminal justice response and access to advocates); J.C. Roberts, *et al.* (2008) Why victims of intimate partner violence withdraw protection orders, *Journal of Family Violence*, 23, 369-375 (their emotional attachment to the perpetrator).

3. The results of our study were previously published in A.D. Bonomi, et al. (2011). "Meet me at the hill where we used to park": Processes associated with victim recantation, *Social Science and Medicine*, 73, 1054-1061. For additional discussion of this form of methodological analysis, see K. Charmaz (2000). Grounded theory: Objectivist and constructivist methods. In Y.S.L.N.K. Denzin (Ed.) *Handbook of Qualitative Research*, Sage Publication; M. Comfort, *et al.* (2005). "You

can't do nothing in this damn place": Sex and intimacy among couples with an incarcerated male partner, *Journal of Sex Research*, 42(1), 3-12.

4. Z. Eiskovits & Z. Winstok (2002). Reconstructing intimate violence: The structure and content of recollections of violent events, *Qualitative Health Research*, 12(5), 685-699; E. Pence & M. Paymar (1993). Education groups for men who batter: the Duluth model, New York, Springer Pub. Co.

5. Roberts *et al.*, supra note 2.

6. C.M. Camacho & L.F. Alarid, supra note 2; L. Ellison, supra note 2; L. Goodman *et al.* supra note 2; B. Hart, supra note 2.

7. J.L. Dunn & M. Powell-Williams (2007). "Everybody makes choices": Victim advocates and the social construction of battered

women's victimization and agency, *Violence Against Women*, 13(10), 977-1001.

8. L. Goodman *et al.* supra note 2.

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