

Domestic Violence Review



Office of the State Courts Administrator
Office of Court Improvement

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Office of Court Improvement

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Helpful Web Resources

- [Family Courts](#)
- [DV Benchbook](#)
- [DV Strategic Plan](#)
- [Petitioner Brochures](#)
- [Respondent Brochures](#)
- [DV Civil Injunction Survey Report](#)
- [DV Resources for Court Staff](#)
- [DV Case Management Guidelines](#)
- [Best Practices: Child Support in DV cases](#)
- [Dating Violence Checklist](#)
- [Repeat Violence Checklist](#)
- [Sexual Violence Checklist](#)
- [DV Checklist](#)
- [DV Court Action Plan](#)
- [DV Assessment Final Report](#)

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Virtual Court Available for Continuing Judicial Education Credit

The Virtual Court program offers Florida domestic violence stakeholders an opportunity to learn about domestic violence proceedings and see the case through the judge's eyes. The program allows the user to act as judge in a domestic violence simulation. The case is fictitious, but the questions are real questions that judges must grapple with every day. Learn the laws that guide judges' actions during domestic violence proceedings with our engaging, interactive online program. The program can be accessed at: <http://virtualcourt.flcourts.org>.

The Virtual Court program is approved for up to 1.50 non-conference Domestic Violence CJE credit hours. Judges may apply for Continuing Judicial Education (CJE) credit by emailing a request to CJEMail@flcourts.org or writing to: Court Education Division, Office of the State Courts Administrator, 500 South Duval Street, Tallahassee, Florida 32399-1900 (Attention: CJE Credit). Judges who have completed the program but have not yet requested a certificate of completion may do so by sending an email request to vcsupport@flcourts.org.

The Florida Bar has approved 2.00 hours of general Continuing Legal Education (CLE) credit (including 1.50 hours of Marital and Family Law Certification credit) for the completion of this training module. Individuals are required to post their CLE activity on the Florida Bar website, www.floridabar.org, to receive credit. Please refer to course #57149.

Completion of the Domestic Violence Virtual Court training module can count as 2.0 hours of Domestic Violence Continuing Mediator Education (CME) credit. Individuals are required to keep the information pertaining to the completed virtual court course during the two-year cycle. Individuals will then report the information on the CME Reporting Form included in the renewal packet at the time of renewal, not when the credit is earned. The CME Reporting Form is also available on the Dispute Resolution Center's [website](#).

Judges who have completed the program but have not yet requested a certificate of completion, may do so by sending an email request to vcsupport@flcourts.org.



News from the Office of Court Improvement

2010 Case Managers' Conference

The conference was a great experience that provided OCI staff valuable time with domestic violence case managers from across the state. Discussions focused on current trends and promising practices. As a result, OCI will begin work on several projects to address some of the needs that were identified and enhance several existing domestic violence tools.

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Upcoming Projects and Events

- **CASE MANAGER TRAINING MODULE** OCI will be developing the module with the assistance of several case managers. The module will be accessible via the internet, and will provide case managers with an interactive program designed to decrease frustration, increase efficiency and ease the use of case management systems. The module will be full of valuable techniques and tactics vetted by a panel of case managers, judges, and OCI staff. This will be a huge endeavor, as the OCI wants to provide case managers with a high quality module. The training module is tentatively scheduled to be completed in June of 2011.
- **DOMESTIC VIOLENCE JUDICIAL TRAINING EVENT** While still in the planning stages, this training event will be a great chance for Florida judges to reconnect as they learn the newest updates in the area of domestic violence. The event may feature expert lecturers from the Florida judiciary on such subjects as firearms in domestic violence cases, mental health issues, and batterer intervention program enforcement. This training event is tentatively planned for October, 2010.



Domestic and Sexual Violence Influence on the Risk of Cancer

By: Andrew Wentzell, Esq.

In the past ten years there has been a heightened interest in domestic violence and sexual violence, and how they affect women – specifically, how exposure to domestic and sexual violence affects rates of cancer in abused women. This article will examine the current research and discuss how domestic and sexual violence can directly and indirectly affect the risk of cervical cancer.

The Direct Effect of DV on Risk of Cancer

Domestic and sexual violence may directly affect the risk of cervical cancer through repeated sexual assault that causes cervical trauma, which in combination with the human papilloma virus (“HPV”) may begin the cervical carcinogenic process.¹ One article stated the correlation succinctly:

Women who are forced into sexual activities in childhood or adulthood are also at increased risk of developing sexually transmitted infections (STI), including human papillomavirus (HPV) infection. Persistent high-risk HPVs are the necessary etiological agent for cervical neoplasia development and occur in almost 100% of cervical cancer cases.²

Several studies have found a connection between sexual violence and cervical cancer. Three studies found a correlation between domestic violence and an increased risk of cervical neoplasia (a condition marked by the presence of abnormal cells on the surface of the cervix).³ And relative to controls, cervical cancer was strongly associated with physical and sexual violence.⁴ Further, increased duration in a violent relationship, increased domestic and sexual violence associated injuries, and increased physical and sexual violence frequency and duration were all found to be associated with increasing cervical cancer risk.⁵ In one major study, cervical cancer was almost three times more prevalent in women who had experienced sexual violence as compared to women who had not.⁶

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Studies have also examined the prevalence of pre-cancerous conditions in female victims of childhood sexual abuse. Young girls who were sexually abused will more commonly acquire genital human papillomavirus (HPV) infection, which may lead to development of both cervical dysplasia and cervical cancer.⁷ However, studies have been inconsistent in their findings, with data on the proportion of female victims of childhood sexual abuse that have HPV ranging from 5% to 33%.⁸ One study commented on the variation, saying that the transient nature of most HPV infections could account for the variability in studies.⁹ The number of adolescent girls with HPV-associated lesions has been increasing¹⁰, and this increase may be in part a result of infection acquired during childhood sexual abuse, especially as this problem is frequently underreported.¹¹

The Indirect Effects of DV on Risk of Cancer

Domestic and sexual violence can affect cervical cancer risk indirectly in several ways.¹² Domestic and sexual violence may lead to increased chronic stress, which may act to suppress the immune system.¹³ Women experiencing domestic violence or sexual violence have higher stress levels and higher rates of anxiety disorders.¹⁴ This increased stress can change the immune response, making the woman vulnerable to a wide range of infections, including cervical dysplasia, genital condyloma, and HIV.¹⁵ One study found that domestic violence scores were associated with cervical cancer in a group of women with no history of a sexually transmitted infection, thus supporting the idea that chronic stress alone can lead to increased risk of cervical cancer.¹⁶ It should be noted, however, that this study had a limited number of participants, which may have skewed the results.

Domestic and sexual violence can also affect the risk of cervical cancer by increasing the victim's likelihood to smoke.¹⁷ One study noted that lifetime smoking status and domestic violence appear to interact to increase cervical cancer rates, finding that women who smoked and had ever experienced domestic violence were over four times more likely to develop cervical cancer.¹⁸ Smoking may affect cervical cancer rates by dampening immune responses to HPV, resulting in persistent HPV, cervical neoplasia, and cervical cancer.¹⁹

A third way domestic violence and sexual violence can influence cervical cancer rates is by causing the victim to engage in risk behaviors that increase the likelihood of development of cervical cancer. Abused women are more likely to report such risk behaviors as high number of sexual partners, substance abuse, drug use, and inconsistent use of or a lack of use of sexual protection.²⁰ They are also more likely to report beginning sexual activity at a very early age.²¹ These behaviors increase the risk of acquiring a sexually transmitted infection like HPV.

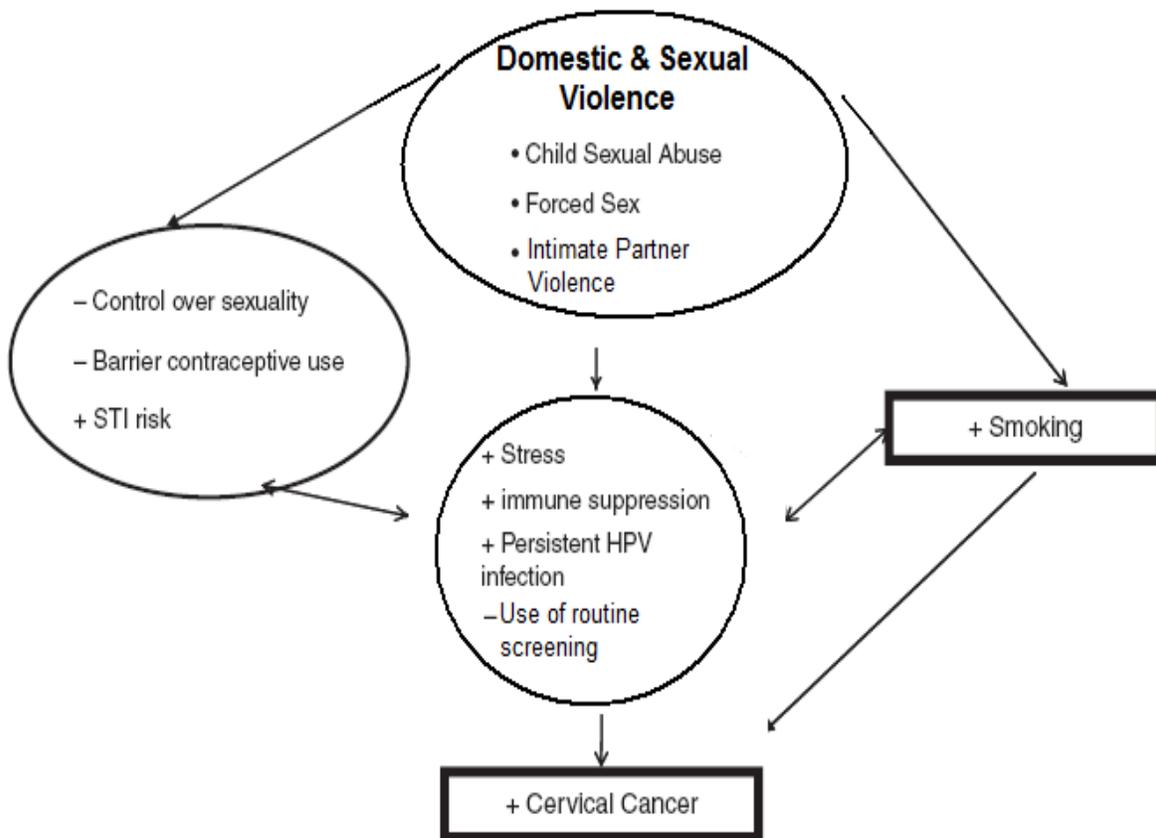
Domestic and sexual violence can also influence cervical cancer rates as a result of the actions of the abusive partner. The abusive partner may control the victim's choice to engage in sexual activity and the use of contraception.²² The abusive partner may not be monogamous²³ or may use intravenous drugs.²⁴ These risks, even though they are not risks taken by the victim, can affect cervical cancer rates, as the abusive partner may be a carrier for HPV or other sexually transmitted infection.

Finally, sexual violence can affect cervical cancer rates in another indirect manner. Sexual abuse, especially childhood sexual abuse, is strongly correlated with a decreased likelihood of cervical cancer screening.²⁵ Women who experienced sexual violence were more likely to report either not seeing a

doctor regularly or relying solely on an emergency room for care,²⁶ and were more likely to avoid getting routine tests to check for cervical cancer.²⁷ This lack of proper care negatively impacts the victim's chance of detecting a problem early enough to prevent cancer. As written in one article:

Women who were sexually abused in childhood are at increased risk of sexually transmitted disease, and HPV is the most common sexually transmitted viral disease. Therefore, women at higher risk for cervical cancer may be the same women who are least likely to be screened. Childhood sexual abuse may increase cervical cancer morbidity by reducing the probability of Pap screening, and by increasing the probability of disease. It may also decrease the likelihood that these women visit their physician for other routine health maintenance needs.²⁸

Domestic violence and sexual violence can impact a woman's health in many ways. The physical, emotional, and psychological abuse can lead to a number of negative consequences, one of which is the increased likelihood of developing cervical cancer. This article has reviewed the current body of literature concerning domestic violence, sexual violence, and cervical cancer rates, and discussed the ways in which the two are linked. The figure below²⁹ provides as a summary a conceptual model for the many ways in which domestic and sexual violence can affect the risk of cervical cancer.



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- ¹ Ann L. Coker, Maureen Sanderson, Mary Kay Fadden, & Lucia Pirisi, *Intimate Partner Violence and Cervical Neoplasia*, 9(9) *Journal of Women's Health* 1015 (2000) at 1016.
- ² Ann L. Coker, Claudia Hopenhayn, Christopher P. DeSimone, Heather M. Bush, and Leslie Crofford, *Violence against Women Raises Risk of Cervical Cancer*, 18(8) *Violence Against Women* 1179 (2009) at 1179.
- ³ A.L. Coker, S. Bond, M.M. Madeleine, K. Luchok, L. Pirisi, *Psychosocial stress and cervical neoplasia risk*, 65 *Psychosomatic Medicine* 644–651 (2003); J.A. Quinlivan, R.W. Petersen, M. Davy, S.F. Evans, *Abnormal Pap smears in teenage mothers and the association with domestic violence, homelessness, and Chlamydia*, 8 *Journal of Lower Genital Tract Disorders* 112–117 (2004); A.L. Coker, M. Sanderson, M.K. Fadden, L. Pirisi, *Intimate partner violence and cervical neoplasia*, 9 *Journal of Womens Health* 1015-1023 (2000).
- ⁴ *Supra* note 1 at 1019.
- ⁵ *Id.*
- ⁶ *Id* at 1181.
- ⁷ Susan C. Modesitt, Alisa C. Gambrell, Hope M. Cottrill, Lon R. Hays, Robert Walker, Brent J. Shelton, Carol E. Jordan, and James E. Ferguson II, *Adverse Impact of a History of Violence for Women With Breast, Cervical, Endometrial, or Ovarian Cancer*, 107(6) *Obstetrics & Gynecology* 1330 (2006) at 1331.
- ⁸ Catherine Stevens-Simon, Donna Nelligan, Paula Breese, Carole Jenny and John M. Douglas Jr., *The Prevalence of Genital Human Papillomavirus Infections in Abused and Nonabused Preadolescent Girls*, 106(4) *Pediatrics* 645 (2005) at 645.
- ⁹ *Id.*
- ¹⁰ *Id* at 646, referencing: L.T. Gutman, K. St Claire, M.E. Herman-Giddens, W.W. Johnston, W.C. Phelps, *Evaluation of sexually abused and nonabused young girls for intravaginal human papillomavirus infection*, 146 *American Journal of Diseases of Children* 694–699 (1992); L. Gutman, K. St Claire, V. Everett, et al., *Cervical-vaginal and intraanal human papillomavirus infection of young girls with external genital warts*, 170 *Journal of Infectious Diseases* 339-344 (1994); E. Siegfried, J. Conley-Rasnick, S. Cook, C. Leonardi, J. Monteleone, *Human papillomavirus screening in pediatric victims of sexual abuse*, 101 *Pediatrics* 43-47 (1998).
- ¹¹ *Id.*
- ¹² *Supra* note 1 at 1016.
- ¹³ *Id.*
- ¹⁴ *Supra* note 2 at 1182.
- ¹⁵ *Id.*
- ¹⁶ *Supra* note 1 at 1020-1021.
- ¹⁷ *Supra* note 2 at 1183.
- ¹⁸ *Id* at 1182.
- ¹⁹ *Id* at 1183.
- ²⁰ Catherine M. Mitchell Fuentes, *Pathways from Interpersonal Violence to Sexually Transmitted Infections: A Mixed-Method Study of Diverse Women*, 17(10) *Journal of Women's Health* 1591 (2008) at 1592, 1594.
- ²¹ Melissa Farley, Jacqueline M. Golding, Jerome R. Minkoff, *Is a history of trauma associated with a reduced likelihood of cervical cancer screening?*, 51(10) *Journal of Family Practice* 827 (2002) at 30.
- ²² *Supra* note 2 at 1182.
- ²³ *Id.*
- ²⁴ *Supra* note 20 at 1594.
- ²⁵ *Supra* note 21 at 30.
- ²⁶ *Supra* note 7 at 1333.
- ²⁷ *Id* at 1334.
- ²⁸ *Supra* note 21 at 30.
- ²⁹ This model is adapted from the model in note 2 at 1183.

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Caselaw Corner



[Malchan v. Howard](#)--- So.3d ----, 2010 WL 787800 (Fla. 4th DCA 2010) **INJUNCTION MUST BE VACATED**. The respondent appealed an injunction entered against him for protection against domestic violence because the injunction was based on a disputed event that occurred three years prior. The petitioner alleged that in 2005, the respondent punched a wall in their home, pushed the petitioner into a wall, tried to choke her, and told her that he was going to kill her. There were no allegations of recent violence or threats of violence. The trial court granted the injunction.

The appellate court noted that an order imposing a permanent injunction will be affirmed absent a showing of abuse of discretion, however, the court reversed the trial court because the petitioner failed to present sufficient evidence that she had a reasonable fear of imminent danger of domestic violence. Her only basis for requesting the injunction was a disputed incident that occurred three years before and a subjective fear that her anticipated request for child support might cause the respondent to become angry. The petitioner never alleged any recent violence or threats of violence. The appellate court also recognized that the respondent's current behavior consisted of civility between the parties in determining visitation and child support issues. Therefore, the facts did not support an objective reasonable fear of imminent violence. The appellate court reversed and remanded the case to the trial court to vacate the injunction. March 10, 2010. <http://www.4dca.org/opinions/Mar%202010/03-10-10/4D08-3584.op.pdf>



Domestic Violence Resources

Below is a list of a variety of resources on a variety of subjects within the domestic violence area. Each resource provides valuable information and insight into various aspects of domestic violence. The OCI encourages domestic violence stakeholders to peruse the various articles.

Rural Community Issues

- Benson, Sara. Failure to Arrest: A Pilot Study of Police Response to Domestic Violence in Rural Illinois. 17 Am. U.J. Gender Soc. Pol'y & L. 685 (2009). This article discusses the problems DV victims encountered in rural towns when trying to report domestic violence situations, and proposes a normative solution to decrease the problems found in law enforcement responses to domestic violence.
- Liberty Aldrich & Robyn Mazur, Domestic Violence in Rural Communities: Applying Key Principles of Domestic Violence Courts in Smaller Jurisdictions, Center for Court Innovations (2005), *available at* <http://www.courtinnovation.org/uploads/documents/Rural%20Innovation7.26.05.pdf>. This article discusses how to integrate Domestic Violence Court principles into rural or suburban dockets.

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Children and Domestic Violence

- Howard N. Snyder, Carl McCurley, Domestic Assaults by Juvenile Offenders, *Juvenile Justice Bulletin* (Nov. 2008) available at <http://www.ncjrs.gov/pdffiles1/ojdp/219180.pdf>. This article discussed the incidence of juvenile offenders in domestic and sexual assault cases, and analyzed the circumstances surrounding juvenile assault cases.
- National Council of Juvenile and Family Court Judges, *Children's Exposure to Domestic Violence: A Guide to Research and Resources* (2006) available at <http://www.safestartcenter.org/pdf/childrensexpostviolence.pdf>. This reference manual discusses issues related to juveniles affected by domestic violence, analyzes legal issues that may be affected, and examines possible responses judges and law enforcement may make in such situations.
- National Council of Juvenile and Family Court Judges, *A Guide for Effective Issuance and Enforcement of Protective Orders* (2004) available at http://www.ncjfcj.org/images/stories/dept/fvd/pdf/burgundy_book_final.pdf. This comprehensive guide provides an examination of protective orders and the principles underlying effective protection order systems.
- Alexander Caballero, Ingrid Anderson, *Protecting Children From Sexual Abuse by Those Entrusted With Their Care*, 82-MAR Fla. B.J. 59 (2008). This article discusses the history and implementation of Chapter 39 to protect children who are or are in danger of becoming victims of abuse by their caregivers.

Batterer Intervention Programs

- Amanda B. Cissner & Nora K. Puffett, *Do Batterer Program Length or Approach Affect Completion or Re-Arrest Rates? A Comparison of Outcomes between Defendants Sentenced to Two Batterer Programs in Brooklyn*, Center for Court Innovation (2006), available at http://www.courtinnovation.org/uploads/documents/IDCC_DCAP%20final.pdf. This article provides an in-depth examination of two different types of batterer programs and recidivism rates, and finds that the strongest predictor of repeat offenses was whether defendants (respondents) had prior criminal convictions. The article concludes by saying that batterer programs are more useful for respondent accountability than for respondent rehabilitation.
- Robert Moyer, *To BIP or Not To BIP, That Is The Question* (2004) available at http://74.125.95.132/search?q=cache:wzJ6HsbiDQcJ:www.biscmi.org/aquila/Moyer_paper.doc+does+judicial+monitoring+affect+DV+recidivism&cd=2&hl=en&ct=clnk&gl=us. This paper discusses the effect respondents' completion of batterer programs has on recidivism rates, and concludes that there is a correlation between increased rates of program completion of a batterer program and decreased recidivism rates.
- Melissa Labriola, Michael Rempel, Chris S. O'Sullivan, Phyllis B. Frank, *Court Responses to Batterer Program Noncompliance: A National Perspective*, Center for Court Innovation (2007), available at http://courtinnovation.org/uploads/documents/Court_Responses_March2007.pdf. This paper examines the use and intended purpose of batterer programs nationwide, and concludes that, while accountability and rehabilitation are viewed as important aspects of batterer programs, courts may not have appropriate accountability protocols in place, which then negatively affect rehabilitation.

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- Edward Gondolf, The Impact of Mandatory Court Review on Batterer Program Compliance: an Evaluation of the Pittsburgh Municipal Courts and Domestic Abuse Counseling Center, Minnesota Center Against Violence and Abuse (1998), *available at* <http://www.mincava.umn.edu/documents/gondolf/pccd/pccd.html>. This paper discusses the effect judicial monitoring has on batterer program compliance, and finds that increased judicial monitoring leads to increased batterer program compliance rates.
- National Institute of Justice, Do Batterer Intervention Programs Work? Two Studies (2003) *available at* <http://www.ncjrs.gov/pdffiles1/nij/200331.pdf>. This study examined two Batterer Intervention Programs, assessed their effectiveness, and concluded that batterer intervention programs in their current forms did not affect recidivism; rather, variables such as age, employment, and home ownership seemed to have more influence on recidivism.

Current Research and Caselaw Summaries

- Publications Committee of the Florida Court Education Council, Domestic Violence Case Summary, Civil Cases (2009) *available at* http://flcourts.org/gen_public/courted/bin/dv_civilsummary.pdf. This provides a summary of civil Domestic Violence cases in Florida over the past 15 years.
- Andrew R. Klein, Practical Implications of Current Domestic Violence Research: For Law Enforcement, Prosecutors and Judges, National Institute of Justice (2009) *available at* <http://www.ojp.usdoj.gov/nij/topics/crime/intimate-partner-violence/practical-implications-research/welcome.htm>. This article provides up-to-date and detailed analysis of domestic violence research, and the implications of such research for judges and other involved personnel.

Perjury in Domestic Violence

- Njeri Mathis Rutledge, Turning a Blind Eye: Perjury in Domestic Violence Cases, 39 N. M. L. Rev. 149 (2009). This article provides a detailed examination of the problem of recanting victims in domestic violence cases. The article examines the use of perjury actions against recanting victims and concludes that the current recanting defense is inadequate for domestic violence victims, and a new recanting defense is needed.

Mandatory vs. Petitioner Discretion in Case Filing

- Chris S. O'Sullivan, Robert C. Davis, Donald J. Farole Jr., Michael Rempel, A Comparison of Two Prosecution Policies in Cases of Intimate Partner Violence: Mandatory Case Filing vs. Following the Victim's Lead (2007), *available at* http://www.courtinnovation.org/uploads/documents/Case_Processing_Report.pdf. This article, while lengthy, provides very useful information regarding mandatory versus discretionary filing. The authors found, that while no significant differences in re-arrests was discovered, victims strongly favor mandatory filing policies.

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The Effect of Arrest

- Christopher D. Maxwell, Joel H. Garner, Jeffrey A. Fagan, The Effects of Arrest on Intimate Partner Violence: New Evidence From the Spouse Assault Replication Program, National Institute of Justice (2001) available at <http://www.ncjrs.gov/txtfiles1/nij/188199.txt>. This paper examines the link between arrests in instances of domestic violence and repeat offenses, and concludes that there is a correlation between arrests and decreased repeat offenses.

Domestic Violence and the Disabled

- Doug Jones, Domestic Violence Against Women With Disabilities: A Feminist Legal Theory Analysis, 2 Fla. A & M U. L. Rev. 207 (2007). This paper examines the incidence of domestic violence against women with disabilities, discusses several overlooked issues with domestic violence as it pertains to those with disabilities, and suggests reforms to make the domestic violence injunction process easier and more accessible.

Custody Issues in the Domestic Violence Setting

- Patricia A McKenzie, Nowhere to Run: Custody, Relocation, and Domestic Violence in Florida, 31 Nova L. Rev. 355 (2007). This article evaluates parental relocation with a child in the context of a domestic violence situation. Using real examples, the article presents several obstacles a parent who also has custody of a child faces, concludes that the current relocation statute is lacking with regard to protecting victims of domestic violence who seek to relocate, and offers improvements to the statute.

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People wishing to contribute to future editions of the “Domestic Violence Review” should contact Andrew Wentzell at Wentzella@flcourts.org.