

**AMERICAN BAR ASSOCIATION**  
**COMMISSION ON DOMESTIC VIOLENCE**  
**SECTION OF FAMILY LAW**  
**YOUNG LAWYERS DIVISION**  
**NATIONAL ASSOCIATION OF WOMEN LAWYERS**  
**HEALTH LAW SECTION**  
**SECTION OF TAXATION**  
**STEERING COMMITTEE ON UNMET LEGAL NEEDS OF CHILDREN**  
**REPORT TO THE HOUSE OF DELEGATES**

**RECOMMENDATION**

- 1           RESOLVED, That the American Bar Association encourages law schools and law  
2 students to incorporate education about domestic violence within their  
3 substantive, clinical, and specialty law curricula and law school activities.  
4  
5           FURTHER RESOLVED, That this policy is not intended to impact the  
6 accreditation of law schools.



The American Bar Association encourages law schools and law students to incorporate education about domestic violence within their substantive, clinical, and specialty law curricula and law school activities. This policy is not intended to impact the accreditation of law schools.

## **REPORT**

### 1. BACKGROUND:

Domestic violence is a pattern of behavior in which one intimate partner uses physical violence, coercion, threats, intimidation, isolation, and emotional, sexual or economic abuse to control and change the behavior of the other partner.<sup>i</sup> It is a social problem of widespread proportions. By conservative estimates, 1 to 4 million American women are abused by intimate partners each year.<sup>ii</sup> Experts estimate that each year between 3.3 and 10 million children witness violence in their homes.<sup>iii</sup> Domestic violence also drains economic productivity, wastes valuable resources, and at times causes injury to innocent third parties.

Clients will present cases that include domestic violence facts to attorneys in every field of practice. Family lawyers, guardians ad litem / law guardians, criminal defense lawyers, labor lawyers, corporate lawyers, bankruptcy lawyers, tort lawyers, trust and estate lawyers and real property lawyers all will represent victims or perpetrators of domestic violence.<sup>iv</sup> Civil and criminal judges regularly preside over cases in which domestic violence is a contested or an underlying issue.<sup>v</sup> When judges are not knowledgeable about domestic violence, their decisions can seriously endanger the litigants who appear before them. Due to the widespread nature of this issue and the frequency with which it appears in the legal system, all legal professionals should be educated about the implications of domestic violence on their cases and clients.

As demonstrated by numerous phone calls received by the American Bar Association Commission on Domestic Violence, many lawyers are inadequately representing victims of domestic violence.<sup>vi</sup> Callers report that their family and criminal lawyers refuse to even introduce evidence of the violence in court and often fail to address clients' safety needs.<sup>vii</sup>

Lawyers may hesitate to handle domestic violence cases and fail to address domestic violence issues when they arise. These shortcomings stem in part from a lack of adequate legal training about the subject.<sup>viii</sup> Law schools can help remedy this deficiency in legal education by incorporating domestic violence information into core curricula courses, upper level courses, clinical programs and other law school activities.<sup>ix</sup>

Incorporating domestic violence education into law school curricula will help provide victims with effective assistance of counsel, thereby promoting victim safety. It will help promote competent law practice to the benefit of the legal community and the community at large. Lawyers who are educated about domestic violence can help educate the rest of the legal community including court administrators, clerks, pro se litigants and guardians

ad litem. Legal professionals trained in domestic violence will promote community-wide responses to domestic violence as they are in the position to educate law enforcement, medical workers, psychologists, and other community members. Furthermore, the legal system is frequently a point of entry for victims of domestic violence into a community system where referral to other social services and medical providers is important.

## 2. DISCUSSION:

### a. The Benefits of Domestic Violence Education in Law Schools

The mission of law schools is to educate future lawyers. Therefore, access to justice for domestic violence victims will be improved by the inclusion of domestic violence subjects into the law school education through the efforts of law school deans, administrators, professors and curricula committees. Further, the whole of society will benefit from the incorporation of domestic violence into law school curricula. Each law school student will carry forward into society knowledge about domestic violence gained in law school. These lawyers will contribute this knowledge to their professional undertakings, but also to other civic activities.

The legal profession as a whole will benefit from incorporating domestic violence into law school curricula. It will create a new set of legal professionals with a better understanding of domestic violence and its wide-ranging implications.<sup>x</sup> Training students in core curricula courses about domestic violence will develop new lawyers who are more comfortable and able to handle domestic violence issues.<sup>xi</sup>

Victims of domestic violence will benefit from incorporating domestic violence into law schools by generating more available resources for victims. While providing students with excellent training, law school clinical programs supply needed services to domestic violence victims who may be subject to financial abuse or be otherwise unable to afford legal representation.<sup>xii</sup>

Law schools, as institutions, will benefit from incorporating domestic violence legal issues. Adding or enhancing domestic violence education will:

- Attract law school applicants and create a more diverse student body,<sup>xiii</sup>
- Enhance law schools' reputations and increase employment opportunities for graduates,<sup>xiv</sup> and
- Enable law schools to address issues of domestic violence within their own community.

Teaching domestic violence issues in law school benefits the community as a whole by:

- Increasing public safety and reducing judicial, health care and law enforcement costs,<sup>xv</sup>

- Increasing access to legal services that legal clinics would provide,<sup>xvi</sup> and
- Providing well-trained legal professionals who will lead the way to needed systemic reforms.<sup>xvii</sup>

The greatest impact of the reforms urged by the American Bar Association will be a new generation of competent attorneys who understand domestic violence and can effectively use the law to protect and advocate for their clients.

b. Steps Taken to Encourage the Inclusion of Domestic Violence Education in Law School Curricula

The American Bar Association Commission on Domestic Violence hosted five law school conferences across the country entitled *Educating to End Domestic Violence* in order to address this problem and need. Over fifty law schools from around the country participated in these conferences. Each school brought a team, consisting of law school administrative staff, law school professors, law school clinicians, law students and community members. The overarching goal of the conferences was to encourage law schools to integrate domestic violence education into their curricula and into their law school communities. Many participating law schools had plans for classes they wanted to create in the future. A majority addressed domestic violence somewhere in their curricula. However, the number of law schools that had entire courses or clinics dedicated to the subject or had significant coverage of the issues in their substantive classes was significantly lower. Participants who identified a lack of appropriate emphasis on domestic violence education within their schools cited as the two main reasons: a lack of knowledge on the topic of domestic violence and a lack of knowledge about its impact. Unfortunately, these factors result in a silencing and masking of the problem.<sup>xviii</sup> Historically, similar reasons were offered by academics, legislators and professionals in resisting efforts to render the law more responsive to the problem of domestic violence.<sup>xix</sup> The long-term effectiveness of responses to domestic violence depends, in part, upon our ability to focus attention and resources to the topic.<sup>xx</sup>

Several law schools have taken steps to introduce domestic violence education into their first year courses, domestic violence specialty courses, upper level substantive courses, domestic violence clinics and generalized poverty law clinics.

Some law school programs address domestic violence in the core first year courses by showing the video, Defending Our Lives, in their criminal law class. Others cover domestic violence in criminal law, constitutional law or torts courses.

Other law schools are addressing domestic violence within upper level classes such as family law, victims' rights, gender and the law, juvenile law or tribal law, while the issue of female genital mutilation is covered by at least one law school in an international human rights class.

Examples follow of law schools covering domestic violence as a central topic in specialty courses and seminars:

- The domestic violence course at Loyola University Chicago School of Law is an interdisciplinary course taught in conjunction with the School of Social Work to emphasize the need for a coordinated response. The course covers domestic violence and related issues such as child welfare and same sex battering. The class utilizes guest speakers such as prosecutors, domestic violence advocates, police officers, medical professionals and formerly battered women.
- At Brooklyn Law School, a seminar is offered on battered women and the law. In the course, students examine legal advocacy efforts on behalf of battered women, including legislative reforms, litigation and public policy proposals.
- The students in the domestic violence seminar at the University of Missouri-Columbia School of Law learn about the history and dynamics of domestic violence as well as other related issues. In addition, they work on legislative projects and are involved in clemency petitions and lobbying on behalf of incarcerated victims.

The following are examples of clinical programs that directly address domestic violence:

- Students in the domestic violence clinic at the University of Texas Law School represent battered women in custody, child support, visitation and divorce cases, or other related legal issues. The clinic is linked to local shelters and students work in the Legal Aid Services Offices.
- Law students at the University of Minnesota School of Law can participate in the Domestic Violence Clinic or the Domestic Felony Prosecution Clinic. They have the opportunity to represent clients in protection order hearings, and to second-chair felony level prosecutions related to domestic violence such as homicide, firearms possession and protection order violations.
- At the University of Tennessee School of Law the legal clinic handles general poverty law cases. Domestic violence issues are covered when they arise in areas such as criminal cases, disability cases, juvenile cases, and landlord and tenant cases.

Several casebooks have been developed for domestic violence specialty courses as well, and increasingly, bar examinations include domestic violence questions.<sup>xxi</sup> Many law schools participate in Domestic Violence Awareness Month activities during the month of October, including donating items to local domestic violence shelters.

Such courses and clinics are offered within these mentioned schools and many more. Many schools have demonstrated that it is possible to incorporate domestic violence issues into law school curricula with tremendous benefit. However, the

work that has been done needs to be taken further and domestic violence must be incorporated into as many classes and programs as possible.

The legal profession, victims of domestic violence, law schools, and the entire community will benefit when more law schools are offering programs, courses, clinical classes, and law school activities similar to those mentioned above.

### 3. CONCLUSION:

With more education about domestic violence in the law schools, legal professionals will be better equipped to (1) competently handle domestic violence cases in their offices and in the courtroom, (2) promote the safety of their clients, and (3) work towards improving the legal system's and the community's response to family violence.

This resolution will not impinge on the academic freedom of legal professors and institutions. The resolution is an encouragement. Many possibilities exist for incorporating domestic violence into classes and clinics, and there are many options and ideas out there for professors and schools.

The American Bar Association should encourage law schools to incorporate issues of domestic violence law and practice into their substantive law, clinical and specialty law courses.

Respectfully submitted,

Commission on Domestic Violence  
Laura Stein, Chair

Family Law Section  
Joel D. Tenenbaum, Chair

Health Law Section  
Sara Allison Keller, Chair

Young Lawyers Division  
Alan O. Olson, Chair

Tax Law Section  
Herbert N. Beller, Chair

National Association of Women  
Lawyers  
Ellen A. Pansky, President

Steering Committee on the Unmet Legal  
Needs of Children  
Bruce A. Boyer, Chair

August 2003

## GENERAL INFORMATION FORM

Submitting Entity: Commission on Domestic Violence

Submitted By: Commission on Domestic Violence Chair, Laura Stein

1. Summary of Recommendation(s).

To encourage law schools and law students to incorporate education about domestic violence within their substantive, clinical, and specialty law curricula and law school activities. This policy is not intended to impact the accreditation of law schools.

2. Approval by Submitting Entity.

The Commission on Domestic Violence approved the recommendation at the regularly scheduled Commission meeting on August 9, 2002. The Commission re-affirmed its approval of the recommendation by email vote on Monday, May 12, 2003.

3. Has this or a similar recommendation been submitted to the House or Board previously?

A similar recommendation was submitted to the House of Delegates for consideration at the 2003 Midyear Meeting. However, the recommendation was withdrawn and the second sentence of the Recommendation, which reads as follows, was subsequently added: "This policy is not intended to impact the accreditation of law schools." Additionally, the recommendation as now submitted, "encourages," rather than as previously worded "recommends," that law schools incorporate education about domestic violence.

4. What existing Association policies are relevant to this recommendation and how would they be affected by its adoption?

None known.

5. What urgency exists which requires action at this meeting of the House?

This project was begun four years ago. Five conferences have been held, and research is underway to more fully document the effect of prior efforts. A book will result from the current follow-up work. The sooner law schools implement this recommendation, the sooner domestic violence victims will be better served by their counsel.

6. Status of Legislation. (If applicable.)

Not applicable.

7. Cost to the Association. (Both direct and indirect costs.)

No additional ABA expenditures are expected to result from this recommendation.

8. Disclosure of Interest. (If applicable.)

No conflicts are known or identified.

9. Referrals.

Family Law Section- CO-SPONSOR  
Young Lawyers Division – CO-SPONSOR  
National Association of Women Lawyers - CO-SPONSOR  
Health Law Section - CO-SPONSOR  
Tax Law Section - CO-SPONSOR  
Steering Committee on the Unmet Legal Needs of Children - CO-SPONSOR  
Law Student Division-now before the Division  
Standing Committee on Ethics and Professional Responsibility  
Standing Committee on Legal Aid and Indigent Defendants-now before the Committee  
Commission on Women in the Profession-now before the Commission  
Section on Legal Education-now before the Section  
Association of Law School Deans

10. Contact Person. (Prior to the meeting.)

Questions concerning the report prior to the meeting may be addressed to Laura Stein, Sr. Vice President and General Counsel, H. J. Heinz, 600 Grant Street, 60th Floor, USX Tower, Pittsburgh, PA 15219-2857, (412) 456-5711, [laura.stein@hjheinz.com](mailto:laura.stein@hjheinz.com), or Donna J. Mathews, Interim Director, ABA Commission on Domestic Violence, 740 15<sup>th</sup> Street, NW, 9<sup>th</sup> Floor, Washington, DC 20005-1022. 202-662-1021. Email: [mathewsd@staff.abanet.org](mailto:mathewsd@staff.abanet.org)

11. Contact Person. (Who will present the report to the House)

It is anticipated that the report will be presented to the House by Laura Stein, Chair of the American Bar Association Commission on Domestic Violence.

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<sup>i</sup> Mary Ann Dutton, *The Dynamics of Domestic Violence: Understanding the Response from Battered Women*, 68(9) Fla BJ 26 (1994).

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- <sup>ii</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, Special Report: Violence Against Women: Estimates from the Redesigned Survey 3 (NCJ – 154348, August 1995); American Psychol. Ass'n, Violence and the Family: Report of the American Psychological Association Presidential Task Force on Violence and the Family 10 (1996); S. Rep. No. 103 – 138, at 38 (1993).
- <sup>iii</sup> Deborah Goelman & Roberta Valente, WHEN WILL THEY EVER LEARN? EDUCATING TO END DOMESTIC VIOLENCE: A LAW SCHOOL REPORT, I-5 (American Bar Association Commission on Domestic Violence, 1997).
- <sup>iv</sup> Kathleen Waits, *Battered Women and Family Lawyers: The Need for an Identification Protocol*, 58 ALB. L. REV. 1027, 1028 (1995).
- <sup>v</sup> See *Supra* Goelman & Valente note 3 at I-5.
- <sup>vi</sup> *Id.*
- <sup>vii</sup> *Id.*
- <sup>viii</sup> *Id.*
- <sup>ix</sup> *Id.*
- <sup>x</sup> *Id.* at 19.
- <sup>xi</sup> *Id.* at 17.
- <sup>xii</sup> *Id.* at 17.
- <sup>xiii</sup> *Id.* at 12.
- <sup>xiv</sup> *Id.* at 13.
- <sup>xv</sup> *Id.* at 21.
- <sup>xvi</sup> *Id.* at 23.
- <sup>xvii</sup> *Id.* at 24.
- <sup>xviii</sup> M. Isabel Medina, *Justifying Integration of Domestic Violence Throughout The Law School Curriculum: An Introduction To The Symposium*, 47 LOY. L. REV. 1, 9 (2001).
- <sup>xix</sup> *Id.*
- <sup>xx</sup> *Id.*
- <sup>xxi</sup> Beverly Balos & Mary Louise Fellows, LAW AND VIOLENCE AGAINST WOMEN: CASES AND MATERIALS ON SYSTEMS OF OPPRESSION, Carolina Academic Press, North Carolina (1994); Clare Dalton and Elizabeth Schneider, BATTERED WOMEN AND THE LAW, Foundation Press, New York (2001); Judith Greenberth, Martha Minow, and Roothy Roberts, WOMEN AND THE LAW, Foundation Press, New York (1998); Nancy K.D. Lemon, DOMESTIC VIOLENCE LAW: A COMPREHENSIVE OVERVIEW OF CASES AND STATUTES, West Group, Minnesota (1996). A domestic violence law question appeared on the 1998 Texas bar exam (personal communication).