

How the Legal System Has the Potential to Change a Culture of Domestic Violence

By Melissa L. Breger, Professor of Law, ALBANY LAW SCHOOL

How do we define CULTURE?

"The notion of culture is everywhere invoked and virtually nowhere explained..."

--Professor Naomi Mezey

social norms, social constructs, informal rules and behavior...

DO WE HAVE A CULTURE of gender violence in this country?

- "Rape culture" -- coined by Dianne Hermann
- "A cult of gender" -- Gloria Steinem
- Do we also have a "culture of domestic violence" in the United States?

What is a “culture of domestic violence”?

- - Statistics from US
- - Statistics from all over the globe

How might a culture of domestic violence lead to gender bias?

- *Deeply embedded norms and constructs of gender since childhood*
- *Explicit bias vs. implicit bias*
- *Toxic or hyper masculinity*

BUT isn't domestic violence about men and boys too?

- The numbers of REPORTED domestic violence crimes are overwhelmingly male perpetrators against females.
- BUT... YES!! Domestic violence crosses all genders, sexual orientations, races, cultures, religions, ages, abilities....

Has the LAW IN EARLY YEARS contributed to a culture of Domestic Violence? (Where we were...)

- It wasn't treated or identified at all - not even a phrase until late 20th century...
- "Rule of THUMB"
- Coverture theory



How does the Law treat issues of DV now? (Where we are now...)

- *US v Morrison* (2000) Supreme Court **
- *Bruno v Codd* (1979) 47 N.Y.2d 582 (NY COA)
- *People v Wood* (2000) (NY COA)**
- (** in your materials)

How does the Law treat issues of DV now? (Where we are now...)
(cont'd)

- Wissink v Wissink* ** (2002)
- Nicholson v Scopetta* ** (2004)
- Family Court Act Section 812 **

Family Law

[** in your materials]

OTHER NOTABLE DEVELOPMENTS IN LAW:

- *Castle Rock v. Gonzales*, 545 US 748, 125 S.Ct. 2776 (2005); Jessica Benjamin (*Gonzales et al v United States* (2011), Inter-Am Comm HR No 39/11, Annual Report of the Inter-American Commission on Human Rights 2011, OEA/Ser.L/V/II. Doc. 69.
- *Nussbaum v Steinberg***
- VAWA- Round 3- 2013

DO WE STILL NEED REFORM ? (the work ahead...)

- IDEAS FOR THE FUTURE?
- Domestic Violence Awareness,
 - Early Childhood Education,
 - Law & Legislative Reform AND
 - Transformation of our Perceptions of Intimate Partner Violence/ Re-Norming



DOMESTIC VIOLENCE & THE LAW

○ Where we were, where we are now, the work ahead....


