

# Reform (rē'fôrm')

## About This Issue

Webster's New World Dictionary tells us that reform is defined as " a correction of faults or evils, as in government or society; social or political im-

proved women determines the integrity of our advocacy. Advocates witness institutional betrayal of battered women. Advocates watch the court and amplify the voices and experiences

bring up tough issues without alienating the individuals needed for system change? How can we ensure that our program planning and collaborative agreements are driven by battered womens' priorities?

*"Has this strategy of reform 'corrected the faults or evils?'"*

provement." In this issue, we are going to reflect on our work as reformers of the criminal justice system. One strategy we have used to achieve criminal justice system reform is collaboration. Has this strategy of reform "corrected the faults or evils?"

of battered women. We engage in advocacy to change the way our culture perpetuates the abuse of women.

Avalon examines typical examples of collaborations between the criminal justice system and advocates. She recognizes the necessary and vital contribution advocates make on behalf of battered women in demanding criminal justice system reform, and she challenges us to ask ourselves, constantly, where do we stand? Do we stay in one place? Who benefits the most? Which battered women will be helped? Which battered women will be harmed?

In the feature article, "Remembering Who We Work For," author and advocate Stephanie Avalon reminds us that "effective advocacy, by definition, is controversial." Avalon asks us to evaluate the complex cooperative relationships we have developed in our work for criminal justice system reform while remembering that *what we learn from bat-*

She asks hard questions of us. For example, in our daily interactions with law enforcement, judges, prosecutors, court personnel, probation, 911 call takers, victim witnesses, and others, how do we continually

### INSIDE

Remembering Who We Work For .....	34
Battered Women and Judicial Responses .....	45
And, Now What? .....	48

# Remembering Who We Work For

by Stephanie Avalon

Any advocate working within the courts knows the justice system continues to pose significant challenges to battered women attempting to access the system. Those challenges, and the barriers that they create, are the very reasons why we began advocating for women in the first place. Professionals, private attorneys, prosecutors, judges, court clerks and other personnel responded to domestic violence in ways that exacerbated, rather than confronted

However, as advocates have established a more acceptable role for themselves, carving their own niche in the court system, the harder it has become to perform our original function. For when we operate *within a system*, we lose the perspective we gain if we could stand *outside*. Different skills are required to challenge allies than to confront enemies. Some alliances threaten to blur the distinction between advocates and the

trate, this is a serious limitation. The practices themselves are not necessarily wrong but *problematic*. Most often, they are based on the false assumption that the goals of the criminal justice system are the same as our own.

## *-Teaming with the System-*

Many communities across the country have formed police/advocate teams to assist victims immediately following arrest. These crisis response or first responder teams have been configured in a variety of ways. In some areas, advocates ride along with the police. In other communities, the advocates are paged and come to the scene after police have secured the area. Sometimes police hire advocacy staff, sometimes local advocacy programs employ advocates for first responder positions. Support for these teams is often greatest from the prosecutor's office because of the belief that immediate victim assistance can increase the victim's willingness to cooperate with the prosecution.

Advocacy programs often agree to participate in these teams because such strategies seem to hold the potential to reach victims at a critical time as well as provide a way for advocates and police to work more closely together. Collaboration is more than a trend today; it is often a requirement for funding. While collaboration is not in itself a

---

***“Different skills are required to challenge allies than to confront enemies. Some alliances threaten to blur the distinction between advocates and the criminal justice system altogether.”***

---

women's entrapment. When we first entered the courts to support battered women's use of the legal system our role as advocates was essentially to challenge the system. Advocates sought to bridge the gap between the system and the individual battered woman, to empower women, to make legal options really accessible. Recognized as the radical activists we were, advocates were not enthusiastically welcomed. Access to information was frequently denied and the right to address the court limited. Over the years, programs have mediated systemic barriers, improving relationships with the court and making advocacy services more available.

criminal justice system altogether. For example, police/advocate teams responding at the scene of a domestic assault can give the impression that advocates serve law enforcement. Consider how that impression would impact battered women who did not want their partners arrested or battered women who themselves were charged with assault.

## **Some Problematic Advocacy Practices**

Practices that have grown out of alliances with the justice system are generally ones that use advocates as service providers rather than agents of change. As the following examples illus-

bad idea, it does change the playing field and advocates need to be aware of this and know how to respond.

Mark Zaccarelli, staff attorney for The Battered Women's Justice Project's civil office in Harrisburg, PA was recently asked to provide training on confidentiality for advocates who go out as first responders to the scene of a domestic assault.<sup>1</sup> Pennsylvania's first responder police/advocate teams span the entire spectrum, with some advocates riding along with police but most being paged after the scene is secured. The request to BWJP's civil office for training was prompted by confusion about victims' confidentiality with these advocates. Some advocates correctly understood that confidentiality still applied to these situations. Others routinely obtained waivers from women in order to communicate with the police on the woman's behalf. If victims' want an advocate to communicate with police, signing a waiver might be a needed step; on the other hand, if advocates are urging women in crisis to sign waivers to facilitate their own agenda, this is a problem.

Police intervention does not change the confidentiality statute in PA that governs communications between victims and advocates. What set of circumstances led to such a potentially harmful misunderstanding? Clearly, some advocates perceived their role when they responded to a crime scene involving police differently from

their advocacy role within their agency. Possibly, battered women perceive such advocates differently as well.

First responders can help support and inform women so they can make better choices. The need for advocates arises partly from a recognition that police are not often able to be as supportive and informative as an advocate but also from a recognition that the criminal justice system has its own agenda which may conflict with the safety planning of many women. Mark Zaccarelli noted that some police officers prefer to consult with advocates rather than speaking directly with women. He discovered that the confidentiality waivers were sometimes being obtained to facilitate this more comfortable dialogue between advocates and police. However, indulging police in this preference further

the criminal justice system are not immediately obvious to advocates or their agencies, despite the fact that many of the problems are not new. Crisis response teams have other potential conflicts. What happens when advocates realize police response has been poor? What if the identified victim is really a batterer? Is the advocate available if both parties are arrested? How does the advocacy program monitor police response when they become a part of it? Are first responder teams really the best use of resources and the best way to assist victims? What do local battered women think?

Good advocacy in first responder teams requires special skills and sensitivity to issues that may not be readily apparent, like the possible perception that the advocate is *working with* the criminal justice system

---

***“Strong, pro-active measures are often necessary to protect women from the misguided help forced upon them through their involvement in the legal system.”***

---

isolates battered women from the system, and advocates should instead assist women in speaking for themselves. The training on confidentiality led to a re-examining of primary advocacy goals. But wouldn't it be better to examine these issues thoroughly before beginning a new program?

Unfortunately, the conflicts arising from associations with

rather than primarily *for* the individual woman. No doubt many programs succeed in these requirements. Still, the tendency to be assimilated into the criminal justice system's agenda increases when advocates participate in arrangements like crisis response teams.

*-Replicating Model Programs-*  
Rather than respond at the

crime scene, some programs initiate an advocacy response following arrest through arrangements that provide advocates access to police information. The arrangements are part of a "coordinated community response" having three goals: improving the safety of battered women, holding offenders accountable, and creating a climate in the community that deters violence against women. Programs that initiated CCR as a practice were informed by the experience of battered women and their advocates. However, innovative programs don't

nated community response for ten years and it hasn't worked." The advocate confessed to me that this statement was so blatantly off base it rendered her momentarily speechless. But when she tried to protest that their system had never deserved that label the judge responded, arguing, "Well, if we can't even establish a CCR in ten years, we should try something else!" And so it goes.

Replications of these programs are fraught with uncertainty. Replication itself is a misnomer, since the process is seldom

sally appropriate or useful to all women all the time. Mandating the wrong service, or a good service at the wrong time, only sets women up for failure. Successful use of a service by a woman ordered to it does not justify this process.

Suppose your program is asked to provide a service which women will be ordered to use. Suppose the service is seemingly benign. For example, suppose your program is asked to provide "classes" for women who are requesting dismissal of their orders for protection. Many women need help exploring other options and assessing their risks but don't seek your program's services. Suppose the judge plans to tell these women that their order won't be dismissed unless they attend the classes. Suppose a good relationship with this judge holds the promise of improving the judicial response to many domestic violence cases.

Proposals such as this lay out the intended benefit right from the start. In evaluating whether to agree, advocates should try to imagine the unintended consequences such a program might have as well. For example, will some women be put in immediate danger by not being able to drop orders readily? Will word of this requirement lead to fewer women seeking orders for protection? What women would be the most hurt by this program? Will your program appear more and more to be an arm of the system? And so forth.

---

***"While judicial authority governs issuance of 'no contact' orders to defendants, as conditions of release, sentencing or probation, no authority exists to order women to classes."***

---

emerge overnight full grown. They evolve through a complicated process. The end result may work because of the local history, the personalities of the practitioners, the local culture, or many other reasons.

A program may even be promoted despite limited success in its own community. And just as the term *advocate* has lost some of its meaning through expanded use, so too, the growing number of communities claiming a coordinated community response renders the term meaningless. An advocate I know recently told me that a judge in her community who wished to try restorative justice said to her, "we've had a coordi-

replicated and the community conditions are never the same. This said, a new program might still be better than the existing practices and worth trying, at least experimentally, as long as safeguards are in place to monitor the effort and guard against collusion or its appearance. People involved in planning innovative policies or practices should try to anticipate implementation problems and unintended consequences.

*-Mandating Women to Services-* Strong, pro-active measures are often necessary to protect women from the misguided help forced upon them through their involvement in the legal system. No service is univer-

---

***“Often, programs funded by prosecutor's offices to ‘assist victims’ assume the advocate will work with any victim named in the police report, regardless of gender.”***

---

The judge who proposes classes of this kind presumably believes women are lacking important information or under coercion when they request dismissals. That may be true. It is equally possible that dismissing the order is the best decision a woman can make at the time. A major tenet of advocacy for battered women has been the recognition that battered women are themselves the best determiners of their lives. While they may need information, they alone understand their own risks.

But, apart from our advocacy agenda supporting battered women's choices, the judge does not have the *right* to deny the petitioner's request to dismiss her order. In a civil process like obtaining orders for protection, the "case" belongs to the petitioner. Denying a petitioner the right to withdraw an order for protection would be like telling a couple that they had to get divorced once they started the process. In contrast, in the criminal process, charges are pressed or dropped by decision of the prosecutor, not the victim, and conditions of release like "no contact" orders are set by the judge. In setting conditions of release, the judge has jurisdiction over the defendant. While judicial authority

governs issuance of "no contact" orders to defendants, as conditions of release, sentencing or probation, no authority exists *to order women* to classes. Supporting a capricious abuse of judicial power hardly furthers the interests of battered women. Always consult with legal staff when evaluating proposals like these.

In rejecting this proposal, advocates could suggest alternative solutions to reach more women with information about protection planning. Perhaps advocates could inform women prior to the court hearing. The courts could provide printed information or videotapes for women to learn more about their options when they file their petitions. Perhaps this proposal could spark an initiative to train judges on the complexity of battered women's lives.

---

***“Since the patriarchy neither supports nor condones women's use of violence, women arrested for assault are treated more harshly and often suffer more consequences than their battering partners.”***

---

In another form of mandating services, "case plans" for battered women are routinely written by Child Protection social workers. Advocates have

learned that pre-empting the social worker by assisting battered women in writing her own "case plan" is far more effective than allowing the social worker to mandate services. For example, a battered woman who is attending a self-help group of other battered women could put that on her own case plan and have a better chance of success than if she were ordered to "counseling".

Child Protection case plans might require a woman "to obtain" an order for protection. This assumes she can meet legal requirements, that the order will be issued by the judge, that it really *protects*, that the process is accessible to all women, etc. A better way to phrase the same issue would be to state that the woman would file a petition seeking an order for protection or seek advocacy assistance to explore that remedy. Then the outcome, which may not be in the woman's control, cannot be held against her.

*-Designating the Victim-*  
When the battered women's movement formed alliances

with law enforcement and prosecution the underlying assumption was that male batterers would be arrested and charged. An unintended conse-

quence of mandatory arrest laws has been the increased arrests of women. Some of these arrests are dual arrests. Some are women who were defending themselves or resisting abuse. Often, programs funded by prosecutor's offices to "assist victims" assume the advocate will work with any victim named in the police report, regardless of gender.

Program planners should anticipate conflicts about arrest and charging decisions and push for policies allowing advocates some discretion. Screening tools to assess the history of the relationship and the context of the incident can help determine who is appropriate for their services.

Advocates expected to work with male victims need to be especially aware of the differences between male and female use of violence. Women have difficulty using violence instrumentally, as batterers do. Since the patriarchy neither supports nor condones women's use of violence, women arrested for assault are treated more harshly and often suffer more conse-

Advocates required to work with male victims should learn to identify such batterers.

Instead of providing services for male "victims" advocates

---

***"When I worked as a legal advocate, I saw battered women through the lens of the criminal justice system. Legal options were the first options I saw, and frequently the only ones."***

---

should be seeking ways to assist battered women charged with crimes. Battered women arrested for assault are often in grave danger. Their behavior is socially unacceptable, and they are ill equipped to play the criminal justice system's game the way men so readily do. Many women plead guilty at their first court appearance, hoping to shorten the process, end the shame, get it over with, and go home. These women need access to advocacy services more desperately than most assault victims do. Besides the fact that they may not understand the system they face as defendants, arrested women may be more reluctant to call

*Legal Options-*  
When I worked as a legal advocate, I saw battered women through the lens of the criminal justice system. Legal options were the first options I saw, and

frequently the only ones. When I initiated contact with a woman following her partner's arrest, I was acutely tuned in to the specifics of "the case". Since the woman's partner, the defendant, was due to appear in court for a bail hearing or arraignment, his imminent release and the conditions the court could impose regarding release focused my attention. Women deserved to know the process, what impact they could have on the court's decisions, and what would likely happen without their input.

Many women chose not to participate. I didn't get to know those women very well. My time, beyond initial contacts of victims of assault, was spent with women who were involved.

While I don't know all the reasons women chose not to participate in criminal prosecutions of batterers, I do know that the criminal process in the areas I worked was cumbersome, time-consuming and victim-dependent. I am also aware, in retrospect, that in my effort to

---

***"How can we work in and with the civil and criminal justice system and remain distinct and separate from them?"***

---

quences than their battering partners. Many batterers are becoming skillful at using the laws meant to serve battered women to further abuse them.

police to protect themselves, especially if their own arrest resulted from calling for help.

*-Appearing to Promote*

present the legal options I knew of, such as civil protection orders or participating in criminal prosecutions, I sometimes gave the impression I was promoting these choices, despite my knowledge of their limitations.

This is a serious dilemma for legal advocates and a common problem in system advocacy. How can we work in and with the civil and criminal justice system and remain distinct and separate from them? To avoid "buying into the criminal justice system's agenda while forgetting our own" we need to first know what we are talking

developed by advocates in Duluth, Minnesota, illustrates these tactics. Battering is much more than assault. Some battered women have never been physically assaulted and some women who are assault victims are not battered women. *Battering is a systematic pattern of violent controlling, coercive behaviors intended to punish, abuse and ultimately control the thoughts, beliefs and actions of the victim.* As such, it has been fostered and supported by the dominant, patriarchal culture.

Addressing the need to trans-

*women's value and status will have radical and far-reaching effects.*<sup>3</sup>

The battered women's movement recognizes the cultural impediments to ending violence against women. The Mission Statement of the National Coalition Against Domestic Violence names sexism, racism, homophobia, classism, ageism and other oppressions as fostering battering by "perpetuating conditions which condone violence against women and children". The NCADV states its mission, therefore "to work for the major *societal changes* necessary to eliminate *both* personal and *societal violence* against women and children."<sup>4</sup> (Emphasis added)

The battered women's movement relies on a gender-based analysis, which says that violence *against women* is the overwhelming social problem resulting from the inequality of a sexist society. Creating safety for women is impossible without challenging the cultural beliefs that support battering.

### **The Agenda of the Criminal Justice System**

Our legal system, in contrast, reflects the dominant culture's still prevalent *gender neutral* analysis, preferring terms like "domestic violence" to "woman abuse". The gender-neutral view says violence *in families* is equally destructive regardless of which gender commits the violence, against whom, and with what intent. This ignores

---

***"The battered women's movement relies on a gender-based analysis, which says that violence against women is the overwhelming social problem resulting from the inequality of a sexist society. "***

---

about.<sup>2</sup> What is our agenda?

### **The Agenda of the Battered Women's Movement**

The battered women's movement holds that the root cause of battering lies not in individual pathology but in the culturally supported belief that men have the right to exert superiority over women through any means available. This *gender-based* analysis has remained central to the battered women's movement.

Batterers use a wide variety of tactics besides physical violence in their relationships. The "Power and Control Wheel,"

form this culture, Donna Garske has written:

*Successful efforts to eliminate violence against women must be driven by an agenda that promotes the basic human right of women and girls as individuals (separate from their roles as family members) to live free of harassment, intimidation, and violence. Until this basic right is established and widely supported, the problem of men's violence toward women will continue. The replacement of current social practices and beliefs that deny this basic right with those that elevate*

the context in which violence occurs, the pattern of abuse, and non-violent, abusive tactics batterers employ to control their partners. Gender-neutral interpretations of domestic violence, like family violence theory, characteristically emphasize women as family members rather than as individuals enti-

system are deeply implicated in the abuse of women and children."<sup>6</sup> The individual rights the system was designed to protect, after all, were rights of white men holding power in the patriarchy.

Laws and practices in the legal system have not only condoned

beaten up, legal remedies had to be found.

And they were. In the past two decades, considerable progress has been made in legal reform, police and prosecution practices, and civil remedies to increase options for battered women. Some communities have coordinating councils on domestic violence. Some have a more "coordinated community response". At last, with the passage of the Violence Against Women Act, the federal government officially recognized the problem of domestic violence in the best way our government knows. It provided funding.

---

***"The gender-neutral view says violence in families is equally destructive regardless of which gender commits the violence, against whom, and with what intent. This ignores the context in which violence occurs, the pattern of abuse, and non-violent, abusive tactics batterers employ to control their partners."***

---

tled to the same basic human rights as men.<sup>5</sup> So, in as much as the law holds gender-neutrality as its standard, the agenda of the legal system is fundamentally at odds with the agenda of the battered women's movement.

Paradoxically, while adhering to a standard of gender neutrality, the legal system exhibits rampant gender bias in the practice and application of the law. Studies all over the country have documented examples like the one Ann Jones quotes, a Georgia study from 1991 citing a judge who "'mocked', 'humiliated', and 'ridiculed' a female victim of repeated assaults and 'led the courtroom in laughter as the woman left.' The woman's assailant--her estranged husband--subsequently murdered her." Jones concludes, "the law and the legal

violence against women but also discouraged women from seeking relief through the courts. To middle class, white feminists involved with battered women in the early days of our movement, reforming the legal system seemed the logical thing to do. These women believed in the rule of law. (Many of them were veterans of the civil rights movement and the anti-Vietnam war protests.) Indeed, a basic principle of advocacy is the belief that our basic rights are "enforceable by statutory, administrative, or judicial procedures."<sup>7</sup> Quite simply, given the fact that women were being

### **Unintended Consequences of Legal Reform**

Advocacy for battered women has a historical, philosophical, and political context. As Loretta Frederick, Legal Counsel for the Battered Women's Justice Project criminal office, has observed, however, legal reform always had its limitations.<sup>8</sup> The decision to push for legal reform was informed by people who saw some of these limitations but failed to see others.

In her excellent book, *Divorced from Justice*, Karen Winner ex-

---

***"Equitable distribution laws and 'no fault' divorce also result in a 'terrible unpredictability' in how the law is applied, giving attorneys and judges 'enormous, unprecedented, direct power and control over women's and children's lives.'"***

---



plains how the gender-neutral standard in custody decisions has led to a new double standard instead of the fairness it promised. Equitable distribution laws and "no fault" divorce also result in a "terrible unpredictability" in how the law is applied, giving attorneys and judges "enormous, unprecedented, direct power and control over women's and children's lives."<sup>9</sup> Working for the Battered Women's Justice Project, I receive calls from battered women every week whose search for the justice in the civil or criminal justice system is tragic.

Currently, while stronger criminal sanctions against batterers have sometimes improved the safety of women and held offenders accountable, many women have been frustrated by ineffective enforcement of their civil orders, poor prosecution, and a court system that colludes

gal status in this country may be determined by her partner, and her fear that he will report her could discourage her from calling police. Deportation of convicted batterers is a consequence of no small significance in these communities as well.

Mandatory arrest laws, intended to hold batterers accountable for their violence against women, have resulted in increasing arrests of battered women who may be using violence to defend themselves or as acts of resistance. Was the criminalization of battered women the intention of these laws? I don't think so. Prosecutors have a duty to seek justice that allows them discretion in who they charge. When a prosecutor asks, "do you want me to treat women who use violence differently?" they are applying a gender-neutral standard in a system full of bias to address a gender-specific prob-

lem. options available to them. These advocates organized shelters to provide safety for women in a culture blind to domestic violence. Shelter advocates, often volunteers, validated the battered women's experience, helping them to understand they were not to blame for their partner's violence or their culture's failure to protect them.

When legal reforms increased civil and criminal options for battered women, advocates responded. The court system is full of barriers. Advocates acquainted themselves with the legal terminology and procedures to navigate women through the system. Those advocates often saw their goal as working themselves out of a job, for they knew their services to women would not be necessary in a system that treated women fairly. Court personnel did not greet advocates very warmly. Besides the obvious fact that advocates were challenging the social structure, the practice of law requires licensing and is carefully guarded by the bar. Advocates who openly spoke out in court, questioning practices that endangered battered women, risked being held in contempt. Gradually, advocates learned the ropes, made allies, and established their role in the courts.

While the justice system remains a hostile work environment for many advocates, the presence of advocates is tolerated, as long as we work within established parameters. Unfor-

---

***"When a prosecutor asks, 'do you want me to treat women who use violence differently?' they are applying a gender-neutral standard in a system full of bias to address a gender-specific problem."***

---

with batterers to keep women entrapped.

Even when batterers are convicted, the cost may be much higher than the battered woman anticipated. For example, the perception that jail time will inevitably be imposed discourages some women from using the criminal justice system. A battered immigrant woman's le-

lem.

#### **A Call to Action**

These current problems demand strong advocacy efforts, similar to the activism that characterized our work in the beginning of the movement. The first advocates were often battered women themselves, angry about their situation and the limited

tunately, gaining acceptance has become for some programs a short-term goal supplanting the system-changing goal of the battered women's movement. When legal advocates, especially in large urban systems,

### Social Change versus Social Service

In their book, *Safety Planning for Battered Women*,<sup>10</sup> the authors use the term *advocates* to

---

***“However, battered women's programs originally hired advocates to work with women, rather than clients.”***

---

have specialized, some working only on felony cases, some only on misdemeanors, and still others in family or civil courts, it's no accident that the specialization has followed the hierarchical culture of the court system. When advocates have been granted "privileges" like speaking in court and access to files, the system has demanded a price. The appearance of collusion with the system is one price. The hesitancy to challenge and agitate is another. The power and prestige of the courts is very seductive and advocates are not immune.

Meanwhile, the courts have sought increasingly to employ their own staff to work with victims.

Today, victim witness staff provide many services for battered women. The public perception of advocacy has been complicated by the employment of "advocates" by hospitals, police and prosecutors and by advocates who work for battered women's programs but are funded jointly by police or prosecutors through collaborative grants.

mean anyone whose job could put them in contact with battered women who need to assess their own risks. These advocates could be social workers, child protection workers, health care professionals, educators, or counselors. Certainly I hope that professionals who work with battered women will read *Safety Planning for Battered Women*. I hope they will see that they can *advocate* for the needs of their clients. And I hope they do so with the woman-directed approach outlined by Jill Davies, Eleanor Lyons, and Diane Monti-Catania.

However, battered women's programs originally hired advocates to work with *women*, rather than *clients*. The battered women's movement actively seeks to employ advocates who are formerly battered women and/or women of color because their life experience and understanding of the issues has taught us the truth about battering. The battered women's movement is committed to anti-oppression work of all kinds and recognizes that many barriers prevent women from using

their talents in a racist, homophobic, classist culture. Regarding other battered women as "sisters" or "women" rather than "clients" advocates model equality.

Working in the legal system you tend to see legal choices. But, battered women need assistance beyond the next court appearance. A decision to avoid the criminal or civil justice system may be as valid as a decision to use it. Housing, education and employment also pose barriers for some women, as well as alcohol and drug use, mental health problems, physical disabilities, criminal histories, racism, culture and immigration issues. Thorough risk analysis illuminates this complexity of women's lives. Advocates can help women become safer and make informed decisions *for themselves*. The decision to stay may be the best decision, informed by careful risk analysis.<sup>11</sup>

Community based advocacy programs should be available to assist women with safety planning, independent of the prosecutor's office because battered women are still victimized by the criminal justice system. Advocacy in the battered women's movement involves a commitment to confront these injustices. Advocacy, as Knitzer says, is "inherently political."<sup>12</sup> Let's own that and avoid, as Sullivan and Keefe warn, "diluting the term *advocacy* to the point that it loses all meaning."<sup>13</sup>

**Getting the System to join our**

## Movement

System people can and do take the lead in many communities in addressing domestic violence. In Duluth, the lead agency for their Coordinated Community Response is the Duluth Police Department. In Madison, Wisconsin, it's the District Attorney's office. Successful system responses usually require the system players to depart from traditional roles or practices.

In Sacramento, California, the Sheriff's department embraced a community policing orientation in establishing the Domestic Violent Response Teams (DVRT) to do follow-up investigative work using police/advocate partners. I spoke with Debbie Jacobson, one of the advocates from Women Escaping a Violent Environment (W.E.A.V.E.) who worked with police for several years as a DVRT advocate.<sup>14</sup> Debbie said the program takes "a unique brand of law enforcement officer and a unique brand of advocate". She credits the Sheriff's department with mandating officers to work on the victim's quality of life, i. e. safety, rather than the specifics of the "case". In this program law enforcement has joined the battered women's movement.

Speaking recently at a seminar given for advocates, Donna Garske of Marin Abused Women, Marin County, CA, suggested that those people currently employed in any capacity to help battered women are, in

fact, a part of the current battered women's movement. And she also said that recognizing their place within the movement is vital not only to these people but also to the movement itself, because, as the social problem is mainstreamed, the role of the advocate must change. I agree that system based advocates belong in the battered women's movement. Embracing their role in the bigger issue is bound to improve their ability to work with individual women and to advocate for changes. In many places, system based advocates are the only advocates and thus may be the sole connection some bat-

and prosecutor training, and even better policies within agencies, the justice system fails again and again to provide safety to victims of domestic violence. Ellen Pence examines the causes of this in her dissertation "Safety for Battered Women in a Textually Mediated Legal System". Rewritten as a more user friendly, practical manual, "The Duluth Safety and Accountability Audit, A Guide to Assessing Institutional Responses to Domestic Violence" describes how the "conceptual underpinnings" of the legal system shape how laws and policies are carried out in practice. Structural problems

---

***“Advocacy, as Knitzer says, is ‘inherently political.’  
Let’s own that and avoid, as Sullivan and Keefe warn,  
‘diluting the term advocacy to the point that it loses  
all meaning.’”***

---

tered women make to the whole network of available resources.

The mission of the battered women's movement was never to create bigger and better battered women's programs or to institutionalize victim assistance. Historians can argue where we were as a social movement twenty or fifty years from now. But today, we still have much work to do. Current remedies are woefully inadequate. Using the courts is still a nightmare for many women and not even an option for others.

Despite all the new laws, police

contribute to the system's failure to provide safety to victims and hold offenders accountable. The system is slow, fragmented, and incident focused, while battering relationships pose immediate threats, are complex, and involve a pattern of ongoing abuse.<sup>15</sup>

System advocacy that scrutinizes how cases are processed cannot be done by the court system itself. Perhaps, as more services for victims are provided by system based practitioners, battered women's advocates should assume more of the functions of monitors or auditors. I have spoken with

representatives of various court watch programs across the country and they all agree that court watching *alone* produces change.

Improving responses to domestic violence requires continued efforts from activist advocates. The role of advocacy has evolved. The criminal justice system, like all institutions, resists change. But working in the system changes us. To find out how, we need to look in the mirror. We must continually

women describe the court process as dehumanizing, reinforcing their entrapment, patronizing and further isolating them, ignoring their children, and denying them safety, then we need to respond accordingly.

Our role as advocates demands passion, courage, and leadership. Effective advocacy is controversial, by definition. It is exciting and sometimes risky. We must resist being absorbed by the very institutions we set out to change. Violence against

perspective. *American Journal of Orthopsychiatry*, 46(2), pp. 200-216.

<sup>8</sup> Frederick, Loretta, "The Evolution of Domestic Violence Theory and Law Reform Efforts in the United States", 1998.

<sup>9</sup> Winner, Karen, *Divorced from Justice*, Regan Books, 1996, pp. 53-54.

<sup>10</sup> Jill Davies, Eleanor Lyons, and Diane Monti-Catania, *Safety Planning for Battered Women*, Sage 1997.

<sup>11</sup> Jill Davies, Eleanor Lyons, and Diane Monti-Catania, *Safety Planning for Battered Women*, Sage 1997.

<sup>12</sup> Knitzer, 1976.

<sup>13</sup> Sullivan and Keefe, Evaluations of Advocacy Efforts to End Intimate Male Violence Against Women, <http://www.vaw.umn.edu/vawnet/advocacy.htm>.

<sup>14</sup> August, 1999 conversation with Debbie Jacobson, Inter-Tribal Council of California, Sacramento, California.

<sup>15</sup> Ellen Pence and Kristine Lizdas, The Duluth Safety and Accountability Audit, MPDI 1998, pp. 14-17.

---

***“Perhaps, as more services for victims are provided by system based practitioners, battered women's advocates should assume more of the functions of monitors or auditors.”***

---

re-examine our own policies and ask if they are really helping battered women. Do our programs validate the experience of battered women or further isolate and silence them? Do our programs support advocates who confront the system, or do they *silence* them? Does excluding some women from our services further their oppression? And doesn't this exclusion further oppress all women?

Could it be that when battered women use systems like the courts, they risk upsetting all the strategies they have used to adapt and survive in exchange for outcomes that are, at best, uncertain? For advocates to have any credibility with battered women they need to listen to them. And if battered

women is a social problem. Therefore, advocacy in the battered women's movement must be driven by strategies to promote social change.

<sup>1</sup> Phone conversation with Mark Zaccarelli, June 1999.

<sup>2</sup> "Common Errors Made by Domestic Violence Programs While Doing Systems Advocacy" from *SEEKING JUSTICE: Legal Advocacy Principles and Practice* PCADV 1992, Section III-pp. 44.

<sup>3</sup> Garske, Donna, Transforming the Culture: Creating Safety, Equality, and Justice for Women and Girls, Chapter 13 of *Preventing Violence in America*, Editors: Hampton, Jenkins and Gullotta, Sage, 1996.

<sup>4</sup> Mission Statement as it appears in the conference manual for the 8<sup>th</sup> National Conference & 20-Year Anniversary of NCADV.

<sup>5</sup> Garske, Transforming the Culture: Creating Safety, Equality, and Justice for Women and Girls, Chapter 13 of *Preventing Violence in America*, Editors: Hampton, Jenkins and Gullotta, Sage, 1996.

<sup>6</sup> Ann Jones, *Next Time She'll be Dead*, 1994 Beacon, pp. 36-37.

<sup>7</sup> Knitzer, J.E. (1976) Child advocacy: A

---

*Stephanie Avalon, is an advocate with The Battered Women's Justice Project, Stephanie responds to questions regarding legislation, law enforcement, prosecution, sentencing, probation, batterers' programs, coordinated community/court programs, and victim advocacy programs. She assists in providing technical assistance to VAWA grantees, visits grantee programs to evaluate their progress, and provides specific advocacy training. Prior to joining BWJP, Stephanie advocated for battered women within the courts doing both direct service and system advocacy. She provided training to advocates, court personnel and law enforcement.*

*Stephanie can be contacted at: Battered Women's Justice Project, 4032 Chicago Ave South, Minneapolis MN 55407. (800) 903-0111. ☒*

---

## Battered Women and Judicial Responses

In his book, *Battered Women in the Courtroom: The Power of Judicial Responses*, James Ptacek examines the exercise of judicial authority over battered women and its impact on their attempts to resist and escape violence. In the chapter, "Disorder in the Courts: Battering and Judicial Responses," Ptacek analyzes how judges affect women seeking restraining orders. He reveals the "ways that judges, wittingly and unwittingly, reinforce the power of batterers" by examining restraining order documents, observing the court, interviewing battered women and judges. He then moves his discussion "ways that judges, empower battered women."<sup>1</sup>

The following pages include two figures based on the "power and control wheel" model created by the Domestic

Abuse Intervention Project (DAIP) in Duluth, Minnesota. This educational tool illustrates the many tactics abusers use to maintain power and control over their intimate partners. Following the Duluth model, Ptacek provides examples of how judges, "intentionally and unintentionally, may be reinforcing the power of men who batter, and thus furthering women's entrapment."<sup>2</sup>

Ptacek's wheels, "Judicial Responses that Reinforce Women's Entrapment" and "Judicial Responses that Empower Battered Women,"<sup>3</sup> depict the best and worst of judicial responses to battered women. The gulf between the "Judicial Responses that Reinforce Women's Entrapment" and the "Judicial Responses that Empower Battered Women" wheels show how much work

remains for advocates in terms of system reform and advocacy for battered women. Ptacek's work and wheels provides advocates with a useful foundation for education and collaboration in the criminal justice system.

<sup>1</sup> Ptacek, James. , "Disorder in the Courts: Battering and Judicial Responses" in book *Battered Women in the Courtroom: The Power of Judicial Responses* (Boston: Northeastern University Press, 1999) , 172.

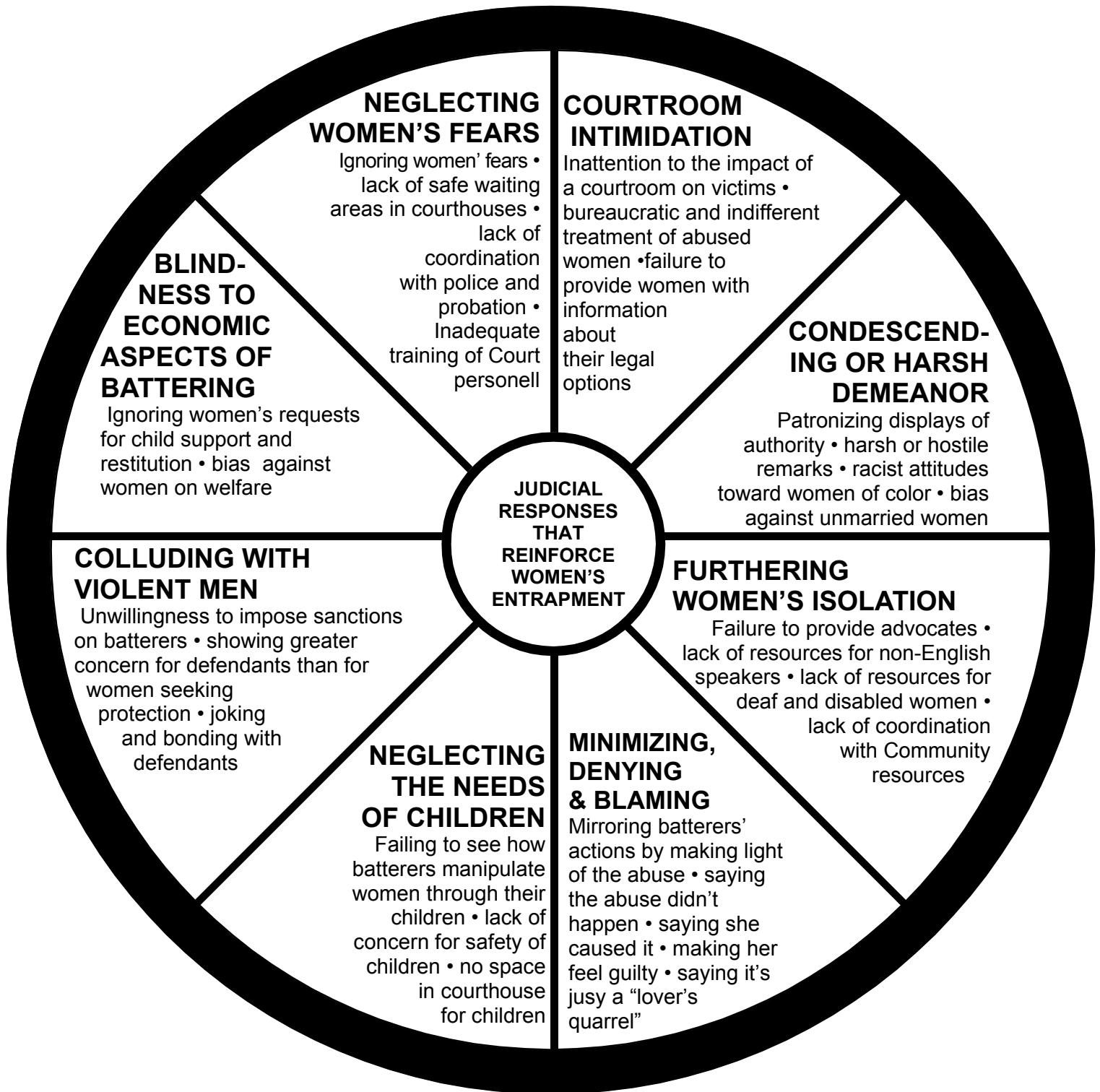
<sup>2</sup> Ptacek, *Battered Women in the Courtroom: The Power of Judicial Responses*, 173.

<sup>3</sup> Ptacek, *Battered Women in the Courtroom: The Power of Judicial Responses*, 174-176.

---

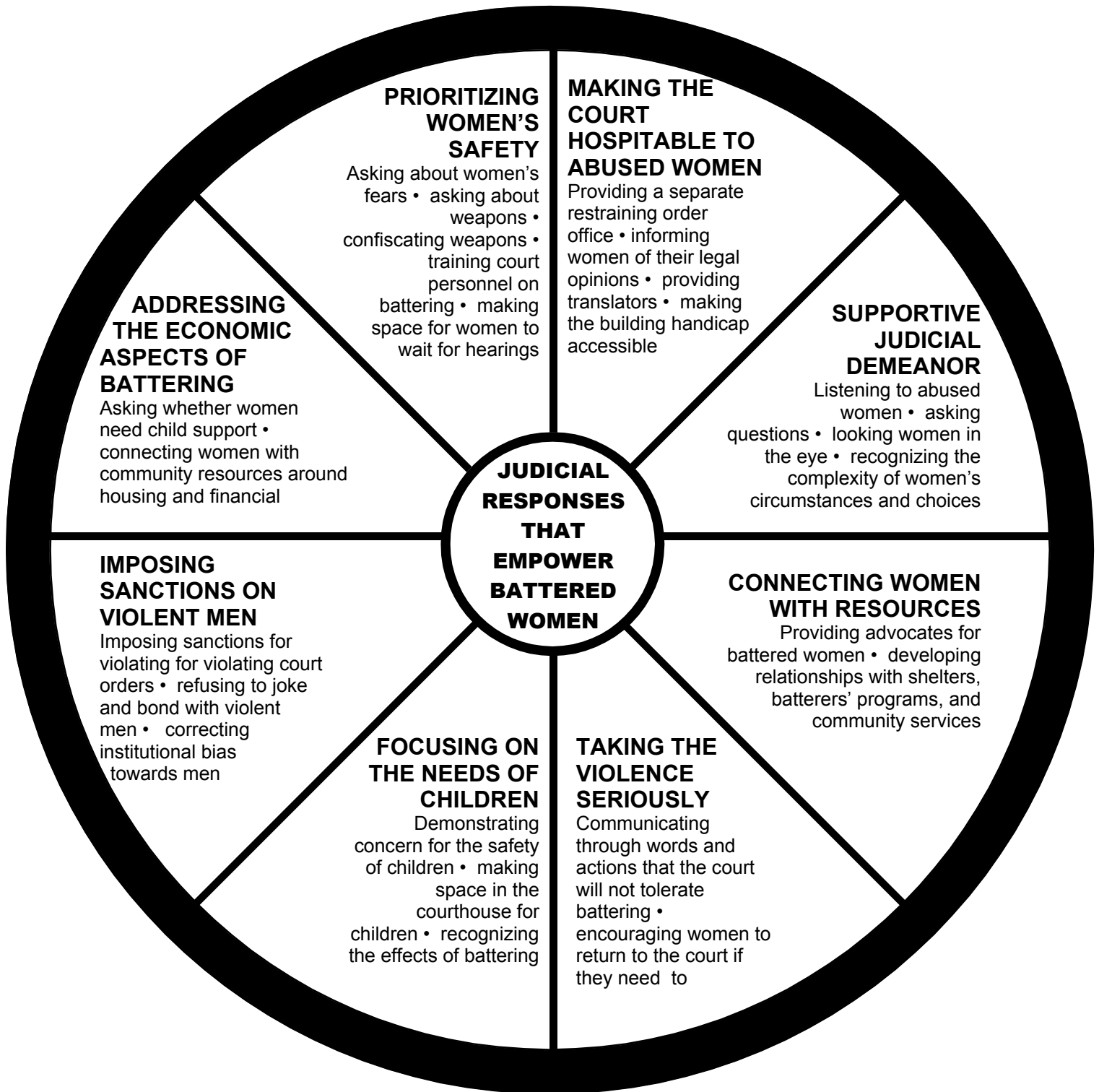
*James Ptacek is Assistant Professor of Sociology at Suffolk University, where he is also on the faculty of the master's program in criminal justice. ⊗*

# Judicial Responses that Reinforce Women's Entrapment



James Ptacek, *Battered Women in the Courtroom*, 174.

# Judicial Responses that Empower Battered Women



James Ptacek, *Battered Women in the Courtroom*, 176.

## And, Now What?

As an individual advocate working to educate one person or in a committee developing policies, there are several useful "guideposts" to keep in mind when you are engaging in collaborative work in the criminal justice system:

Does this Action or Policy:

- ⊗ Deny the experience and autonomy of battered women;
- ⊗ Screen cases out of the intervention process based on misinformation from the offender;
- ⊗ Fail to hold the offender accountable;
- ⊗ Blame the victim for the violence or for failing to end the violence. <sup>1</sup>
- ⊗ Include consultation with battered women.

Additional questions:

- ⊗ How could this policy be used against victims by the system, by the batterer?
- ⊗ How will this policy be monitored and evaluated?
- ⊗ What message will your policy send to the victim, to the batterer, to the "coordinated community response collaborators?"<sup>2</sup>

<sup>1</sup>Adapted from "Batterers' Programs: Shifting From Community Collusion to Community Confrontation," by Ellen Pence, Domestic Abuse Intervention Project, Duluth, MN, 2/88, (218)-722-2781.

<sup>2</sup> Denise Gamache, Battered Women's Justice Project, presentation "Navigating a Tough Course: Advocacy and Collaboration," *The Next Millennium Conference: Ending Domestic Violence*, August 29 - September 1, 1999, Rosemont, Illinois.

### Publication and Reprinting

*The A-Files is produced by the Washington State Coalition Against Domestic Violence (WSCADV). For more information, contact the WSCADV at 8645 Martin Way N.E., Suite 103, Lacey, WA, 98516 phone: (360) 407-0756 and fax (360) 407-0761. This publication was supported by funding from the Washington State Department of Social and Health Service, Children's Administration, Division of Program and Policy. Points of view in this publication are those of the author and do not necessarily represent the official position or policies of the Washington State Department of Social and Health Services.*

*The contents of this publication may be reprinted with permission of the Washington State Coalition Against Domestic Violence. Any reprinting must be accompanied by the following acknowledgement: "This material was reprinted from the publication entitled, Reform, A-Files, Washington State Coalition Against Domestic Violence, June, 1999." And, must also include the name of the author and article of the section being reprinted.*

**WSCADV**  
**8645 Martin Way N.E.**  
**Suite 103**  
**Lacey, WA 98516**

(360) 407-0756 phone  
 (360) 407-0760 TTY  
 (360) 407-0761 fax

**ADDRESS SERVICE REQUESTED**

"Committed to ending domestic violence through advocacy and action for social change."