

INTIMATE PARTNER SEXUAL ABUSE

Who Are the Victims, What Are the Risks? Adults, Teens, and Children

By Lynn Hecht Schafran

In 2009, the National Judicial Education Program (NJEP), of which I am director, began publishing and updating an extensive web course titled *Intimate Partner Sexual Abuse: Adjudicating This Hidden Dimension of Domestic Violence Cases*.¹ I chose the word “hidden” because at that time there was scant attention to this critical issue. Today, there is greater awareness but still a long way to go. In 2020, the New York State Judicial Committee on Women in the Courts—successor to the New York Task Force on Women in the Courts that reported in 1986²—wrote, “Although there has been some improvement, it appears that some societal attitudes persist in considering rape occurring within marriage or when the parties know each other as less pernicious than rape involving strangers—and to some degree impact upon the prosecution of these cases,” and recommended ‘comprehensive and ongoing’ judicial education to address these issues.³

Intimate Partner Sexual Abuse

According to the Centers for Disease Control and Prevention (CDC), “About 1 in 5 women and 1 in 12 men have [been subjected to] contact sexual violence by an intimate partner.”⁴ This statistic severely understates the extent of intimate partner sexual abuse (IPSA), which encompasses far more than “contact sexual violence.” The cases cited in NJEP’s *Intimate Partner Sexual Abuse* web course cover a staggering range of unwanted, coerced, and forced sexual activity, ranging from the husband who refused to drive his wife in the throes of labor to the hospital “until we have a screw” to coercing sex with animals. IPSA includes sexually degrading language and names; coercive control and possessiveness related to sex, such as inspecting a partner’s underwear for signs of sexual activity with someone else; coercing a partner to have sex with someone else and then punishing them when they do; coercing pregnancy by denying or

sabotaging birth control, and then coercing abortion; coercing a partner to view, imitate, or participate in pornography; “apologizing” after a battering incident by coercing sex; forced sex acts; and sexual torture. Abusers “extort” sex by refusing to pay for family necessities or threatening to sexually abuse their or their partner’s children. Sex may be coerced without a word or any physical contact in the moment. One woman described the first time she declined her husband’s sexual overtures. He got out of bed and put his shotgun under it—message delivered. Technology-enabled noncontact IPSA is perpetrated when an abuser shares intimate photographs and videos of a current or former partner online without consent. It is rampant.

The Harm of IPSA

The harm of intimate partner sexual abuse cannot be overstated. In the U.S. Department of Justice, Office for Victims of Crime DVD *Victim Impact: Listen and Learn*, a young white woman named Rebel appears in a segment titled “Domestic Violence.” She is a victim of coercive control, physical violence, threats by her husband to have her killed, and IPSA. This is what she says about the sexual abuse:

He was sexually abusive and I think of all of it that was probably the most painful, and still probably the, the hardest to get past. [Y]ou know, when you’re in a relationship with somebody that you love and they use sex forcefully, it’s devastating.⁵

The most pernicious myth about intimate partner sexual abuse is that because the couple is accustomed to having



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consensual sex, forced sex is not as traumatic as stranger rape. The reality is that rape by the person the victim should most be able to trust is profoundly damaging precisely because of the betrayal of trust.

The destruction of the ability to trust was the most common long-term effect of rape in marriage that our interviewees mentioned. Marital rape constituted for them not only a sexual assault, but a violation of trust and intimacy. The shock experienced by a woman who was sexually brutalized by the man she had loved and trusted above all others did not wane quickly.⁶

Acute, long-term depression; numbing; anxiety; and despair are more prevalent in victims of marital rape than in victims of stranger rape or physical assault alone. For years after divorcing their husbands, victims have flashbacks, nightmares, fear of men, and sexual dysfunction that interfere with social life and subsequent marriages.

Another problem with the CDC statistic about “contact sexual violence” is that it obscures the harm of cyber-facilitated sexual abuse. The law is still catching up with the harm of online IPSA—when an intimate partner posts photos or videos showing the victim nude or engaged in sexual activity, or posts advertisements with the victim’s name and address, inviting strangers to come to the victim’s home for sex. The range of consequences for victims of this type of abuse is severe, from extreme emotional distress to sexual assault by strangers who answer the ad. And once these posts are online, it is almost impossible to remove them.

Risk Assessment: Forced Sex Is a Red Flag for Potential Lethality

Professor Jacquelyn Campbell is the country’s leading authority on domestic violence fatalities. She uses “femicide” instead of “homicide” because the vast majority of intimate partner murder victims are women.⁷ Moreover, when women kill their partners, many are acting in self-defense.⁸ Professor Campbell’s research revealed that

forced sex in the domestic violence context is a red flag for potential lethality. Batterers who also force sex are almost twice as likely to kill their partners as batterers who use physical violence only.⁹ In a study of abused women in Houston in which 68 percent were being both physically and sexually abused, the sexually abused women reported more of the risk factors for femicide, such as strangulation and threats to children, as did those reporting physical abuse only.¹⁰

Domestic violence femicides are often not limited to the batterer’s partner. “Femicide” is murder in which the murderer kills his children and either his wife/partner or both his wife/partner and himself. Batterers often kill their or their partner’s children, family, and friends; police officers who come to the victim’s aid; and themselves. Victims may kill batterers or themselves.

Professor Campbell developed the 20-question Danger Assessment to assist victims, advocates, and law enforcement to better assess a victim’s level of danger from her partner. Question 9 is: “Has he ever forced you to have sex when you did not want to?” Many jurisdictions include a question about forced sex in their first-responder danger assessment instruments. The Idaho instrument lists “Has Forced Partner to Have Sex” as a lethality factor and includes nine specific questions about it in its training materials.

Forced Sex

Has the offender forced the victim to:

- Have sexual contact with the offender?
- Have sexual contact with someone else?
- Perform other sexual acts?
- Frequency of forced sex?
- Is there additional physical violence during the forced sex?
- Has offender ever physically abused the victim because the victim refused to have sexual contact (at any time) with the offender?¹¹

Thus, knowing whether forced sex is a factor in a domestic violence case is

essential to meaningful risk assessment. Because IPSA is the last type of abuse victims want to talk about, it is essential to create a courtroom environment where they can speak about this. Assuming the case is not being tried to a jury, use behaviorally based questions like those in the Idaho risk assessment instrument to develop more information as necessary.

IPSA Case Jurors

When a case involving IPSA is being tried to a jury, a thorough voir dire is essential to determine whether any potential juror subscribes to the “societal attitudes” the New York State Judicial Committee on Women in the Courts described as “persisting in considering rape occurring within marriage or when the parties know each other as less pernicious than rape involving strangers.” Researchers have found that some people don’t believe a husband would ever use force to make his wife have sex,¹² and some don’t believe marital rape violates the wife’s rights or perceive it as psychologically damaging, given that the parties have had consensual sex in the past.¹³ Respondents in one study so devalued the harm of marital rape that they ranked forcible rape of a former spouse below stealing \$25.¹⁴

IPSA Elevates the Harm and the Risk to Children

The vast literature from social science, medicine, and neuroscience documenting the ways exposure to domestic violence harms children is discussed in my 2014 *Judges’ Journal* article “Domestic Violence, Developing Brains and the Lifespan: New Knowledge from Neuroscience.”¹⁵ The *New England Journal of Medicine* summarized the impact of embedding stress this way:

Childhood IPV [Intimate Partner Violence] exposure has been repeatedly linked to higher rates of myriad physical health problems in children. Altered neuroendocrine stress response may be one important mechanism accounting for this correlation. Highly stressful environmental exposure, such as exposure to IPV, causes children to repeatedly mount the “fight or

flight” reaction. Although this response may be adaptive in the short term, repeated activation . . . results in pathologic changes in multiple systems over time; some experts refer to this effect as the biologic embedding of stress.¹⁶

IPSA—The Implications for Teens

Teen Dating Abuse and Violence (TDAV) is so prevalent and so harmful that it is considered a public health issue.¹⁷ The Department of Justice Office on Violence Against Women considers 14 to 24 the teen years. Encountering the realities of TDAV can be startling—the young age of victims, the severity of abuse, and the fatalities. TDAV is being seen in children as young as 11.

According to the CDC’s 2017 Youth Risk Behavior Survey, among the students nationwide who dated someone during the prior year, “6.9 percent had been forced to do ‘sexual things’ (e.g., kissing, touching, or being physically forced to have sexual intercourse) they did not want to do one or more times . . . by someone they were dating.” The prevalence of sexual dating violence victimization was higher among female (10.7 percent) than male (2.8 percent) students, and the numbers were higher for LGBTQ students.¹⁸

IPSA in teen relationships looks like adult relationships. In Barrie Levy’s *In Love and in Danger: A Teen’s Guide to Breaking Free of Abusive Relationships*, teens were asked: “What are some of the ways you have been sexually abused?” They answered:

- Called sexual names
- Partner wanted sex after hitting
- Made me walk home nude
- Always wanted sex, mad when I didn’t want to
- Forced me to do “disgusting sex acts”
- Bit, pinched breasts
- Threatened to get a new woman
- Slapped, pinched to get his way
- Forced me to have sex without protection
- Forced sex, rape¹⁹

Abusers wield tremendous power and control through social media, which often includes cyber-facilitated IPSA. Abusers

force victims to constantly share their location to ensure fidelity; post embarrassing, harassing, or threatening material on social media; coerce victims to produce and share sexually explicit images; threaten to disseminate these images online; and often do so.

Reproductive coercion is rife: coercing sex without condom protection against pregnancy or sexually transmitted infections, flushing birth control pills down the toilet, and lying about “pulling out” during sex. Attempts to coerce pregnancy and abortion within the same relationship are common. It is “stealth” when a man agrees to use a condom but during sex removes or deliberately damages it without telling his partner. There are websites teaching men how to do this.²⁰ In a Boston study, 26 percent of sexually active teen girls in abusive relationships reported birth control sabotage or pregnancy coercion.²¹ “My sister was 14 years old when she became involved with this abusive guy, and when she was 15, his mother wanted grandkids so he coerced her into getting pregnant.”²²

As with adults, the harm of IPSA in TDAV is severe. Stealthing survivors describe it as a betrayal of trust, disempowering, and demeaning. A high school girl thought her boyfriend’s abuse was normal until the relationship ended:

There were a lot of after effects. . . . The rapes kept coming into my mind like a broken record. I could not function. It felt like the PTSD, anxiety, paranoia, anorexia, and suicidal thoughts had completely taken over my life.²³

Sex Trafficking and the Juvenile Justice/Criminal Justice System

The consequences of IPSA for young people can also lead to victims’ involvement in sex trafficking and the juvenile/criminal justice system. Sex traffickers often enter teens’ lives as boyfriends who promise to love and care for them and offer shelter, protection, and romance. These “boyfriends” coerce and/or force victims to engage in sex with others, which often brings them into contact with the justice system for prostitution charges.²⁴

IPSA victims may also find themselves

in the justice system for truancy, shoplifting, selling drugs, or other criminal activity coerced by their abuser.²⁵ In furtherance of their power and control, abusers manipulate victims to commit crimes for them to further the power they have over the victim (e.g., I could turn you in for the crime you committed) or to miss school to isolate victims from their peers and support system within a school, such as teachers and guidance counselors.

Sexual Abuse as a Lethality Risk Factor

People think that intimate partner violence among adolescents is less serious than among adults. It’s important to highlight that this can really lead to death. It’s not something to brush off as “This is just an argument between kids.”

—Avanti Adhia, Epidemiologist, University of Washington, School of Medicine, National Public Radio, Public Health 2019

The National Violent Death recording system across 32 states reveals that adolescents encounter risks of lethality due to intimate partners similar to their adult counterparts. It documented specific police reports and lethality from 2003 to 2016. About 6.9 percent of adolescent lethality cases involved a current or former intimate partner. The mean age of female victims was 16; the mean age of male perpetrators was 20. Over 50 percent of adolescent intimate partner lethality correlated to two categories: desired relationships/breakups and jealousy or altercations. Most teen domestic violence homicides are perpetrated with firearms, demonstrating the importance of teens being able to access orders of protection and the importance of state legislatures closing the “boyfriend loophole.” Given that many teens do not have parents or guardians with whom they can share their situation, and that the “boyfriend loophole” exempts nonmarried, noncohabitating intimate partners from the firearm restrictions related to domestic violence, the barriers to teens securing protection are significant.

Resilience and Judicial Intervention

Resilience is learned behavior. What we know about the teenage brain tells us this is the optimal time for successful intervention. Because the teen brain rapidly absorbs new learning, teens are better able than many adults to learn how to respond to stress effectively. However, it is not easy for teens to take control of their lives when a dating partner is trying to assert and maintain control over them. Courts can help teen dating violence victims and offenders take control of their lives. Judges are situated to lead an effort to address TDAV and IPSA, and, by doing so, protect victims and their children, hold offenders accountable while directing them to more effective interventions, and enhance community safety.

The Unique Risks to Children in IPSA Cases

IPSA is an aspect of domestic violence exposure that exacerbates this harm but is rarely discussed. When the mother has been sexually as well as physically assaulted, the potential for harm to the children is particularly grave.

[T]he sexual abuse of a parent has been seriously neglected—despite its potentially severe traumatic impact on children and association with greater risk to the safety and well-being of children and adult victims.

[I]ntimate partner sexual assault is associated with more severe depression, anxiety, and behavior problems in the children of adult victims, as compared to those whose mothers have been physically, but not sexually, abused. As a result of their exposure to sexual assault, children might also internalize distorted and unhealthy messages about gender and sexual consent.²⁶

In a study of 449 abused mothers living in domestic violence shelters with children aged four to eight, the mothers completed checklists and were interviewed about IPV

and IPSA during the prior year. One hundred percent reported IPV, 75 percent reported at least one act of IPSA, and 27.6 percent replied “yes” to the item “Used force to make me have sex.” The researchers found that mothers subjected to IPSA were more psychologically distressed than mothers physically abused only, and the mothers’ respective levels of distress correlated with the disruptive behavior levels of their children.²⁷

Note particularly that *27.6 percent of the mothers reported that their partner used force to make them have sex*. As discussed above, forced sex is a red flag for potential lethality, and when a batterer kills his partner, he often kills her or their children as well. Dr. Peter Jaffe is an internationally recognized authority on children’s exposure to domestic violence. He cautions that anything that increases the lethality risk for the mother increases the lethality risk for her children.

What’s often overlooked is that in about 20% of [domestic violence homicide] cases, the children are also the victims of the homicides. So there’s cases where only the children are killed, and there’s cases where the children and their mother are killed, and there’s also cases where the whole family is killed and the perpetrator kills himself. [W]hen I talk about child homicide, I’m particularly focused on children who were killed in the context of this history, and they’re often overlooked as being at risk of this violence.²⁸

Dr. Jaffe notes that “many professionals are shocked when children are killed and don’t even see that as a possibility.” He urges awareness of the risk and taking “a very structured approach to identifying the history of the relationship and the various risk factors that are present. . . .”

Unfortunately, many judges and “experts,” such as custody evaluators, don’t believe domestic violence exposure harms children at all, much less see it as a lethality risk.²⁹ The phrase “he hit her, but he didn’t hit the child” runs like a mantra

through custody/visitation cases and cases under the Hague Convention on the Civil Aspects of International Child Abduction.³⁰ In Hague cases, children need not be returned if return would expose the child to “grave risk of psychological or physical harm or an intolerable situation.” But repeatedly, the harm of domestic violence exposure is minimized or denied, and children are returned in the mistaken belief that once the parents live apart, the violence will stop and the abuser will abide by so-called “undertakings” to renounce every aspect of his abusive behavior.³¹ In one recent Hague opinion, the judge wrote that “The evidence established . . . that Mr. Saada physically, psychologically, emotionally and verbally abused Ms. Golan,” but completely omitted the word “sexually,” despite Ms. Golan’s uncontroverted testimony about Mr. Saada sexually abusing her before, during, and after her pregnancy.³²

In my 2003 article for *The Judges’ Journal* called “Evaluating the Evaluators: Problems with ‘Outside Neutrals,’”³³ and again in my 2014 *Judges’ Journal* article “Domestic Violence, Developing Brains and the Lifespan: New Knowledge from Neuroscience,”³⁴ I wrote about the many types of “experts” and others then advising the courts about custody and visitation despite their lack of knowledge about how domestic violence exposure harms children. It is clear from Dr. Jaffe’s 2020 statement that “many professionals are shocked when children are killed and don’t even see that as a possibility” that there is still a long way to go to address this lack of knowledge.

Conclusion

In response to its finding that “There is less concern about rape cases where parties have a current or past relationship/acquaintance on the part of judges, prosecutors and jurors,” the New York State Judicial Committee on Women in the Courts recommended “comprehensive and ongoing education” for judges, court administrators, prosecutors, law enforcement, and others.³⁵ Although the committee focused on rape, i.e., “contact sexual violence,” this article makes clear that intimate partner sexual abuse takes many forms, contact

and noncontact, and that “contact” is not the measure of how harmful and dangerous it can be. IPSA is a devastating and widespread reality with profound implications, and potentially grave consequences, for adults, teens, and the children of those adults and teens. IPSA is not just an issue in protective order cases, but as the case in chief or a critical factor in civil, criminal, family, juvenile, and problem-solving courts. Knowing whether a case involves intimate partner sexual abuse and taking it seriously are essential for assessing risk, protecting victims, and holding offenders accountable. ■

Endnotes

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