

Intimate Partner Sexual Abuse: From Teen Dating Violence to Trafficking

National Judicial Education Program
Legal Momentum

Webinar

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Learning Objectives

- Identify aspects of sexual assault specific to intimate partner sexual abuse (IPSA)
- Learn about the prevalence of IPSA in domestic violence cases
- Identify IPSA for risk assessment
- Understand the implications of IPSA for victims and their children
- Discuss recommendations and resources for addressing IPSA

IPSA-Specific Aspects of Sexual Assault Cases

- Repeated rapes of the same victim
- Extreme betrayal of trust heightens psychological harm
- Cultural defenses invoked
- Risks of escalating violence and lethality
- Risks in custody/visitation determinations
- Jurors' trivialization of marital/intimate partner rape
- Treatment programs' failure to specifically address IPSA

Web Course: *Intimate Partner Sexual Abuse: Adjudicating This Hidden Dimension of Domestic Violence Cases*

- 13 Interactive Modules
- 8 Criminal and Civil Case Studies
- Can be adapted to local law and practice
- Current adaptations:
 - Minnesota
 - Tribal law and practice
- Available free at www.njep-ipsacourse.org

FOREWORD BY PROFESSOR RAQUEL KENNEDY BERGEN

Intimate Partner Sexual Violence

A MULTIDISCIPLINARY GUIDE TO
IMPROVING SERVICES AND SUPPORT
FOR SURVIVORS OF RAPE AND ABUSE

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Education Program**

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2010 National Intimate Partner and Sexual Violence Survey*

“Nearly 1 in 10 women in the United States has been raped by an intimate partner in her lifetime.”

*Michele C. Black , et al., National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, THE NATIONAL INTIMATE PARTNER AND SEXUAL VIOLENCE SURVEY(NISVS): 2010 SUMMARY REPORT at http://www.cdc.gov/ViolencePrevention/pdf/NISVS_Report2010-a.pdf.

2010 National Intimate Partner and Sexual Violence Survey

- 9.4% of women have been raped by an intimate partner (over 11 million women)
- 16.9% of women have been subjected to sexual violence other than rape by an intimate partner (nearly 19 million women)
- 8.0% of men have been subjected to sexual violence other than rape by an intimate partner (approximately 9 million)

Question

“If a partner is controlling, abusive, and violent in the kitchen, the living room, and in public, why would he stop the abuse at the bedroom door?”

- Hon. Jeffrey Kremers, Chief Judge,
First Judicial Administrative District, Milwaukee, WI

Marital Rape Exemption

- First state to eliminate the complete marital rape exemption: Nebraska, 1976
- Last state to eliminate the complete marital rape exemption: North Carolina, 1998
- Many states still have partial exemptions in their laws on marital and intimate partner rape .

Marital Rape Exemption in Washington

- 1983: Washington eliminates marital rape exemption for rape in the first and second degree.
- 2013: Washington eliminates marital rape exemption for rape in the third degree

Why is it Important to Know About IPSEA?

- It is important to be aware of all the manifestations of intimate partner sexual abuse and understand them as:
 - An aspect of domestic violence
 - An assertion of power and control
 - Factors for risk assessment for victims and their children and in setting bail
 - Behaviors to be addressed in victim services, prevention education, batterer intervention programs and sex offender treatment

What is Intimate Partner Sexual Abuse/Assault?

- A continuum of behaviors ranging from degrading language to torture
- Victims may be coerced into sexual activity or denied control over their reproductive health through
 - Verbal coercion
 - Threats against themselves or others
 - Financial or other extortion
 - Physical violence

Intimate Partner Sexual Abuse

- Includes insensitive, critical or degrading behavior relating to sex and sexuality
 - Using sexually degrading names
 - Pressuring or forcing the victim to dress a certain way to please/attract other men
 - Accusing victim of having affairs, flirting, dressing provocatively, or coming on to others
 - Punishing victim for attracting attention of others; checking underwear for signs of sex

Reproductive Health Issues

- Coercing sex without protection against pregnancy or sexually transmitted infections
- Coercing pregnancy
- Attacking partner when she becomes pregnant
- Coercing abortion

Extorting Sex in Exchange for Necessities

- Demanding sex in exchange for money for necessities (e.g., food for children)
- Refusing to pay child support without sex
- Refusing essential medical transportation without sex

Pornography

- Making victim view, imitate, or participate in pornography
- In a sample of rural Ohio women sexually assaulted by their partners, 30% said pornography was involved in their assaults

Trafficking

- Many traffickers establish intimate partner relationships with their victims to recruit them
- Victims may first present as victims of domestic violence
- Screening may reveal that domestic violence and sexual assault victims are also being trafficked

Trafficking

“[S]ex trafficking is often an extreme form of intimate-partner violence in which traffickers are pimps and batterers rolled into one. . . . Sexual abuse is used by traffickers as both an end and a means: As an end to reap the maximum amount of money possible from the commercial sexual exploitation of their victims and as a means to keep them in such an acute condition of trauma that they cannot mobilize themselves to escape. . . . Not only do traffickers frequently make their victims their lovers, showering on them all of the trappings of a romantic seduction, in a number of instances they have been known to marry their victims in order to cement their control.”

- Dorchen A. Leidholdt, Director, Center for Battered Women's Legal Services, Sanctuary for Families, New York, NY

Human Trafficking and the State Courts Collaborative



www.htcourts.org

Forced Sex Acts

- Forcing vaginal, oral or anal sex
- Forcing physically painful sex
- Forcing sex in front of children
- Forcing sex with or in front of others
- Forcing sex with children
- Forcing sex with animals

Battering in Relation to Sex

- Battering before, during or immediately after sex
- Hurting the victim physically during sex (e.g., inserting objects)
- Assaulting breasts or genitals
- Bondage
- Sadistic Acts
- “Apologizing” after a battering incident by coercing sex

Who Are the Victims?

- Women of all races and economic backgrounds
- Same-Sex Partners
- Elders
- Teens

Who Are the Victims?

"Any woman is a possible object of violence. What differs is not the woman, but the man. If the man is sexually abusive, he will victimize any woman with whom he lives or has lived."

- Walter S. DeKeseredy & McKenzie Rogness, *Separation/Divorce Sexual Assault: The Current State of Social Scientific Knowledge*, 9 AGGRESSION AND VIOLENT BEHAVIOR 675 (2004)

Who Are the Victims? Same-Sex Partners

"We know that violence affects everyone, regardless of sexual orientation. This report suggests that lesbians, gay men and bisexuals in this country suffer a heavy toll of sexual violence and stalking committed by an intimate partner."

- CDC Director Dr. Tom Frieden, Press Release "CDC Releases Data on Interpersonal and Sexual Violence by Sexual Orientation," (January 25, 2013), at http://www.cdc.gov/media/releases/2013/p0125_NISVS.html.

Who Are the Victims? Elders

- Elder sexual abuse is a distinct form of victimization
- Elder victims suffer from age-related health problems as a result of sexual abuse, such as vaginal and anal injuries that may never heal
- NJEP Online Curriculum: *Elder Victims of Sexual Abuse*

Who Are the Victims?

Teens

- 1 in 5 teenage girls in a relationship has reported being sexually or physically abused*
- High levels of pregnancy coercion and birth control sabotage
- High levels of sexual abuse via social media

*Jay G. Silverman et al., *Dating Violence Against Adolescent Girls and Associated substance Use, Unhealthy Weight Control, Sexual Risk Behavior, Pregnancy, and Suicidality*, 286 JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION 572 (2001).

Study of Houston Women Seeking Protective Orders

- 68% of the 148 women reported sexual abuse in addition to physical violence
- 15% attributed sexually-transmitted infections to the sexual abuse
- 20% had a rape-related pregnancy
- High levels of posttraumatic stress disorder
- None of the women mentioned sexual abuse in their protection order petitions

Some Barriers to Reporting

- Fear of the abuser
- Overwhelming trauma
- Shame and denial
- Credibility concerns
- Religious constraints
- Ignorance of the law
- Economic dependence on abuser
- Dependence on abuser for immigration status
- No one asked

Barriers to Reporting – Religious Constraints

- Many women first turn to their faith leaders for advice and support
- Some religious groups persist in the view that a man has absolute right of access to his wife's body
- Religious leaders may pressure abused women to stay with their abusive husbands.

Barriers to Reporting – Racial and Cultural Issues

"Issues of race and culture can impact the victim's decision because she may be more worried about how the police will treat a man of color than she is about her safety. Victims of color report being forced to choose between gender and race in deciding whether to use the criminal justice system for relief. Most feel that their survival dictates siding with race..."

-Professor Sarah Buel, *Fifty Obstacles to Leaving, a.k.a. Why Victims Stay*, THE COLORADO LAWYER 19 (October 1999)

Cultural Defenses

- Many immigrant populations in the U.S. retain the cultural and religious practices of their homelands. Because of strong gender role ideologies, marital rape may be more acceptable in other world cultures.
- Some courts have erroneously excused or minimized marital rape on these grounds.

Issues for Immigrants

Deportation Concerns

- Rape is a deportable "crime of domestic violence," a "crime involving moral turpitude" and an "aggravated felony" under the Immigration and Naturalization Act of 1952.
- Victims fear they must choose between staying with the abuser in abusive relationships or losing their legal immigration status.
- Language barriers and problems with interpreters

Barriers to Reporting – Sexual Orientation and Gender Identity Concerns

- Services are based on a heterosexual conception of relationship violence and traditional gender roles
- Bias against lesbians, gays, bisexuals, transgender individuals, and others on the gender identity spectrum
- Not wanting to promote negative stereotypes
- Fear of not being believed

Barriers to Reporting – Inadequacy of Victim Services

- Sexual assault and domestic violence victim service agencies often view themselves as serving distinct populations
- Not all shelters and rape crisis centers provide specific training on marital rape and intimate partner sexual abuse to advocates and volunteers

Inadequacy of Justice System

- Lack of training for law enforcement, prosecutors, judges and court personnel on intimate partner sexual abuse, e.g., prevalence, impact, and implications for risk assessment
- Hostile environment discourages disclosure and continued engagement with the justice system if there has been a disclosure

Study of Men in a Batterers Intervention Program in a Northeastern City

- 229 diverse men completed a questionnaire that included specific behaviorally
- 53% answered “yes” to questions about conduct that met the legal definition of rape or sexual assault in the program’s state
- 8% answered “yes” to the question- “Have you ever sexually abused your partner?”

—Raquel Kennedy Bergen & Paul Bukovec, *Men and Intimate Partner Rape: Characteristics of Men who Sexually Abuse Their Partner*, Vol. 10 JOURNAL OF INTERPERSONAL VIOLENCE 1375 (2006)

Study of Men in a Batterers Intervention Program in a Northeastern City

- 15% of the entire sample and 25% of the husband rapists said they frequently forced their partner to have sex after a fight, using sex as a way to “repossess women after a confrontation or to illogically try to ‘make things better’.”

Offenders

- Use sexual abuse to punish their partners
- Feel entitled to have sex with their "property."
 - "I remember one time he [her husband] told the judge, 'That's my wife, you can't tell me what to do with her.'"
 - Raquel Kennedy Bergen, WIFE RAPE: UNDERSTANDING THE RESPONSE OF VICTIMS AND SERVICE PROVIDERS (1996).
- Invoke cultural defenses
- Don't think their actions are sexual assault

Assessment and Treatment of Offenders

- Assessments of batterers often fail to assess for intimate partner sexual abuse
- Many batterer intervention programs do not address intimate partner sexual abuse
- Many sex offender treatment programs do not address sexual abuse in the domestic violence context

Victim Impact

- **Myth:** marital/intimate partner rape does no harm because the couple is used to having sex with each other
- **Fact:** marital/intimate partner rape has a profoundly negative impact on the victim
 - Psychological harm
 - Physical harm

Rebel



Rebel **Domestic Violence**

Victim Impact: Psychological

“Equally untenable is the contention that forcible sexual assault is not as serious as an offense if the victim and perpetrator are married... it would seem that a forcible sexual assault committed by a person’s spouse would be even more traumatic than one committed by another individual as the perpetrator would be someone with whom the victim had once shared a loving, intimate relationship.”

– *People v. M.D.*, 231 Ill. App. 3d 176, 1991 (1992).

Victim Impact: Physical

- Long-lasting physical consequences because of repeated rapes, including internal injuries and chronic pain
- STIs including HIV
- Forced pregnancy and attacks during pregnancy
- Bruising, broken bones, burns, internal injuries

Risk Assessment

- Sexual assault co-perpetrated with physical abuse heightens the risk of escalating violence and lethality for the victim and her children
- It is essential to know whether a domestic violence case involves forced sex in order to undertake informed risk assessment, set bail, provide appropriate services for victims, and intervene appropriately with offenders

Separation is the Most Dangerous Time

- Widespread but mistaken belief that if the battered woman would just leave, the violence would end
- The batterer is outraged about losing control
- Most of the worst physical and sexual violence and most murders are perpetrated at or after separation

Eight Types of Potential Lethality

1. Femicide: Will the abuser kill his victim?
2. Murder/Suicide: Will the abuser kill the victim and himself?
3. Child Murder: Will the abuser kill the couple's or the victim's children?
4. Third Party Lethality: Will the abuser kill a third party?
5. Familicide or Family Annihilation: Will the abuser kill his victim, his children and himself?
6. Suicide: Will the victim kill herself?
7. Suicide: Will the abuser kill himself?
8. Will the victim kill the abuser?

Femicide

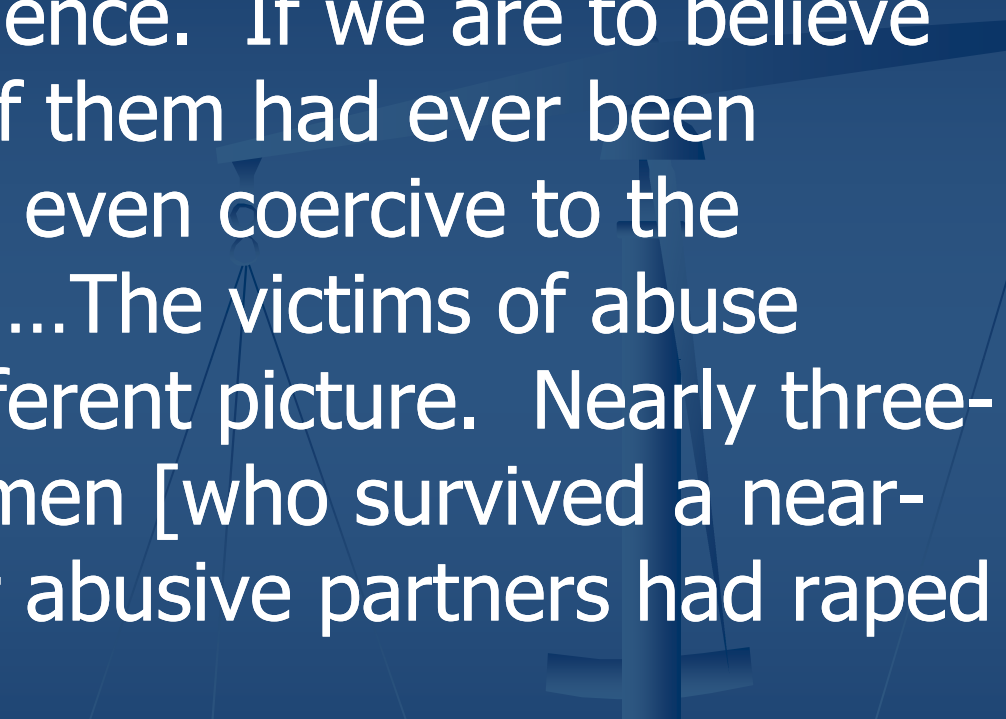
- On average each day in the U.S., more than three women are murdered by their current or former husbands or boyfriends
- Research documents that sexual assault in an intimate partner relationship is a leading indicator of potential lethality
- 11-city study of actual and attempted domestic violence femicides found that in 57% of these cases, there was intimate partner sexual assault*

*Jacquelyn Campbell, et al, *Risk Factors for Femicide in Abusive Relationships: Results from a Multisite Case Control Study*, 93 AMERICAN JOURNAL OF PUBLIC HEALTH 1089 (2003)

Femicide

Taking all risk factors into account, a batterer who subjects his partner to forced sex in addition to physical violence is twice as likely to kill her as a batterer who subjects his partner to physical violence only.

-Jacquelyn Campbell, et al, *Risk Factors for Femicide in Abusive Relationships: Results from a Multisite Case Control Study*, 93 AMERICAN JOURNAL OF PUBLIC HEALTH 1089 (2003)

A faint, stylized graphic of a pair of scales of justice is visible in the background on the right side of the slide. The scales are positioned vertically, with the pans hanging from a central point. The background is a solid dark blue color.

“There was no greater divergence in what victims and perpetrators reported than in the area of sexual violence. If we are to believe the killers, none of them had ever been sexually violent or even coercive to the women they killed...The victims of abuse painted a very different picture. Nearly three-fourths of the women [who survived a near-murder] said their abusive partners had raped them.”

– David Adams, *WHY DO THEY KILL?* (2007) at 171-172.

Idaho Risk Assessment of Dangerousness in Domestic Violence

Idaho Domestic Violence Supplement Case # _____

Risk Assessment of Dangerousness (add # of factors that have at least 1 box marked) SAFE emergency contact number for victim/s: _____

1-3 Different Factors **4-5 Different Factors** **6-7 Different Factors** **Italicized Lethality Factor/s**

Apprehension/Emotional State		Victim Suspect		Victim Suspect	
Angry	<input type="checkbox"/>	<input type="checkbox"/>	Excited	<input type="checkbox"/>	<input type="checkbox"/>
Threatening	<input type="checkbox"/>	<input type="checkbox"/>	Nervous	<input type="checkbox"/>	<input type="checkbox"/>
Apologetic	<input type="checkbox"/>	<input type="checkbox"/>	Calm	<input type="checkbox"/>	<input type="checkbox"/>
Upset	<input type="checkbox"/>	<input type="checkbox"/>	Intoxicated	<input type="checkbox"/>	<input type="checkbox"/>
Crying	<input type="checkbox"/>	<input type="checkbox"/>	Fled Scene	<input type="checkbox"/>	<input type="checkbox"/>
Fearful	<input type="checkbox"/>	<input type="checkbox"/>	Agitated	<input type="checkbox"/>	<input type="checkbox"/>
Unable to talk	<input type="checkbox"/>	<input type="checkbox"/>			

Medical		Children	
Refused Medical Assistance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Children present during incident
First Aid EMT	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Prior reported child abuse
Emergency Room	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Allegation of current child abuse
Pregnant	<input type="checkbox"/>	<input type="checkbox"/>	By whom _____
Vulnerable Adult	<input type="checkbox"/>	<input type="checkbox"/>	
Location of treatment _____			

Factor 1: History of Domestic Violence

Provided by: Victim Suspect Other: _____

Current Civil Protection Order

Current Criminal No Contact Order

No Contact Order or Protection Order violation today

If so, by whom _____

Recent escalation of violence

Prior unwanted physical contact

Does victim report threat of future harm

Caused serious injury to another in prior incident

Stalking behaviors. Provide specific details in narrative.

HAS FORCED PARTNER TO HAVE SEX

Previous attempt(s) of strangulation

Threatened abuse or allegation of abuse of animals

Victim perception of future risk: Low Medium High

Weapons

Access to weapons

Prior use of weapons to injure or threaten

Weapon moved

Type: _____

Seized

ATTEMPTED STRANGULATION

Breathing difficulty

Voice change

Swallowing changes

Behavioral changes

Loss of consciousness

Factor 2: Threat to Kill	Factor 3: Threats of Suicide	Factor 4: Separation	Factor 5: Coercive/Controlling Behavior
<input type="checkbox"/> Specific threats to kill victim	<input type="checkbox"/> Suspect suicidal. Number of attempts & date of most recent _____	<input type="checkbox"/> RECENT SEPARATION	<input type="checkbox"/> Threats and intimidation
<input type="checkbox"/> Specific threats to kill children or _____	<input type="checkbox"/> Depression or other mental illness	<input type="checkbox"/> Recent or imminent court action	<input type="checkbox"/> Destruction of property or pets
<input type="checkbox"/> Displaying weapon at time of threat	<input type="checkbox"/> Other stressors _____	<input type="checkbox"/> Loss of employment	<input type="checkbox"/> Monitoring by suspect (GPS, cell phone)
			<input type="checkbox"/> Isolating of victim
			<input type="checkbox"/> EXTREME POSSESSIVENESS

Factor 6: Prior Police Contact	
<input type="checkbox"/> Prior Civil Protection Order	<input type="checkbox"/> Violation
<input type="checkbox"/> Prior Criminal No Contact Order	<input type="checkbox"/> Violation
<input type="checkbox"/> Other prior police contact	

Factor 7: Alcohol or Drug Abuse by Suspect	
<input type="checkbox"/> Drug and/or alcohol abuse	
<input type="checkbox"/> Under the influence when current altercation started	
If so, what type and quantity: _____	

Information/Assistance and Community Referral	
<input type="checkbox"/> Provided domestic violence information per Idaho Code 39-6316	<input type="checkbox"/> Referrals (if necessary)
<input type="checkbox"/> Asked if accommodation needed	<input type="checkbox"/> Adult Protective Services
<input type="checkbox"/> DV Packet Other: _____	<input type="checkbox"/> Child Protective Services
	<input type="checkbox"/> Humane Society

Notified by: 911 Call Officer Initiated Non-Emergency Dispatch

Other _____

Officer completing form _____

Date _____ Time _____ **Submit**

The Domestic Violence Supplement does not take the place of a narrative. Domestic violence cases are complex. If there are additional observations or if a victim is unable or unwilling to respond to the questions, indicate such in the narrative. The seven risk factors are numbered and are in red (color copies) boxes or darker gray boxes. Some studies indicate that the italicized observations may be significant predictors of lethality. Form date: November 2012.

Risk Assessment: Custody and Visitation Implications

"[A] history of sexual assaults against the mother...[is] linked to increased risk of sexual abuse of the children and increased physical danger."

- Lundy Bancroft, "Assessment of Risk to Children from Visitation with a Batterer," UNDERSTANDING THE BATTERER IN CUSTODY AND VISITATION DISPUTES (1998).

Risk Assessment: Custody and Visitation Implications

"[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."

- Kathryn Ford, *Children's Exposure to Intimate Partner Sexual Assault*, 3 SEXUAL ASSAULT REPORT 15 (2007).

Recommendations

- Urge state lawmakers to repeal the remaining marital rape exemptions
- Write to media professionals who mistakenly use the language of consensual sex to describe sexual assault
 - A Nevada judge created a guide for the media re how to cover domestic violence cases

Recommendations

Victim Services Agencies:

- Increase cross-training opportunities between organizations that serve battered women and those that serve rape victims
- Ensure that domestic violence intake forms and risk assessment instruments include behaviorally-based questions about intimate partner sexual abuse
- Screen for trafficking
- Provide specialized support groups for victims of intimate partner rape

Recommendations

Batterer Intervention Programs:

- Insure that all staff and volunteers are educated about and trained to routinely explore this issue with batterers and partner groups
- Does your state certify batterer intervention programs?

Recommendations

Justice System Employees and Judges:

- Education programs for court personnel and judges who handle domestic violence cases should ensure that all are aware of:
 - The high incidence of intimate partner sexual abuse in the context of domestic violence;
 - the many forms intimate partner sexual abuse can take;
 - the implications for victim trauma;
 - the implications for risk assessment;
 - the services victims need;
 - the interventions necessary with offenders.

Recommendations

Justice System Employees and Judges:

- Ensure that court intake forms and risk assessment instruments used with domestic violence victims include behaviorally-based questions about IPISA
- Create a court environment in which victims perceive they will be respected if they disclose IPISA
- If a previously undisclosed IPISA allegation emerges in the courtroom when no jury is present, ask: Is there a reason you did not put this in your petition?
- Use behaviorally-based questions to ask domestic violence victims about IPISA

Recommendations

Justice System Employees and Judges:

In Criminal Cases:

- Allow a thorough voir dire to identify and excuse jurors who cannot deliberate fairly in a case involving marital rape or intimate partner sexual abuse.
- Admit expert testimony when needed
- Work with Department of Corrections and Probation and Parole to ensure that treatment programs in prison and in the community address the intersection of sexual abuse, physical violence and coercion and control

Web Course

*Intimate Partner Sexual Abuse:
Adjudicating This Hidden Dimension of
Domestic Violence Cases*

Available Free at

www.njep-ipsacourse.org

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