



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

A Free Web Course & Resource for Judges & Other Justice System Professionals

“This course is superb. Every judge, prosecutor, public defender, probation and parole officer, and police officer should take it. I highly recommend this course for all involved in the criminal justice system. Well done and thank you. I will be a better judge as a result.” - A California Judge

Sexual abuse is far more prevalent in cases involving other forms of intimate partner violence than is generally recognized.

Course Modules & Case Studies

Recent research with battered women reveals that intimate partner sexual abuse is a hidden but frequent aspect of family violence with significant implications for the courts, particularly with respect to risk assessment.

The term “intimate partner sexual abuse” encompasses a continuum of behaviors from verbal degradation relating to sexuality to felony-level sexual abuse and torture. Cases involving this type of abuse present complex challenges for the judiciary, beyond the overarching goal of protecting victims and their children while ensuring due process for the accused. Intimate partner sexual abuse is an important factor in risk assessment; in decision-making in civil, criminal, family, juvenile and probate cases; and in custody and visitation determinations. Thus, it is important for the justice system to have strategies that encourage victims to disclose such abuse and resources for effective offender dispositions and management.

Intimate Partner Sexual Abuse: Adjudicating This Hidden Dimension of Domestic Violence Cases provides current interdisciplinary research from law, medicine and the social sciences. Registrants for this course will learn about the implications for the courts of the

severe impact of intimate partner sexual abuse, how the law itself often undermines victim safety, how to create a court environment in which victims feel safe disclosing, cultural issues that affect disclosure, which risk assessment instruments include intimate partner sexual abuse as a factor, how to assess the capability of batterer intervention and sex offender treatment programs to address intimate partner sexual abuse and more.

The course was written with a focus on judges but the research and materials cited are useful for all justice system professionals. In addition to thirteen modules, the course consists of self-tests and answers, reflection questions, civil and criminal case studies, questions and commentary.

This online course was developed and written by the National Judicial Education Program, a project of Legal Momentum in cooperation with the National Association of Women Judges.

Instructional design and technology were provided by the Rozier E. Sanchez Judicial Education Center of the New Mexico Institute of Public Law at the University of New Mexico Law School. Funding was provided by the State Justice Institute and the Department of Justice Office on Violence Against Women.

- MODULE I:** Defining Intimate Partner Sexual Abuse & Assessing Its Prevalence
- MODULE II:** Victims & Offenders
- MODULE III:** Risk Assessment
- MODULE IV:** Statutory Constraints
- MODULE V:** Why Victims Don’t Report
- MODULE VI:** Institutional Responses
- MODULE VII:** Custody and Visitation When Intimate Partner Sexual Abuse is a Factor
- MODULE VIII:** Jury Selection
- MODULE IX:** Evidentiary Issues
- MODULE X:** Marital Privilege & Confidentiality of Victim Records
- MODULE XI:** Cultural Defenses & Cultural Evidence
- MODULE XII:** Orders of Protection, Pre-Trial Release & Dispositions
- MODULE XIII:** Recommendations for Improving Court Response to Intimate Partner Sexual Abuse
- Developing Issues:** Post-Crawford Prosecution & Adjudication of Intimate Partner Sexual Abuse Cases

Case Studies: Eight civil and criminal case studies that provide opportunities to apply the information explored in the modules.

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Course Modules & Case Studies

Module I: Defining Intimate Partner Sexual Abuse & Assessing Its Prevalence

Explores all aspects of intimate partner sexual abuse from forced sex acts to economic mechanisms of coercion. Presents the research on the surprising prevalence of sexual abuse in the context of domestic violence.

Module II: Victims & Offenders

Describes who the victims and offenders are, the profound impact of intimate partner sexual abuse on victims and the misconception that there is an offender profile. Also explores the typologies of marital rape and offenders' rationales for their abuse.

Module III: Risk Assessment

Research documents forced sex as a leading indicator of potential lethality. Domestic violence victims are most at risk of escalating physical violence, sexual assault, and murder when they try to leave. This module discusses risk assessment instruments that address intimate partner sexual abuse as well as the factors influencing separation sexual assault, the risk to the victim and the six types of potential lethality.

Module IV: Statutory Constraints

The origins of and rationales behind the marital rape exemption and the current statutory exemptions and restrictions that make it difficult to bring marital rape cases.

Module V: Why Victims Don't Report

This module addresses the numerous reasons victims do not report intimate partner sexual abuse including fear of the abuser, ignorance of the law and immigration concerns.

Module VI: Institutional Responses

From the clergy to the courts, this module discusses the various ways social institutions help or hinder victims from leaving relationships where intimate partner sexual abuse is a factor and suggests ways these institutions can improve their response.

Module VII: Custody and Visitation

The issues judges should consider when determining custody and visitation awards to intimate partner sexual abuse offenders including heightened risk to the children of sexual abuse and/or physical violence and the psychological impact on children of witnessing intimate partner sexual abuse.

Module VIII: Jury Selection

Ways to identify biased jurors through voir dire and the difficulties of seating a jury in intimate partner sexual abuse cases because of prevalence of sexual assault in society at large and the widespread myths and misconceptions about rape, particularly between intimate partners.



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Course Modules & Case Studies

Module IX: Evidentiary Issues

From rape shield laws to prior bad acts to the criteria and need for expert witnesses, this module discusses the evidentiary issues present in intimate partner sexual abuse cases.

Module X: Marital Privilege & Confidentiality of Victim Records

Determining the appropriateness of allowing spousal immunity in intimate partner sexual abuse cases and the importance of keeping victim counseling and medical records confidential.

Module XI: Cultural Defenses & Cultural Evidence

The balance between allowing evidence about a victim's or offender's cultural background as a defense or mitigating factor in intimate partner sexual abuse cases and the impact on ensuring justice and safety for the victim and the community.

Module XII: Orders of Protection, Pre-Trial Release & Dispositions

Explores the range of actions courts can take to ensure victim safety and offender rights in intimate partner sexual

abuse cases, including whether and how various batterer intervention and sex offender treatment programs address the intersection of sexual abuse and physical violence and judges' role in insuring that the programs to which offenders are sent address this issue effectively.

Module XIII: Recommendations for Improving Court Response to Intimate Partner Sexual Abuse

Provides numerous recommendations to improve access to justice and treatment for victims and offenders in intimate partner sexual cases, as well as suggestions for judges' involvement in coordinated community response within the code of judicial conduct.

Developing Issues

This section includes material on evidence-based, post Crawford prosecution and adjudication of intimate partner sexual abuse cases. New content about emerging issues in the law will be added to this section as they arise.

Case Studies

Four civil and four criminal case studies illustrate the issues that arise in intimate partner sexual abuse cases and provide an opportunity to apply the information explored in the twelve modules.



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Adapting this Online Course to Your Jurisdiction’s Law & Practice

This online course was designed to permit states and jurisdictions to add sections to each web page about their own law and practice.

To date, adaptations have been created for Minnesota and the Tribal Courts.

Minnesota

Developed by the Minnesota Coalition Against Sexual Assault

To access the *Minnesota Law and Practice* sections, enter “Minnesota” as your state of residence on the online course’s initial registration screen.

Tribal Courts

Developed by the American Indian Law Center of the University of New Mexico in consultation with the

Southwest Indian Legal Clinic of the University of New Mexico School of Law

To access the *Tribal Law and Practice* sections, enter “Tribal” in the field “Court Type” on the online course’s initial registration screen.

If you are interested in adapting the online course for your jurisdiction, contact NJEP Director, Lynn Hecht Schafran at:

lschafran@legalmomentum.org

This free online course and resource is available at:

www.njep-ipsacourse.org