

Evidence of Coercive Control: Proof of Extreme Cruelty in Immigration Cases and Power and Control Dynamics in Family Law Cases

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Workshop III, Session B

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Introductions

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Learning Objectives

By the end of this training, you will be better able to:

- Identify patterns of coercive control
- Screen for patterns of coercive control experienced by immigrant survivors
- Strengthen your immigration and family law cases by identifying patterns of coercive control to enhance safety

Brief Review of Dynamics of Domestic Violence

Let's Discuss...

What is domestic violence?

Domestic Violence Falls Into Two Categories

Legal Definition

- Attempt or actual physical or sexual violence

Behavioral Definition

- Includes emotional and verbal abuse

Domestic Violence Prevalence and Severity

- U.S. in general: **22.1%** (NIJ)
- Immigrant women: **30-50%**

Immigrant Survivors are More Vulnerable

- Research has found that immigrant victims
 - Stay longer
 - Have fewer resources
 - Sustain more severe physical and emotional consequences of abuse

Prevalence of Abuse and Control when Immigration Status is a Factor

- Abuse rates among immigrant women-lifetime as high as 49.8%
- Those married to citizens and lawful permanent residents – 50.8%
- U.S. citizen spouse/ former spouse abuse rate rises to 59.5%
- **Almost three times the national average**

Dynamics of Domestic Violence

Legal Definition:

One or more of the following acts between family or household members:

Attempting to cause or causing physical harm

Placing another in fear of imminent serious physical harm

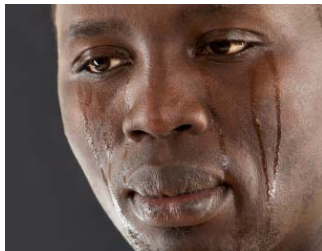
Causing another to engage involuntarily in sexual relations by force, threat, or duress

Dynamics of Domestic Violence

Physical



Emotional



Verbal



Behavioral Definition:

A pattern of abusive or coercive behavior that is used by one partner to gain or maintain power and control over an intimate partner

Coercive Control Is:

- Term developed to help us understand domestic abuse as more than a “fight” or one incident
- Pattern of behavior intended to control
- May or may not be interspersed with physical violence

What is Coercive Control?

- Strategies designed to retain privileges and establish domination in a partner's personal life based on:
 - Fear;
 - Dependence; and
 - Deprivation of basic rights and liberties

- **Term developed by Evan Stark Ph.D, MSW. Professor, Rutgers School of Public Affairs and Administration**

Coercive Control Strategies include:

- Intimidation
- Degradation/Emotional abuse
- Isolation
- Control
- May include assault (physical & sexual)

Coercive Control Examples

- Abuse in front of the children
- Sleep deprivation
- Religious persecution (forbidding or forcing religious observance)
- Restricting what spouse eats
- Cutting off access to medication
- Social isolation
- Threatening to take away the children
- Threatening physical violence
- Monitoring phone and internet use
- Showing up at victim's work/school
- Causing spouse's involuntary commitment to mental institution
- Threats of deportation
- Threats to commit suicide
- Displaying weapons

How do you screen for coercive control?

- You must ask questions...
 - Ask general questions
 - Ask behavioral specific questions
 - Ask about experiences

Coercive Control Scale

Understanding of IPV coercion incorporates an understanding of:

- 1) A demand or expectation;
- 2) A meaningful and negative consequence for noncompliance; and
- 3) Likelihood that the consequence will be delivered (willing, able, ready)

Why Identifying Coercive Control is Crucial

- Completes the picture and gives an understanding of the survivor's experiences and the degree of exposure to trauma
- Showing patterns of coercive control can be used to establish “battery or extreme cruelty” or “substantial harm” needed for immigration relief
- Determines the appropriate remedies needed in protection orders to sever the abuser's control

Small Group Activity

Identify coercive control behaviors experienced by immigrant survivors

Intimidation

Degradation

Isolation

Control

May include
assault (physical
and sexual)

Intimidation

- Threats of violence to partner or other close to partner – even to those in home country
- Violence/harassment of other close to partner
- Threats to call immigration on partner or to those close to partner
- Threats to children or pets
- Destruction of property
- Surveillance
- Demean, belittle, disparage

Screening for Intimidation

- Level of fear
- Threats to kill you, himself, or children
- How has her behavior changed because of fear?
- Stalking
- Threats to call immigration
- Invisible threats
- When are you most frightened by your partner?
- Recent changes
- Threats against others

Degradation/Emotional Abuse

- Generally targets areas of self-respect, self-esteem
- Targets traditional gender roles
- Demand subservience
 - Adhere to rigid sex roles and expectations
- Sexual degradation

Screening for Emotional Abuse

- Feelings of incompetence
- Name calling
- Restrict sleep
- Yelling screaming
- What does your partner do or say when you make a mistake?
- ...or/and when you refuse demands

Isolation

- Limited Access to:
 - Family and friends
 - Ability to call long distance
 - School, work, church (religion)
 - Transportation
 - Communication (English)
 - Assistance of helping professionals

Screen for Isolation

- Level of support
- Friends
- Family
- Workmates
- Helpers
- Phone
- Car
- Jealousy
- Self-isolation
- Privacy, allowed any personal possessions

Control

- What to cook
- When to eat
- When and where to sleep
- What to wear
- When to work and go to school
- When to petition for immigration
- Who to go out with and without
- When and with whom to have sex
- What to think

Control

- Threaten punishment for non-compliance
 - Financial
 - Social
 - Emotional or
 - Physical

Screening for Control

- Material necessities
- Identity documents
- Sexuality
- Time
- Movement
- Daily living activities
- Discipline of children
- Who makes important decisions or rules
- **Forced or forbidden religious observance**

Assaults

- Actual physical or sexual assault
- Once credible threat (injury/rape) established, no longer need violence to ensure compliance

Screen for Violence

- Types of violence
- Typical dynamic
- Frequency – 1st,
worst most recent
- Use of children
- Weapons
- Violence against
others

Case Study

You meet Raquel at your kid's soccer game. Raquel is married to Phillip. They met in the U.S. while Raquel was on a student visa, which has now expired. Raquel and Phillip have 6 children together. Phillip decided that, since Raquel is not able to work legally, her only focus should be raising the kids and maintaining the house. Anytime the kids misbehave, Phillip blames Raquel, calling her a "useless piece of s*&t" even in front of their children and others. She puts all of her energy into making sure the kids are well-behaved, almost as if she is afraid of Phillip. So you ask her, "Has Phillip ever hit you?" She replies "No." You think maybe she needs a friend. You call her and invite her to meet you for coffee. She tells you Phillip wouldn't like that; the coffee shop is too far; and Phillip would notice the extra miles on the car and the charge for coffee on the bank card. She also embarrassingly asks if you wouldn't mind mentioning to Phillip at the next game that you called her phone, because he doesn't like to see new numbers in her phone.

Role Play Activity

- As a victim service provider, what questions would you ask Raquel?

Immigration-Related Abuse

- Refusal to file immigration papers on spouse/child/parent's behalf
- Threats or withdrawal of survivor's immigration case
- Forcing a victim to work with false documents
- Calls to Department of Homeland Security to have:
 - The victim deported
 - Deny victim's immigration case



Coercive Control Over Immigration Status

- Among abusive spouses who could have filed legal immigration papers for victims:
 - 72.3% never file immigration papers
 - The 27.7% who did file had a mean delay of **3.97 years**

Effects of Immigration Related Abuse

- Keeps survivors from...
 - Calling police
 - Cooperating in prosecutions
 - Seeking protection orders
- 65% of immigrant victims report some form of immigration related abuse (NIJ)
- Keeps survivor in abusive relationships

Immigration-Related Abuse & Lethality

- 10 times higher in relationships with physical/sexual abuse as opposed to psychological abuse
- Lethality factor can predict abuse escalation
- Corroborates existence of physical and sexual abuse

VAWA, T and U-visa Immigration Provisions Needed To --

- Sever abuser/perpetrator control over
 - Immigration status
 - Criminal justice system intervention
 - Victim and children
 - Locking victims in abusive family relationships
 - Keeping victims from leaving abusive employers
 - Stopping victims from seeking help
- Provide victims access to services, help, healing, safety, and economic security

Under Immigration Law Victims of “Battering *or Extreme Cruelty*” Have Access to Immigration Relief

- Emotional abuse
- Economic abuse
- Using children
- Deportation threats and immigration related abuse
- ***Intimidation**
- ***Social isolation**
- ***Degradation**
- Possessiveness
- Harming pets
- ***Coercive control**

DHS Adjudications Examine Patterns of Coercive Control

- Setting the stage
 - Creating and exploiting existing vulnerabilities
 - Wearing down resistance
 - Facilitating attachment
- Coercive demand
- Credible threat
- Surveillance
- Delivery of consequences

VAWA Self-Petitioning Rule Preamble:

“The acts mentioned in this definition—rape, molestation, incest, if the victim is a minor, and forced prostitution— will be regarded as acts of violence whenever they occur. **Many other abusive actions may also be qualifying acts of violence under this rule. Acts that in and of themselves do not initially appear violent, may be a part of an overall pattern of violence...**”

VAWA Self-Petitioning Rule Preamble:

“It is not possible to cite all perpetrations that could be acts of violence under certain circumstances. The Service does not wish to mislead a potentially qualified self-petitioner by establishing a partial list that may be subject to misinterpretation. This rule, therefore, does not itemize abusive acts other than those few particularly egregious examples mentioned in the definition of the phrase ‘was battered or was subject to extreme cruelty.’ ”

VAWA Self-Petitioning Rule:

For the purpose of this chapter, the phrase "was battered by or was the subject of extreme cruelty" includes, but is not limited to, **being the victim of any act or threatened act of violence**, including any forceful detention, which results or threatens to result in physical or mental injury. Psychological or sexual abuse or exploitation, including rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered acts of violence.

DHS VAWA Self-Petitioning Regulations

- “No limit on the time that may have elapsed since the last incident of qualifying abuse”
- Adopts same definition for “battery or extreme cruelty” as the 1990 battered spouse waiver
- “Proven flexible and sufficiently broad to encompass all types of domestic battery or extreme cruelty”

DHS: No Requirement of Any Specific Quantity of Harm or Abusive Incidents

- Like civil protection orders
- One incident sufficient
- Eligibility can be established on pattern
- Avoids seeking details about every incident
- Provides avenue to relief while reducing re-traumatizing victim
 - INS Paul Virtue, Extreme Hardship and Documentary Requirements Involving Battered Spouses and Children
HQ 90/15-P, HQ 70/8-P

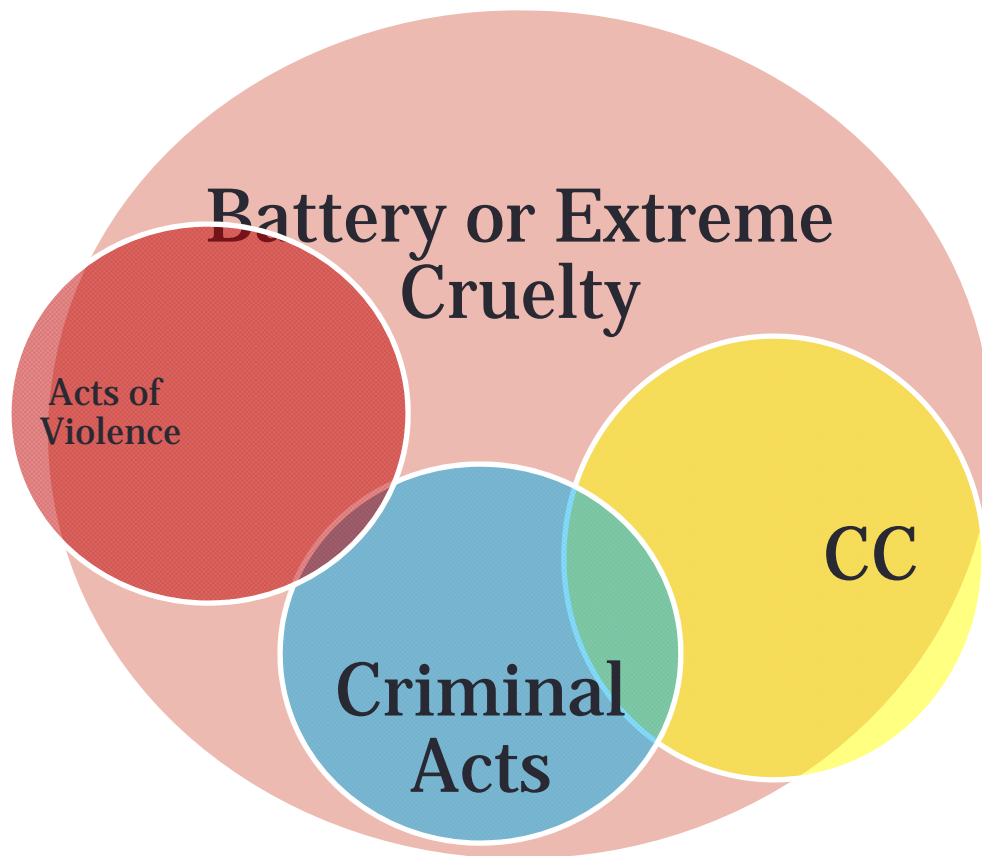
***Definition of “Battered OR
Subjected to
Extreme Cruelty”***

“Battering or Extreme Cruelty” Includes:

- Crimes that would support issuance of a protection order or would be considered domestic violence crimes by state courts to constitute “battery”
 - National Council of Juvenile and Family Court Judges Model Domestic Violence Code (1994)
 - ABA Commission on Domestic Violence State-by-State Protection Order Chart

In Other Words, Coercive Control is:

- A term developed to help us understand domestic abuse as more than a “fight” or one incident
- A pattern of behavior that seeks to take away a victim’s liberty or freedom and to strip away their sense of self
- More than a violation of bodily integrity, but also their human rights



State Family Law Findings on Extreme Cruelty

- The following factors constitute or contribute to findings of “extreme cruelty”
 - Using children as a tool
 - Prevent spouse from obtaining medical treatment
 - Accusations of adultery
 - Stealing spouse’s property or money
 - Harassment
 - Domination
 - Physical and verbal intimidation
 - Alienating parent from child
 - Hiding or destroying personal sentimental items
 - Excessive public fighting and cursing

Severing the Control: Creative Protection Order Remedies

- Catch all provisions in protection order statues opportunity to offer relief designed to help:
 - Curb future abuse, harassment
 - Interfere with abuser/perpetrator's ability to exert power and/or coercive control
 - Offer victim remedy-relief for past abuse
 - Help survivor overcome victimization and build new post abuse life
- Nexus with victimization
- Opportunity for courts to counter coercive control, immigration related abuse, and order culturally helpful remedies

Group Activity

Stopping Coercive Control with Creative Protection Order Remedies

Draft a protection order provision to address
the control issues experienced by Raquel

Next Steps for Documenting and Identifying Coercive Control

- Document and screen for coercion, control, and physical or sexual violence, if any
- Explore multiple sources of abuse
 - DO NOT simply ask, “ Have you been abused?”
 - Or stop asking questions when a person says no to a question of whether they have ever been pushed, shoved, etc.

Considerations for Documenting Coercive Control

- Consider: how these behaviors, perceived by Raquel, how do they make her feel, and how do they affect her?
- How are her children doing in school?
- Consider the mental and physical health of Raquel

Victim Protection Goals of VAWA Only Fulfilled When

- Judges fully understand and are able to recognize dynamics and patterns of abuse
- Judges take the same care as the VAWA Unit and protection order judges in making findings regarding battering or extreme cruelty
- Be able to identify legitimate battering or extreme cruelty or substantial harm
- Adjudicators can separate such cases from fraudulent claims without endangering victims with valid cases

Technical Assistance and Materials

- Power Point presentations and materials for this conference at www.niwap.org/go/NOLA2015
- **NIWAP Technical Assistance:**
 - Call (202) 274-4457
 - E-mail niwap@wcl.american.edu
- Web Library: www.niwaplibrary.wcl.american.edu

Questions



Evaluations



Thank you!

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