

# Family Law Education Reform Project

## William Mitchell DV Victim Counseling - Teacher's Manual

### OVERVIEW

This exercise is designed to help students:

1. understand the interests and needs of a client who is a victim of domestic violence;
2. identify and analyze the client's legal and "non-legal" options in light of the client's interests; and
3. develop an awareness of community services and referrals and consider how attorneys interact with professionals from other disciplines.

### EXPLANATION AND COMMENTS

In this exercise students prepare for and conduct a simulated client counseling session with a victim of domestic violence. You should allow at least twenty minutes for each counseling session and ten minutes for debriefing. If you run the exercise twice, each student will have the opportunity to play the role of the attorney and the role of the client. (This will take approximately one hour.)

### ABOUT THE AUTHOR

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Dean Ver Steegh's work has focused on seeking justice for powerless and vulnerable members of society. She has a wealth of experience in law reform litigation, legislative advocacy, mediation, and community organization.

She is a national expert in family law and domestic violence, has been a member of William Mitchell's full-time faculty since 2002 and was an adjunct instructor from 1998 to 2002. Ver Steegh was instrumental in launching William Mitchell's Center for Negotiation and Justice in 2007. She earned a Master's in social work and her J.D. at Washington University in St. Louis.

## **Teacher's Manual Counseling a Victim of Domestic Violence**

### Curricular Objectives

This exercise is designed to help students:

4. understand the interests and needs of a client who is a victim of domestic violence;
5. identify and analyze the client's legal and "non-legal" options in light of the client's interests;
6. develop an awareness of community services and referrals and consider how attorneys interact with professionals from other disciplines.

### Overview of the Exercise

In this exercise students prepare for and conduct a simulated client counseling session with a victim of domestic violence. You should allow at least twenty minutes for each counseling session and ten minutes for debriefing. If you run the exercise twice, each student will have the opportunity to play the role of the attorney and the role of the client. (This will take approximately one hour.)

### Integration With Course and Substantive Law

This exercise most logically follows substantive coverage of the topic of domestic violence. Students should be familiar with some of the dynamics of abusive relationships and have some familiarity with civil domestic violence acts and typical community resources.

### What Students Must Do

Students will prepare for and conduct a simulated client counseling session with a victim of domestic violence. Students are provided with a fact scenario, sample provisions from a civil domestic abuse act, and information on safety planning. You may wish to substitute provisions from your state domestic abuse act for those provided.

The client counseling session should include discussion of the client's goals; identification of the client's legal options including the pros and cons of each; development of a safety plan; and referral to appropriate community services.

### Evaluation Criteria

Students playing the role of the attorney should seek feedback from the student playing the role of the client. The student playing the attorney role should then reflect upon his or her performance based on the following criteria.

- Did the student listen effectively in order to fully understand the client's goals?
- Did the student clearly communicate the client's legal options and facilitate discussion of the pros and cons of each option?
- Did the student help the client to formulate a safety plan?
- Did the student make appropriate referrals to community resources?
- Did the student empower the client to make informed decisions?

### Optional Confidential Facts

The basic fact scenario *may* be altered by providing "secret" facts to students playing the role of the client.

#### Confidential Client Facts A

When interviewed by the paralegal, you did not disclose the following facts.

*"Roger keeps a rifle in the house ostensibly for hunting. Last week he was cleaning it and he pointed it at me and squeezed the trigger. He told me that the next time it would be loaded."*

You strongly believe that Roger will harm you or the children if you seek a protective order.

#### Confidential Client Facts B

When interviewed by the paralegal, you did not disclose the following facts.

*"Roger drinks heavily. Last weekend he got drunk and forced me to have sex with him."*

You are humiliated and embarrassed about this and you will not allow it to be disclosed in court.

### Teaching Notes for Professors

*Context and Pattern of Violence.* One of the objectives of this exercise is to help students understand the need to counsel clients in light of their individual circumstances and goals. Each domestic violence situation should be considered in context because the same violent act may be interpreted quite differently depending on the relationship history of the parties. In the hypothetical facts used in this exercise, Roger has a pattern of exerting coercive control over Alice. In addition to the physically violent act of pulling her down the stairs and locking her in a storage

room overnight, he controls the couple's money and limits Alice's ability to leave the house or use the phone. Even though Alice has not initially related a history of repeated violent acts, Roger exerts control over almost every aspect of her life. Within this context, if Alice decides to leave the relationship; she is likely to be in substantial danger.

*Relief Under State Domestic Abuse Act.* Every state has a civil domestic abuse act allowing qualifying victims to apply for a protective order. Domestic abuse acts typically define who is covered by the act and provide a legal definition of domestic violence. The definitions generally focus on violent acts or fear of violent acts. In the hypothetical facts presented in this exercise, Alice initially relates one violent act that occurred two years earlier – is this act too remote in time for the purpose of obtaining a protective order? If a judge views the situation in context and is made aware of the overall pattern of coercive control, it becomes apparent that Roger has successfully controlled Alice through other tactics without additional use of violence. Viewed in this light it is clear that Alice has good reason to be fearful. However, a strict reading of a state definition of domestic violence focusing only on violent acts, could lead a judge to deny an application for a protective order in this case. Students should also consider what evidence might be available to prove Alice's allegations. Have the police ever been called? Has she ever been injured and sought medical care? Have there been witnesses to Roger's behavior?

Typical relief provided under state domestic abuse acts includes no contact orders, exclusive possession of the home, temporary child custody, etc. The relief may be sought on an ex parte basis or after giving notice. If Alice decides to leave Roger, such relief could be quite helpful to her. However, application for a protective order should not be automatic because there are also risks potentially associated with them. For example, Alice points out in her statement that Roger will react hostilely if she seeks an order and "who knows what he might do then?" If she is successful in obtaining a protective order granting her temporary exclusive possession of the home, will she be safe there? She lives in the country, without a phone or close neighbor. What if Roger violates the protective order?

*Safety Planning.* Students should work with Alice to problem-solve in light of her particular needs and interests. Is there somewhere else she could stay? Is there a local domestic violence shelter? What other community resources might be available? Students are provided with safety planning information so that they will have some idea of topics that should be discussed.

*Active Listening.* Active listening involves more than just listening for what is said, it involves listening at a deeper level. The active listener focuses his or her attention completely on the client and listens for emotional content and meaning while also watching for nonverbal cues. The listener indicates that he or she is listening through body language, facial expressions, eye contact, verbal acknowledgement, and by summarizing and repeating back what the client communicated. When done well, the client experiences a deep sense of satisfaction at being heard completely and the experience heightens the client's trust level and encourages him or her to be more forthcoming.