

Acknowledging the Power: The Interdisciplinary Collaboration of Attorneys and Social Workers and Advocates in Domestic Violence Cases

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Presented by:

- Claire T. McCue, Social Worker
- Alicia T. Simpson, Family Law Attorney

Who We Are

Alicia T. Simpson is a Senior Staff Attorney in the Family Law Unit at Staten Island Legal Services (SILS). For the last 5 years she has been representing survivors of domestic violence in custody, visitation, family offense, child support, and divorce matters. Alicia developed outreach projects to provide legal services to the lesbian, gay, bisexual, transgender and queer (LGBTQ) community and young adults on Staten Island. Prior to joining SILS, Alicia practiced employment-based immigration and asylum law at a private law firm. She has filed numerous briefs with the Board of Immigration Appeals and argued before the Court of Appeals for the Second Circuit. Alicia received her J.D. from Temple University Beasley School of Law in 2001.

Claire T. McCue is a social worker with 16 years of experience. Claire graduated from New York University's Silver School of Social Work where she received the Award of Distinction for clinical social work. She is chair of the Staten Island Partnership for Community Wellness – Domestic Violence Committee. She teaches at Wagner College in their Departments of Sociology and Psychology.

How to Contact Us

www.statenislandlegalservices.org

Alicia: asimpson@silsnyc.org

Claire: cmccue@silsnyc.org

Overview of the Differences in Orientation and Outlook between Attorneys and Social Workers

- **Law**
 - Adversarial process: Litigation
 - Zealous Advocacy
 - Protect Legal Rights
 - Protection of Individual Rights
 - Address Legal Problem
 - Analytic
 - Focus on Legal Process and Outcome
 - Value Professional Autonomy

- **Social Work**
 - Cooperative Process: Problem Solving
 - Safeguard Best Interest
 - Enhance Client Well-being
 - Consideration of Third Parties and Community
 - Synthetic
 - Focus on Process
 - Value Professional Collaboration

Challenges and Tensions of Social Work Practice in Legal Settings

- Training
- Language
- Style
- Perspective/ World View
- Ethics

Developed by Nanette Schrandt, LCSW, Director of Juvenile Services of Legal Aid Society, New York City

Training

- **Attorney**
 - Focuses on statute, case law, procedure and strategy
 - Evaluates and addresses presenting legal problem
 - Develops analytic skills
 - Classroom based
 - Research oriented

- **Social Worker**
 - Focuses on human interactions and systems theory
 - Evaluates and addresses underlying issues and non verbal cues
 - Develops ability to synthesize information
 - Field work based
 - Experiential and reflective

Language

- **Attorney**
 - Factual and exact
 - Concise
 - Clear cut
 - Argues a specific position
 - Uses legal and procedural terms
 - Dispassionate
- **Social Worker**
 - Descriptive and intuitive
 - Diffuse and comprehensive
 - Ambiguous
 - Presents various explanations
 - Uses diagnostic and psychosocial terms
 - Impressionistic

Style

- **Attorney**
 - Confrontational
 - Adversarial
 - Relies on individual autonomy
 - Outcome Focused – win or lose
 - Defines goal narrowly
 - Uses legal system to resolve problem
- **Social Worker**
 - Collaborative
 - Supportive/ consensus building
 - Relies on shared decision making
 - Process focused
 - Defines goal diffusely
 - Uses professional relationship to effect change in client and/ or environment

Perspective or World View

- **Attorney**
 - Advocacy
 - Partisan
 - Protection of the rights of individuals or class of clients
- **Social Worker**
 - Best interests
 - Impartial
 - Consideration of 3rd parties and larger community – broader context

Ethics

- **Attorney**
 - Client-determined decision making
 - Individual client
 - Confidentiality: Disclosure permitted, but not required, only in very limited situations.
 - To prevent the client from committing a crime
 - To prevent substantial bodily harm or death
- **Social Worker**
 - Assessment driven decision making
 - Individual and society
 - Confidentiality: Disclosure required by law in the following situations:
 - Communication of harmful act
 - Client is under 16 and victim of crime
 - Suspicion of child abuse or neglect
 - Pursuant to subpoena

Important Things to Know about Client Privilege

- All communications between the client and his/her attorney are confidential and cannot be disclosed without the client's permission.
- The privilege may be waived if the confidential communications are disclosed in the presence of third parties.

History of Interdisciplinary Collaboration at SILS

- SILS uses the “employee model” which means that the social worker is an employee of a law office and therefore is subject to the attorney client privilege.
- “Hand in Hand” style of advocacy, attorney and social worker were together at the same place and time working with the client, was used in the beginning of the collaboration, but we did not have enough social work resources to allow this style of collaboration on every case.
- Currently, “Side by Side” style of advocacy, attorney and social worker work separately on issues involving the same client, is being used.
- In acute crisis situations, our office utilizes the “Hand in Hand” style of advocacy.

The Assessment Tool and Important Components

- Presenting Legal and Social Work Problem, Requested Services
- History of Abuse
- Consequences of Intimate Partner Violence
- Additional Psychological Stressors and Events
- Lethality Assessment
- Client’s Coping Mechanisms
- Current Mental Status, Clinical Impressions
- Recommended Services

Benefits of Interdisciplinary Collaboration

Legal – Social Work Teaming

- More effective interviewing and information gathering
- Improved counseling and more informed decision-making by the client
- Multiple perspectives on issues
- Greater potential for client compliance and follow through
- More efficient and productive use of professional resources
- More nuanced client interactions and lawyering
- Increased likelihood of achieving a successful client outcome
- Enhanced client well-being and satisfaction

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Benefits from the Social Worker and Advocate Perspective

- More direct access to “authority”
- Additional “clout” in securing outcomes for clients
- Ability to cut through “red tape” to achieve benefits for clients
- Opportunity to “fine tune” clinical skills
- Recognition and validation of social work assessments and recommendations

Case Illustration

Nancy came to the law office tearful and feeling overwhelmed. She has lived with her boyfriend, Jim, for 8 years. Jim became physically abusive after losing his job two years ago. Following the job loss, Jim began to withdraw from family and friends. He spent time thinking of ways to get back at his boss for firing him. He believes there was a conspiracy against him. He would often talk and act in bizarre ways. This behavior scared Nancy. She got a job to help financially support the household. She doesn't want to stay in this relationship, but is scared to leave because Jim threatens to kill her and himself if she leaves.

Nancy met with the attorney and seemed to be in a state of shock. She cried during her appointment and shared that Jim had been extremely violent with her physically, but said that the psychological barrages were the most debilitating. She talked haltingly about the abuse, but seemed to be relieved to be discussing it. It was hard for her to remember dates and details. She was informed of her legal options and decided that she wanted to get an order of protection. The judge issued her a temporary order of protection which excluded Jim from the house. The police served Jim the summons and temporary order of protection. The police excluded Jim from the home, but later that night Jim returned and sat in his car watching the house. Nancy called the police, but Jim left the scene before they arrived.

Questions for Discussion

- What are the social work issues that are involved in this scenario?
- What strategies would an advocate use to enhance Nancy's safety?
- How will these social work remedies impact the legal case (positively or negatively)?

2010 New York State Domestic Violence and Related Laws

See handout developed by the New York State Office for the Prevention of Domestic Violence.

Legal Advice versus Legal Information

Legal advice can only be provided by a licensed attorney. Legal information, on the other hand, can be given by anyone who is knowledgeable on the law.

What is Legal Advice?

Legal advice is a written or oral statement that:

- Interprets some aspect of the law, court rules, or court procedures;
- Applies the law to the individual person's specific factual circumstances; and
- Recommends a specific course of action a person should take in a legal proceeding based on their circumstances.

What is Legal Information?

- It is simply a statement of what the law is, without any application to the person's particular situation;
- General explanation of how the court and judges function.

Social Workers and Advocates may NOT:

- Recommend what to file.
- Recommend what to include when filing.
- Recommend specific people against whom to file.
- Recommend specific claims or arguments to make in court.
- Recommend what type of order to seek or other remedies to request.

Recommended Reading

- National Association of Social Workers (NASW) Publication on "Legal and Ethical Issues in Social Worker – Lawyer Collaboration" on website, www.socialworkers.org.
- "Building Bridges, Building Walls: Collaboration Between Lawyers and Social Workers in a Domestic Violence Clinic and Issues of Client Confidentiality" written by Jacqueline St. Joan in 2001.