

WORKING AND PARTNERING WITH CIVIL LEGAL AID

3rd National Domestic Violence Prosecution Conference

Denver, Colorado

May 15, 2019

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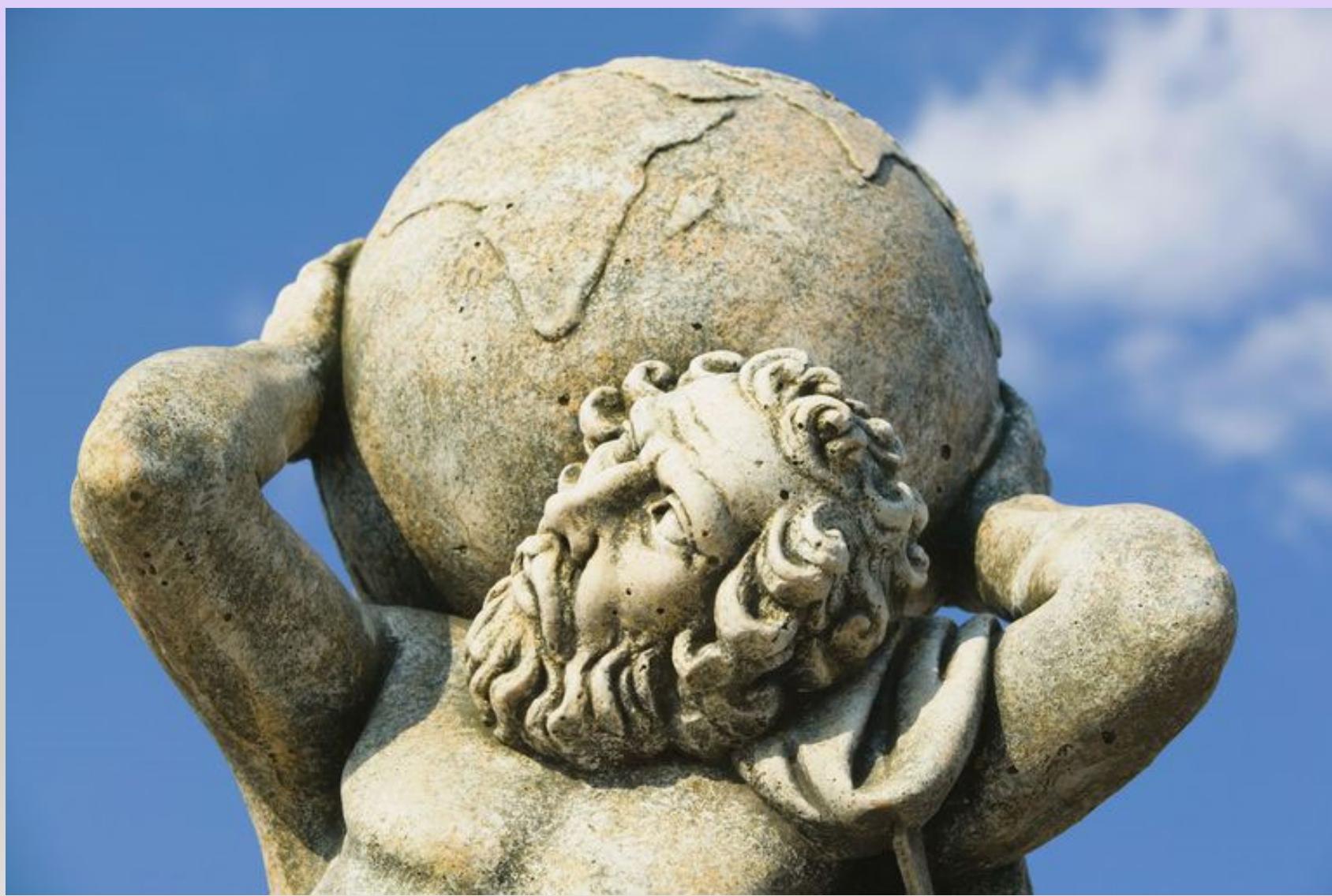


ASSOCIATION *of*
PROSECUTING ATTORNEYS



DV PROSECUTION





THE BIGGER UNIVERSE



WHAT MAKES THE AVENGERS SUCCESSFUL?



THE BIGGER UNIVERSE

Put Aside

The Way It
Has Always
Been Done

Egos

Challenges
with
Coordinating

THE BIGGER UNIVERSE

Focus On



- Teamwork
- Strategies
- Strengths
- Tools
- Coordination

THE WHY

- For the better of their universe
- It is the only way to succeed



OUR WHY

“So I stayed. I went home with my children, as many, many women do, because I couldn’t figure out how to legally get us out.”



- Eden Strong,
“I Went Back to Him, to the Home
I Feared I Might Die In”

Civil Legal Aid Can Buffer Against Witness Tampering Involving Children

by Amy Bonomi & David Martin*

As recognized by the U.S. Supreme Court, witness tampering is a significant problem in domestic violence cases, with abusers often pressuring their victims to recant to lessen criminal charges (*Davis v. Washington*, 547 U.S. 813 (2006)). In 2011, we published the first analysis of jail phone calls that occur between domestic abusers and their victims, outlining a five-stage model describing how abusers pressure their victims to change their stories and prepare to recant in court.¹

Abusers typically begin the jail calls by minimizing their abuse and resisting the victim's account of what happened (stage 1), along with using sympathy appeals to position themselves as the "victim" and to manipulate the victim's emotions (stage 2). As the jail calls progress, couples reminisce about earlier happier times in their relationship, dream of a better life together (e.g., getting married, having children), and position themselves against others who do not understand them and/or their relationship (e.g., family, friends, the prosecutor, the domestic violence advocate) (stage 3). Then, abusers typically made a direct request for the victim to recant (stage 4), followed by the couple working together to reconstruct the abuse narrative to preserve the abuser's "innocence," blaming the state/judge/prosecutor for detaining the abuser, and giving each other specific instructions of what to say in court.

Triangulation of Children

In 2017, we published a follow-up essay to our original jail call analysis to

outline a critical extension of witness tampering in domestic abuse cases: namely, how abusers manipulate their intimate partners by triangulating their children.² In this triangulation process,³ the abuser might talk with the victim's children, via calls made from jail, to instruct them to say or do specific things to the victim. Or, the abuser might conjure specific images when talking directly with the victim that cause her to question her relationships with her children and with the abuser. These strategies are an additional manipulation to lessen the victim's agency, harm her self-identity and confidence (including notions she may have of being a good mother and provider for her children and family), and force her to question her ability to stand on her own (without the abuser).

To illustrate how triangulation works, in a recent case prosecuted in Washington State, an abuser came home late, and he and his wife began arguing because she was taking care of their infant and suspected that he was cheating (he was). When the victim attempted to breastfeed their newborn child, the abuser beat and strangled the victim until she almost lost consciousness. The victim's teenage daughter overheard the struggle and called 911. The abuser was arrested at the scene. In numerous calls the abuser made to the victim, he demanded that the victim say whatever was needed to get him out of jail as he was their sole source of income and needed to provide for their child. The abuser admitted and apologized for past abuse, and encouraged friends and family to bring the victim money to take care of the baby but "not too

tool. I'm not gonna be pullin' her back and forth in between us what we got goin' on. That's not right ... Me and you need to work on what we got goin' on because we're married, 'cause I got bills to pay. I gotta take care of my family. I'm not gonna sit there and watch my daughter not get what she wants or not get what we need.... We got a newborn kid and I gotta take care of my baby. These motherfuckers are gonna have to kill me 'cause they're not takin' care of her. The only thing they want to do is tell you what to do with your family, but they don't want to give you any money to do it.... I love you and I'll see you (in court) tomorrow. You gotta be here with the baby."

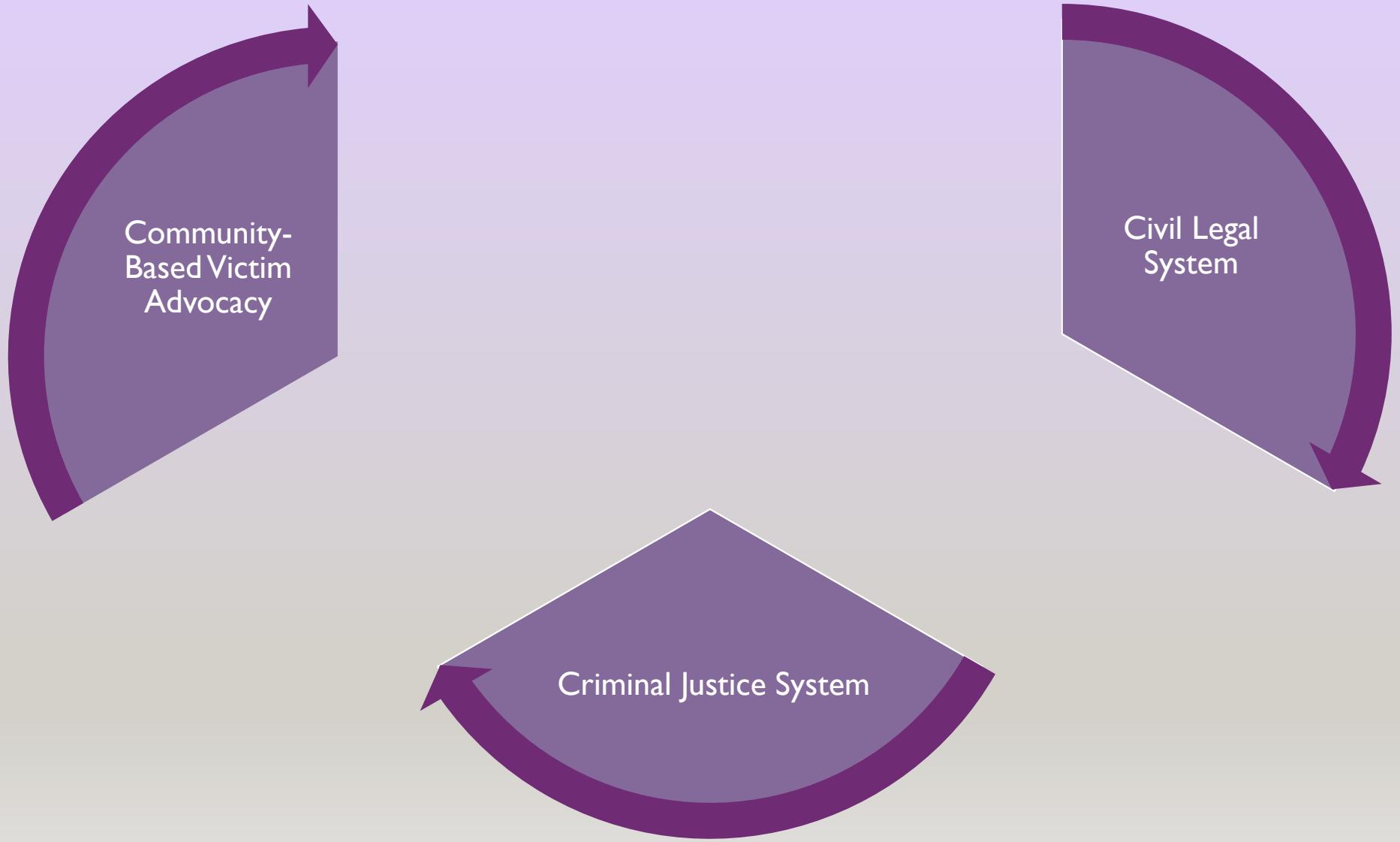
Victim: "I love you with all my heart, but I can't do this shit. I love you. I do. I love you, but you have to be a better person ..."

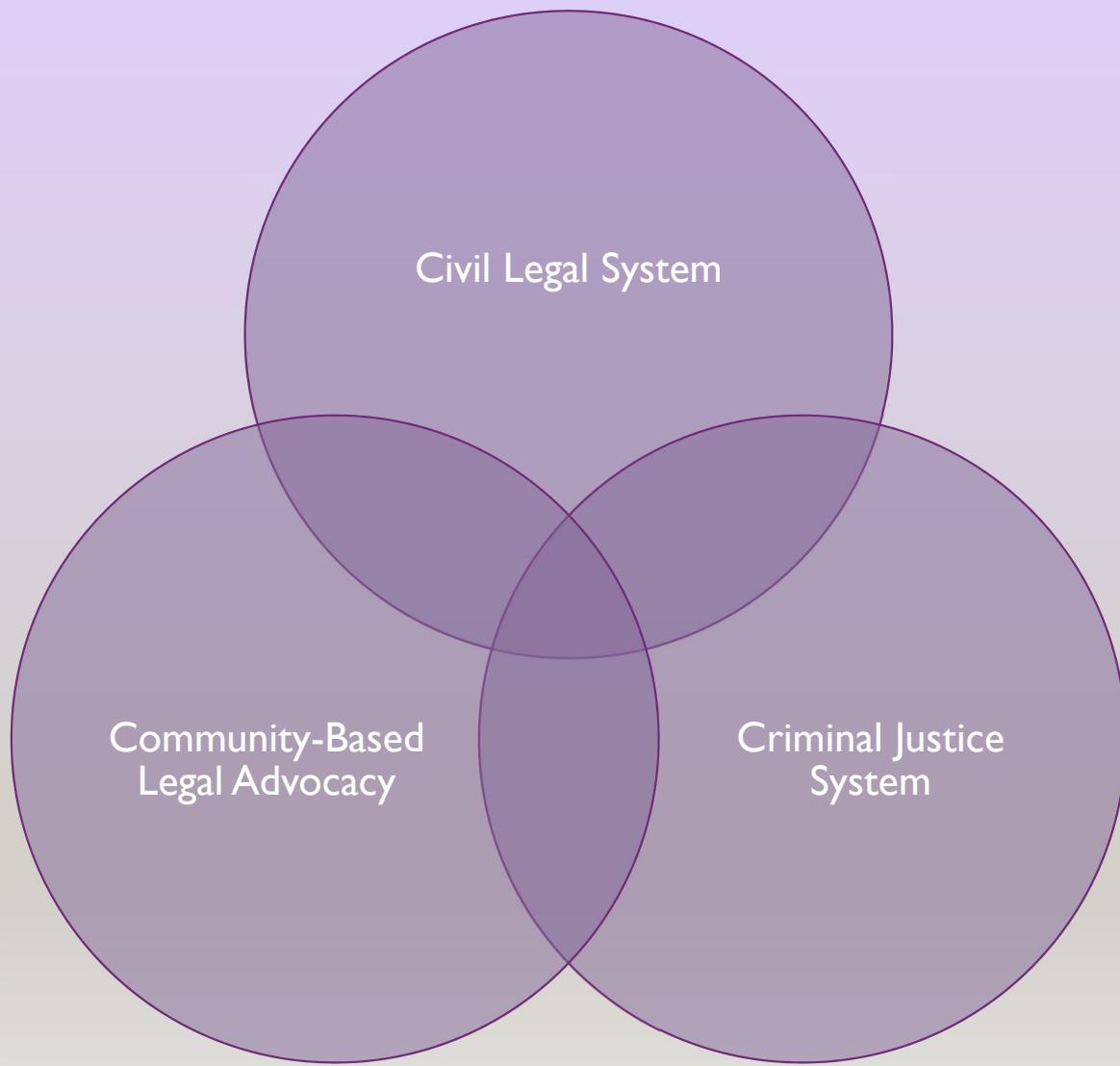
At trial, the victim recanted and stated she did not remember what happened during the abuse event. Claiming to have lost memory is a strategy common within recanting victims and one we described in our original jail call study.

In a similar case prosecuted in Washington State, an abuser came home intoxicated and suffocated his girlfriend while she slept in bed with her infant because he suspected she (an exotic dancer) was sleeping with her customers (she was not). During multiple jail calls, when the victim suggested that the abuser's behavior toward her was problematic, especially in front of their infant ("For you to treat me the way you do in front of [the infant], that's wrong"), the abuser

*Amy Bonomi is Professor and Chair of the Human

- These two cases illustrate abusers' triangulation of their children to lessen the victim's agency, harm her self-identity and confidence (including notions she may have of being a good mother and provider for her children and family), and force her to question her ability to stand on her own (without the abuser).





OUR SHARED VALUES

Victim Safety

Offender
Accountability

HALLMARKS OF CIVIL LEGAL AID

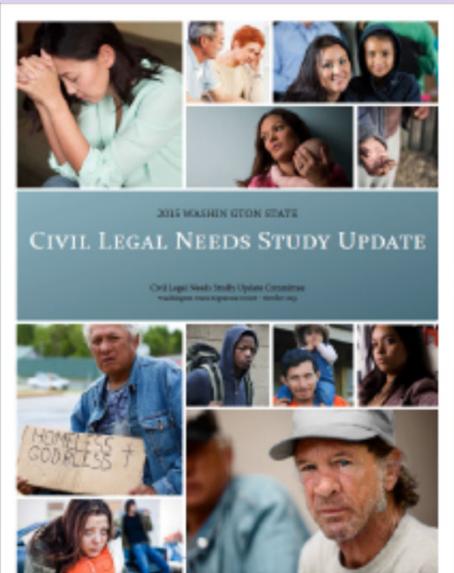
- Inherent Right to Justice
- Duty to Identify and Serve the Most Vulnerable.
- Duty to Identify and Eliminate Barriers
- Building Relationships and Partnerships

HALLMARKS OF PROSECUTION

“A prosecutor has the responsibility of a minister of justice and not simply that of an advocate.”

-WA RPC 3.8 Comment

JUSTICE GAP



Few have access to a legal aid attorney. More than 70% of Washington's low income households experience at least one civil legal problem each year.

- Average number of legal problems per household was 9.3
- Average number of legal problems for a DV/SA survivor was 19.7





WHAT VICTIMS NEED



SO HOW DO WE GET THERE?

Coordinated Community Response

COORDINATED COMMUNITY RESPONSE

Benefits

Better prevention strategies

More communication + stronger partnerships = the ability to create better services

Coordination among agencies AND court systems = a better, quicker responses to victims and less manipulation by batterers

Laws and policies are less effective in isolation

Better understanding of the experiences of victims

More contact with victims throughout the community > increased outreach and access to services > increased options for victims

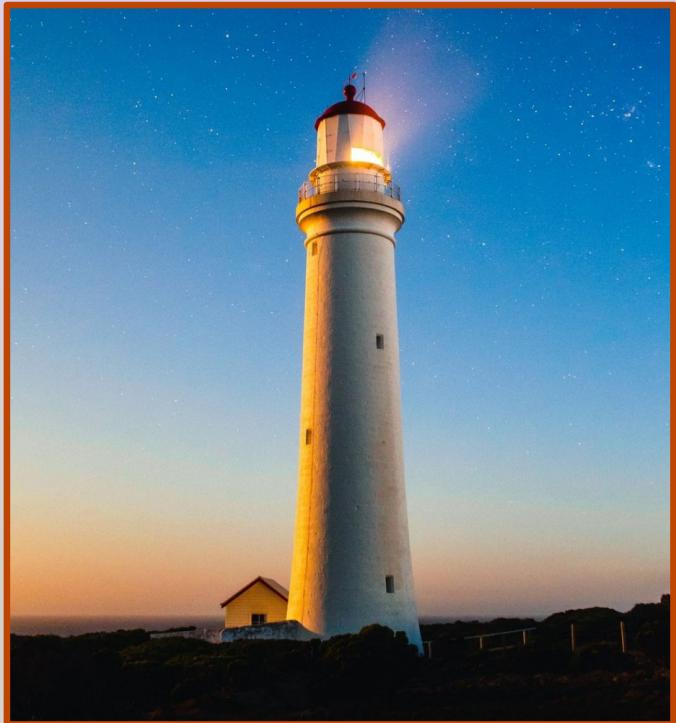
Better, more comprehensive training for all involved

COORDINATED COMMUNITY RESPONSE

Expand our view to include our civil legal aid and legal advocacy partners

PROJECT SAFETY: A COLLABORATIVE SERVICE MODEL FOR SERVING VICTIMS OF CRIME

WHAT IS PROJECT SAFETY?



Project Safety is an innovative, collaborative approach to address the civil legal needs of crime victims in King County, Washington.

Our program prioritizes marginalized communities, people of color, survivors of gender-based violence, low-income households, LGBTQ, and immigrants.

Project Safety provides critical and time-sensitive legal assistance, empowers survivors, and prevents further victimization to help achieve stability.

PROJECT SAFETY GOAL

To provide crime victims in King County, WA legal assistance to resolve civil legal issues that arise as a result of victimization. With this legal assistance, which ranges from brief legal advice to full representation in court, we hope to help victims stabilize their lives and prevent further victimization.

MISSION STATEMENT

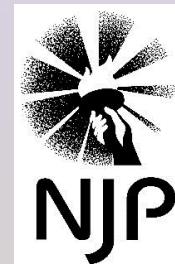
Project Safety is an innovative, collaborative approach to address the civil legal needs of crime victims in King County, Washington. The Project prioritizes historically marginalized communities, including people of color, survivors of gender-based violence, low income households, LGBTQ, and immigrants. Project Safety provides critical and time-sensitive legal assistance, empowers survivors, and prevents further victimization to help achieve stability.

WHO IS PROJECT SAFETY?

Project Safety is a collaboration between five different agencies dedicated to empowering survivors, and ending the cycle of victimization through advocacy, legal aid, and community collaboration.



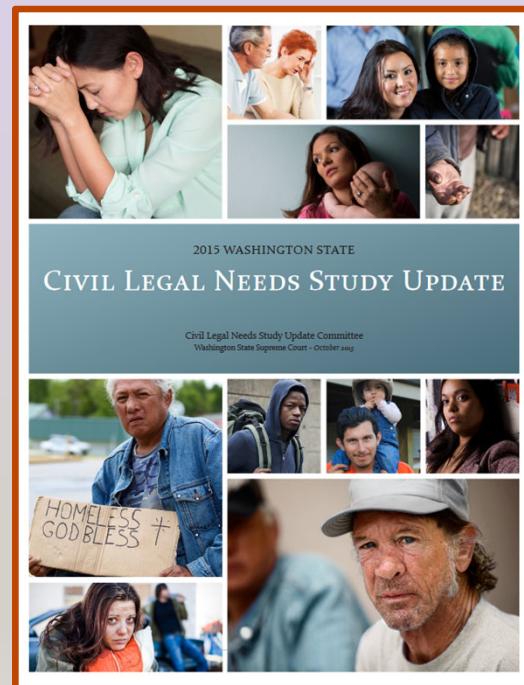
- King County Prosecuting Attorney's Office (KCPAO)
- Eastside Legal Assistance Program (ELAP)
- Northwest Justice Project (NJP)
- Sexual Violence Legal Services (SVLS)
- Northwest Immigrant Rights Project (NWIRP)



WHY PROJECT SAFETY?

In 2015, the Washington Supreme Court made an assessment of the unmet civil legal needs of Washington State's low-income families. The findings were staggering:

- The average number of legal problems per household is 9.3, up from 3.3 in an earlier study conducted in 2003
- For those who are DV/SA survivors, the average number of legal problems more than doubles, rising to 19.7. They face the most problems of all.
- Most people face these problems alone –76% never receive assistance, and 65% never seek assistance.



BRIDGING THE JUSTICE GAP: THE BIRTH OF PROJECT SAFETY

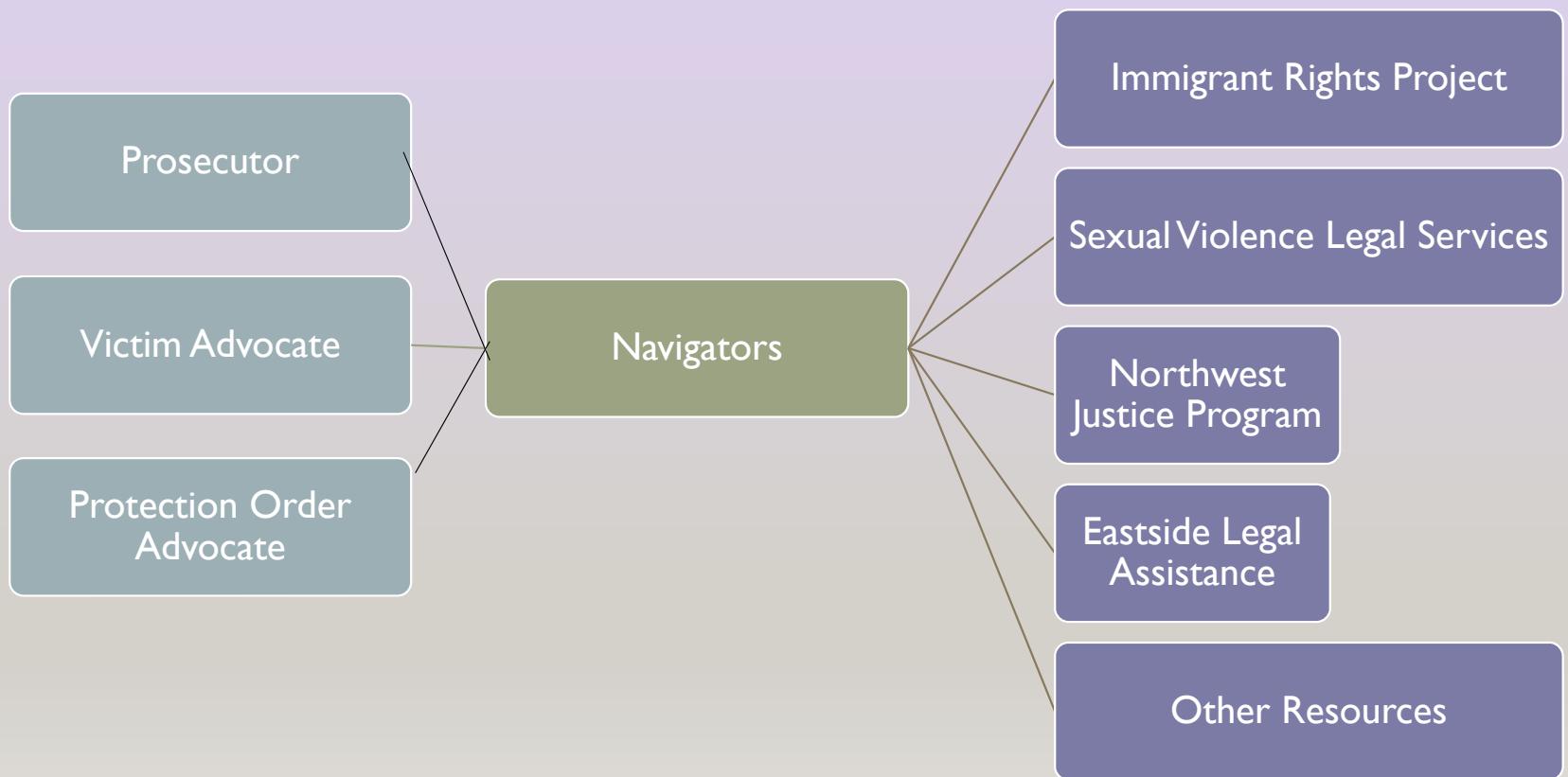


The findings of the Civil Legal Needs Study made it clear that the civil legal needs of Washington's residents, especially its most vulnerable, were not being met.

With the support of community stakeholders and the King County Prosecuting Attorney's Office, Washington's Office of Civil Legal Aid successfully led an effort to have 5 million dollars in Victims of Crime Act (VOCA) funding designated to increase access to civil legal aid.

Part of this funding was used to create Project Safety, a program designed to bridge the gaps that prevent domestic violence and sexual assault survivors from getting the assistance they need to end their victimization.

PROJECT SAFETY PROCESS MAP



ADVOCATES: THE PATH TO PROJECT SAFETY



Clients coming through the criminal system are referred by victim advocates from the King County Prosecuting Attorney's Office (in both Seattle and Kent) or the Seattle Police Department.

Clients coming through the civil system are referred by advocates from the Protection Order Advocacy Program (part of the Prosecuting Attorney's Office).

PROJECT SAFETY NAVIGATORS



Navigators are the key.

They meet confidentially with clients referred by the advocates and prosecutors

They assess a client's needs before providing a warm handoff to legal aid.

- Navigators work with survivors on a referral only basis
- Once referred, Navigators gather detailed client information to determine civil legal needs
- Navigators provide a single point of contact for survivors, who are often struggling to understand an unfamiliar system

CIVIL LEGAL AID



Once a client has met with a Navigator to have their civil legal needs assessed, they will begin working with one of the four legal aid organizations on a variety of services including:

- Counsel and Advice
- Brief Services
- Extensive Services
- Full representation

RESULTS

- 2018 Project Safety served 834 survivors and their children.
- All marginalized, unable to afford their own lawyer, and referred by KCPAO.
- 78% had children for whom they were the sole provider, 64% were persons of color, 40% had to utilize interpreter services.
- 2018 Received Washington State Bar Association award for Legal Innovation.

MAKING A DIFFERENCE



CASE STUDY

- Victim did not report for fear she would lose custody of her seven children.
- Abuser's power and control included fabrication that victim assaulted him. He brought charges against her while continuing to physically abuse her.
- While her case was pending, police found victim battered at a local courthouse where she disclosed years of abuse, strangulations and broken bones.
- Abuser arrested and charged with several felonies. City court dismissed charges against the victim.
- Victim was provided with a free civil legal aid attorney through Project Safety

CASE STUDY

- Victim stayed involved with prosecution due to support from her civil legal aid attorney and her advocate, as well as the work of prosecutors and law enforcement to hold the defendant accountable.
- The victim outlined specific desires for civil remedies from her criminal case: civil order.
- We traded some prison time for the order.

CASE EXAMPLES



March 24th:
12 month TPO
granted in
Fulton County;
supervised
visitation
request was
denied; Vic
represented by
AVLF

April 1st : Child exchanged at
Doraville Police Dept. for
visitation per TPO.

April 3rd; Def does not return
child as required by TPO;
Vic's attempts to reach Def go
unanswered;
Vic goes by Def's home and
sees it empty.

April 4th: Def takes out an
ex parte TPO in Gwinnett
County against Vic.
Gwinnett County Court
subsequently revokes its
Order same day. AVLF
attorney files Motion for
Contempt on Fulton 12
Month TPO and Emergency
Modification of Visitation.
Hearing set for April 7th.

April 5th: AVLF contacts
SG's Office for assistance

April 7th : Fulton County
Civil Court modifies to no
visitation. Hearing on
Contempt scheduled for
May 5th. Court deems the
child to be in danger and
orders that an Amber
Alert be issued.

April 9th : Vic logs into Def's
Facebook and sees that he is
now in Jacksonville, FL.

April 26th: SG Inv serves Def
with civil pleadings in jail

June 3rd: Fulton County
Civil Court enters
Consent Order.
No visitation, contempt
found.

April 3rd: Vic contacts Atlanta PD to report failure to return child.
They direct her to Doraville PD (where custody exchange failed to happen).

April 8th: AVLF contacts SG bc Amber Alert still not active. SG's office works with AVLF, GBI and Doraville PD to get Amber Alert active.

April 11th: Def surrenders, child taken in safely. Reunited with Vic.

April 4th: Vic reports missing child to Doraville Police Dept.
She is told to handle in Civil Court for violation of order.
GBI denies Amber Alert at that time.

April 9th: SG's Office coordinates info between AVLF, Doraville, Florida, GBI. Doraville swears out warrant for felony Interference with Custody.

April 25th: Doraville PD transport Def from Fort Lauderdale, Florida back to DeKalb County, GA.

April 5th: SG's Office contacts Doraville PD which subsequently takes out misdemeanor warrant for interference with custody.

April 10th: Jacksonville PD visit suspected location – def has vacated. SG engages Def. Florida LE able to locate him through calls and put surveillance on him.

March 21st : Def indicted on felony interstate interference with custody.

November 13th : Def pleads guilty to interstate interference with custody, reckless conduct and obstruction.

CASE EXAMPLES

Abuse



Victim's boyfriend was abusive to her and one of her children. Child makes an outcry at school.

Child Protective Services



Children placed in DFACS custody based on victim's failure to protect and housing instability.

Housing



Victim and her children were living with her boyfriend at the boyfriend's mother's residence.

Criminal Charges



Victim tries to leave, boyfriend takes her keys and won't let her go. Victim snatches her keys back. Boyfriend calls 911. Victim arrested.

CASE EXAMPLES

Criminal Charges



Charges dismissed.
Record restricted.

Housing



Appealed denial of voucher and won.
Used voucher to get a house.

Child Protective Services



Children returned to victim.

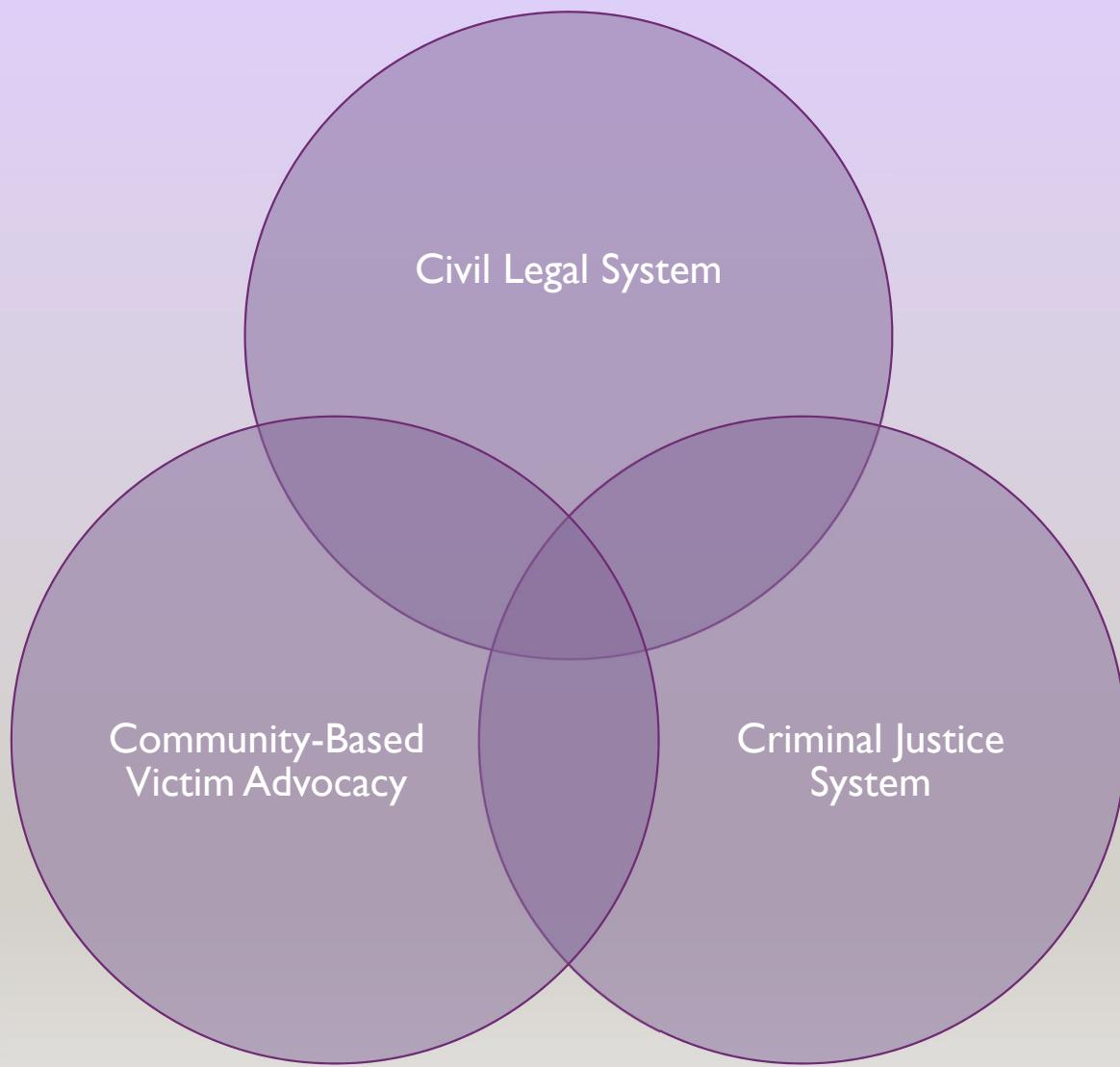
Abuse



Victim was able to make a clean break. Both she and the kids are doing well.

CASE EXAMPLES





GROUP #1:BENEFITS

- How does the relationship with civil legal aid work in your jurisdiction?
- What benefits do you see to a working and partnering with civil legal aid? Think about this from the perspectives of prosecutors, civil legal aid attorneys, and victims.



GROUP #2: CHALLENGES

- How does the relationship with civil legal aid work in your jurisdiction?
- What challenges do you see to working and partnering with civil legal aid?
- How can these challenges be met?



GROUP #3: BUILDING A PARTNERSHIP

- How does the relationship with civil legal aid work in your jurisdiction?
- What things can you do to build/sustain a partnership with civil legal aid ?



BOTTOM LINE

- Most of our victims are poor and marginalized and cannot afford their own lawyer. They have serious needs
- Resolution of complex needs requires intensive help-seeking behavior from victims.
- Providing victims in the criminal justice system priority access to a civil legal aid attorney is a potent buffer to the complex interpersonal processes that keep violent relationships intact.

BOTTOM LINE

- Association of civil legal counsel and a reduction of domestic violence is seen with victims of means.
- DV rates drop once household incomes reach \$75,000 and above.
- Victims of means have methods other than the criminal justice system to respond to domestic violence.
 - See DePrince, A. P., J. Belknap, et al. (2012). The impact of victim-focused outreach on criminal legal system outcomes following police-reported intimate partner abuse. *Violence Against Women*, 18(8), 861–881.

BOTTOM LINE

- We should strongly support partnerships with civil legal aid to provide service to our victims.
- Unfortunately, prosecution-civil legal aid partnerships are the exception rather than the rule.

THE BIGGER UNIVERSE

- More comprehensive
- Victim-centered, trauma-informed
- Utilizes each other's strengths
- Maximizes results
- Intentional coordination
- Allows opportunities for more innovative solutions for a very complex problem

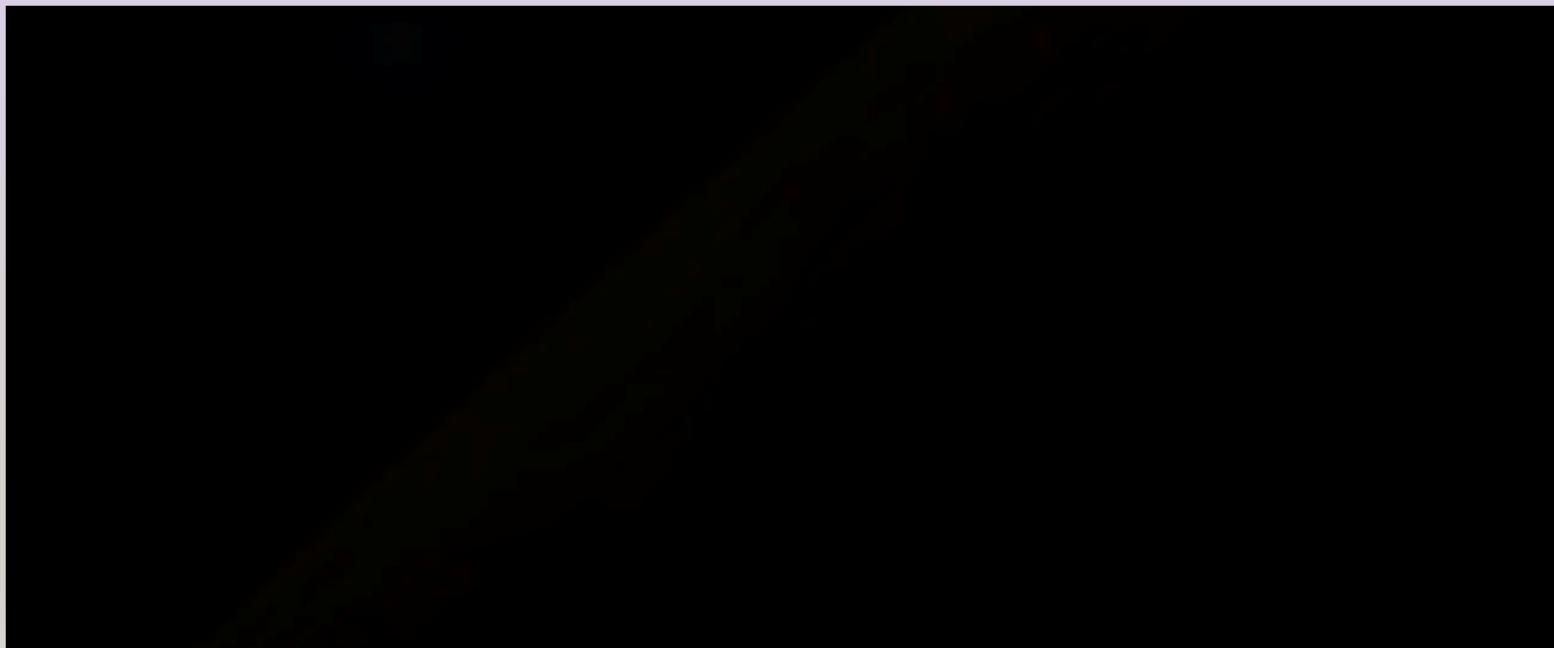


THE BIGGER UNIVERSE

- Preliminary studies suggest that a coordinated community response has greater impact in reducing DV than any single reform implemented in isolation.
- **Most promising response to DV.**



THE BIGGER UNIVERSE



THE BIGGER UNIVERSE

QUESTIONS?

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