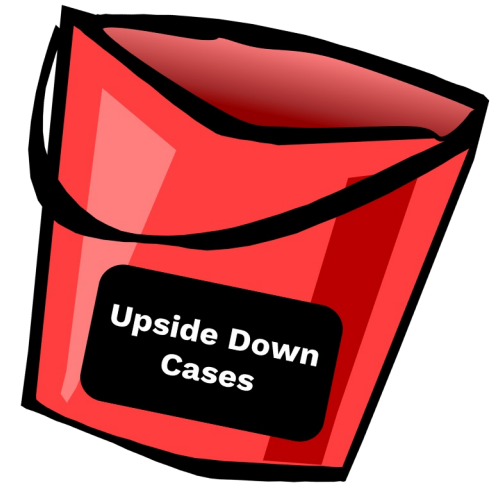


LOOKING BEYOND PREDOMINANT AGGRESSOR

Understanding “Upside-Down”
Domestic Violence Cases



Presented by **Laura Gorman & Kimberly Korrin**

We will discuss...

- **Definition of “Upside-Down” cases**
- **Why women use violence**
- **On-scene and post-scene considerations**
- **Prosecution considerations**

DISCLAIMER

- **Topics, case examples & cited research involve sensitive subject matter**
- **Cited research is based on hetero male-female intimate partner relationships**
- **Much of what we discuss should be considered anecdotal, as it's based on our experience in the field**
- **These are helpful as investigative tools and prosecution strategies – Not one size fits all**

What Do They Look Like?

- ❏ Uninvestigated strangulation case
- ❏ True Victim is extremely upset
- ❏ True Victim refuses to talk to police or story “doesn’t make sense” to police
- ❏ No visible injuries
- ❏ True Perpetrator has scratches to face, and/or arms, bite marks, stretched shirt, etc



What Do They Look Like?

- Reacting to abuser asserting power and control
- Abuser trying to take:
 - Kids
 - Phone
 - Cherished Items



What Do They Look Like?

- 🚩 Victim sets a boundary
- 🚩 Self-defense
- 🚩 Pre-emptive defense



How Do They Turn “Upside-Down”

Cases come from....

- Poor and/or limited training
- Lack of understanding of dynamics/behaviors
- Inability to access information at the time
- Not doing the work
- Poor/rushed investigations
- Outdated policies

How Do They Turn “Upside-Down”

Cases come from....

- Poor and/or limited training
- Lack of understanding of dynamics/behaviors
- Inability to access information at the time
- Not doing the work
- Poor/rushed investigations
- Outdated policies

Convictions come from...

- Poor and/or limited training
- Lack of understanding of dynamics/behaviors
- Unwilling or unable to access information (not knowing where to look)
- Not doing the work
- Poor investigations/arrest decisions
- Outdated policies

Why Victims Use Violence

What the RESEARCH Says



Women's Motivations



Stop the Abuse

Attention

Stand up for Self

Control

Retribution

Self-Defense

Fear

Defense of Children

Control

Retribution

Self Defense

Fear

Defense of Children

Control

Retribution

Self-Defense

Attention

Anger

Control

Retaliation

Attention

- In response to their partner withholding love and affection
- Ignored → powerless → anger → use of violence



Control

- Men > women = violence to assert or regain control of the relationship or partner who challenges their authority
- Men > women initiate violence for control
- Women = violence ≠ control

* Control motives are not completely absent from women's use of violence



Control

- **Men = repeated acts of violence** → **assert power and control in their relationship.**
- **Men = control** → **demonstrate authority**
- **Women = control** → **gain autonomy**



**“Men are afraid women will
laugh at them.**

**Women are afraid men will kill
them.”**



Retribution / Retaliation

- **Men =** retaliation for their partners' unwanted behaviors
 - Infidelity
 - Lying
- **Women =** retaliation for their partners' unwanted behaviors
 - Using emotional abuse
 - Using physical abuse





Literature Conclusions

- Men = pattern of abuse to gain and maintain power and control
- Men > women
- Domestic violence = “pattern of abuse to gain and maintain power and control”



Literature Conclusions

- Women \neq pattern of abuse to gain and maintain **POWER** and **CONTROL**, even when they do use violence
- Women $=$ reactive violence
- Not all violence is “domestic violence abuse”



Policy Implications

Why This Matters



Why This Matters

Policy makers are at risk of:

- Drawing erroneous conclusions from the data
- Implementing misguided “gender neutral” policies
- Criminalizing victims
- Increasing danger for victims
- Ineffective interventions



Why This Matters

Help guide law enforcement:

- LE likely will, and should, arrest for violence against an intimate partner, regardless of gender
- How violence is investigated
- How violence is documented

Why This Matters

Help guide prosecutors:

- Understand the dynamics involved
- Determine the “one-off” vs domestic abuse
- Plea/Disposition considerations should include gender-specific interventions to create successful behavioral change



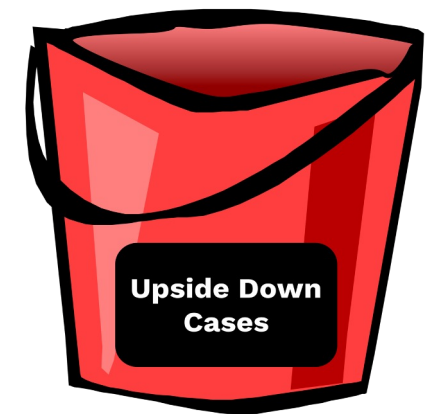
Practical Effects on Victims

- **Limits services available**
 - Shelters
 - Counseling
 - Protective Orders
 - CPS involvement
 - Child custody
- **Affects ability to earn a living and separate from abuser**
- **Unwillingness to participate or contact police**



Emotional Effects on Victims

- Arresting/charging a victim reinforces the abuser's behavior
 - Tell her no one believes her
 - She has no power
 - He has all the power
 - He controls everything that happens to her
- Adding and compounding trauma



Recognizing Upside Down Cases

Improving Investigations On-Scene



On-Scene Considerations

Determining Predominant Aggressor

- **NOT** who used force first
- Who is **ASSERTING DOMINANCE** to control?
- Who poses the most serious **THREAT**?
- Who poses the ongoing **THREAT**?
- Who is causing **FEAR**?



On-Scene Considerations

Boundaries:

- What are they?
- Who is establishing them?
- Who is crossing them?
- What happens when V sets a boundary?



On-Scene Considerations

Boundaries vs. ~~Penalties~~

Establishing Protections

Establishing What
Someone Can/Can't Do



On-Scene Considerations

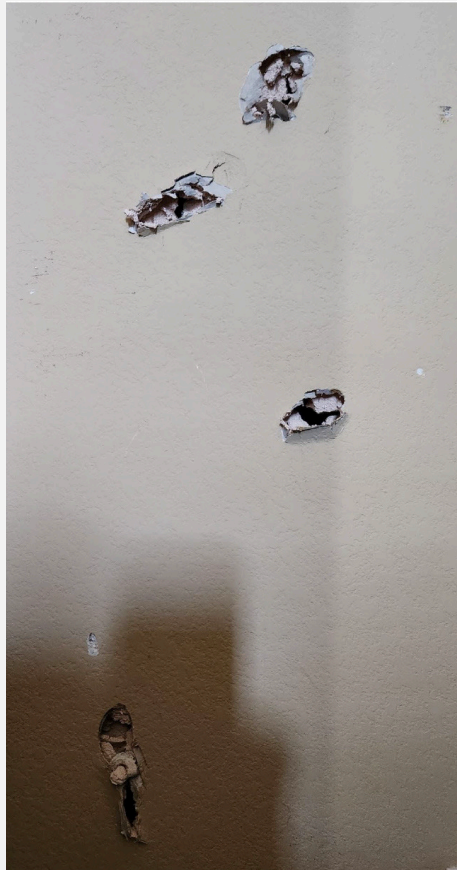
- Believe her
- Look for & collect evidence to corroborate what was reported.

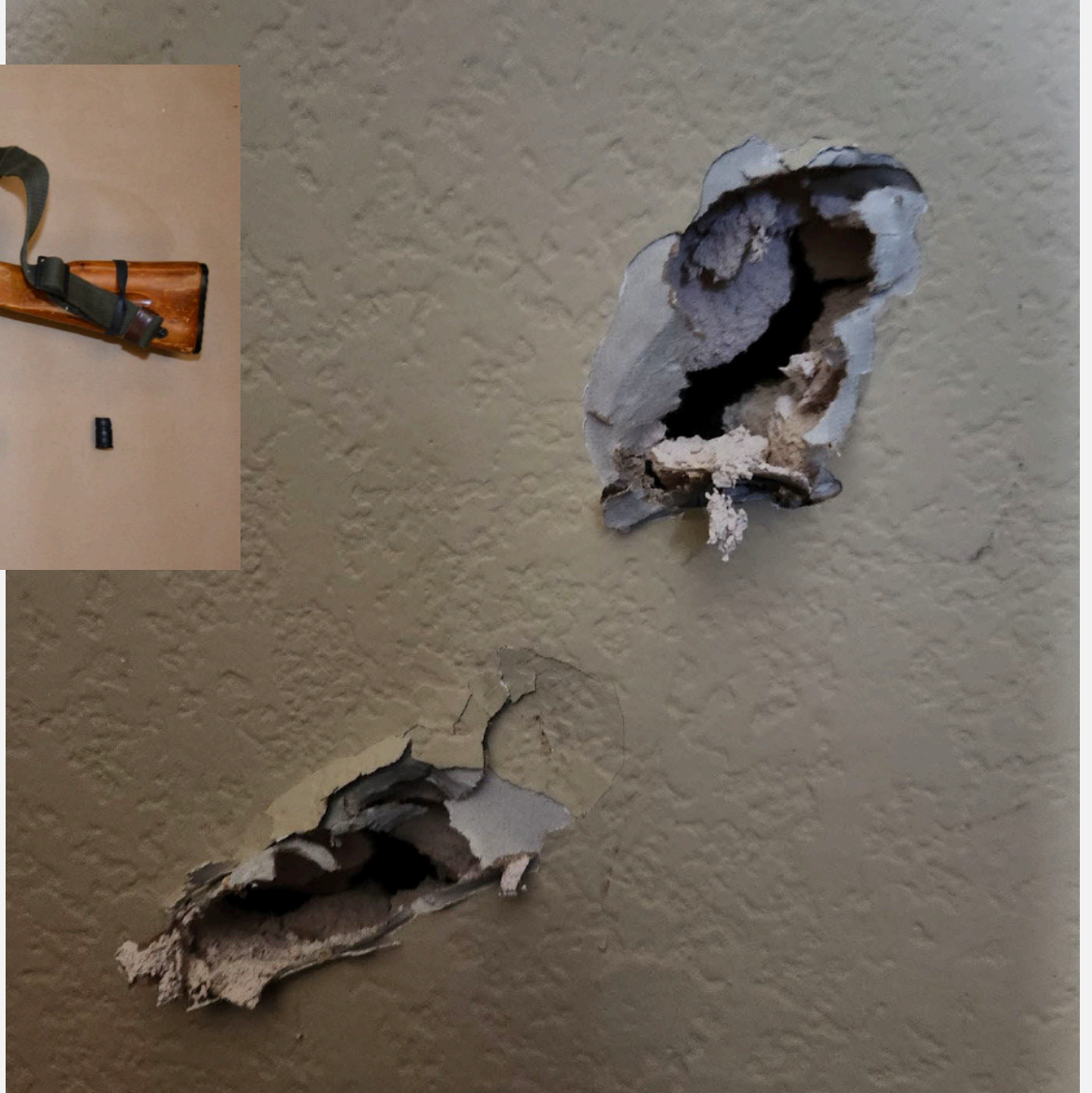
NOT just evidence of the crime itself

- Look for & collect evidence of the relationship dynamics



Collect & evaluate the evidence





On-Scene Considerations

- Injuries – do they make sense based on what was reported?
- Who are they on?
- Where are they?
- How would they get there?
- Strangulation and visible injury



On-Scene Considerations

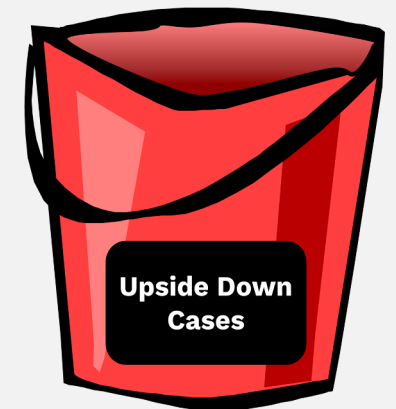
- Exhaust investigative leads
 - Interview witnesses – 911 caller
 - Seek, archive, and review video
 - Others?
- Pre-Incident Indicators

Every time we talk about X, he becomes enraged.



On-Scene Considerations

- Use a Domestic Violence Victim Statement and/or Lethality Screening
- Gather information about prior events to determine patterns
- Investigate Power and Control



On-Scene Considerations

- Listen!
- Let the parties tell their side
- Avoid leading questions
- Pay attention to what is said
- Pay attention to what is NOT said
- Pay attention to unresponsive responses



On-Scene Considerations

Ask sensory questions

- What do you remember seeing, hearing, feeling, smelling, tasting, etc?
- Tell me about his words
- What can you not forget?



On-Scene Considerations

- Avoid yes/no questions or just confirming details
- Ask open-ended questions
- If you're not clear what happened...

ASK MORE QUESTIONS!!!!



On-Scene Considerations

- Break down the acts, action by action
 - When that happened what part of your body was touching what part of her body?
 - When that happened what did your body feel?
 - What happened next?



On-Scene Considerations

- Were the actions defensive?
- Were the actions appropriate for the situation?
- What precipitated the events?
- Ask about the past.

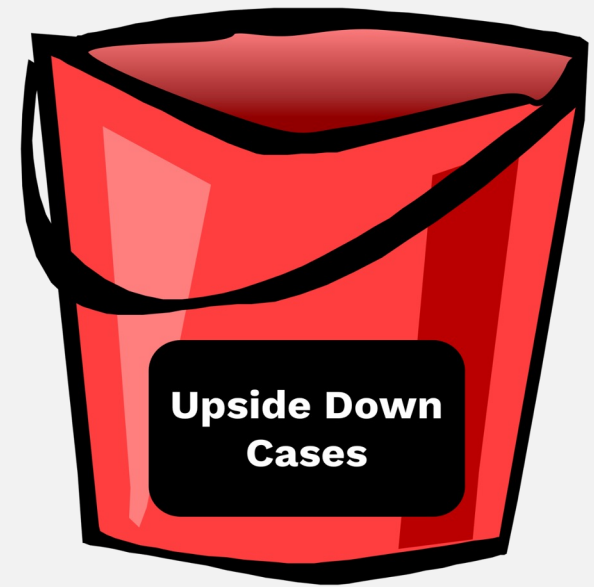
The image shows a stack of 'DOMESTIC VIOLENCE VICTIM STATEMENT' forms. The top form is clearly visible and contains the following sections:

- Incident Information:** Case #, Date, Time, Location, Completed by.
- VICTIM:** Name, Home Address, DL #, State, Cell Phone, Email Address, E/O, DOB, Employer, Home Address, Alternate Phone, Emergency Contact, Home Address, Relationship, Email Address, Phone.
- SUSPECT:** Name, Home Address, DL #, State, Cell Phone, Email Address, E/O, DOB, Employer, Home Address, Alternate Phone, Military/NA, Rank, Stationed, LP, Probation/Parole, Arrests, Protection Order Name, Status, Address, Admitted, Yes/No.
- RELATIONSHIP:** Married, Wives, Parents, Blood Relative, Other relationship, Former Household Members, Biological Siblings of the Same Child of children.
- VICTIM'S PHYSICAL CONDITION:** Bruises, Swelling, Cuts, Burns, etc.
- WOUNDS:** Open Wound, Bruise, Laceration, etc.
- Medical History:** Diabetes, Heart Disease, etc.
- Medical Treatment:** Hospital, Doctor, etc.



Recognizing Upside Down Cases

Improving Investigations Post-Scene



Post-Scene Considerations

- 911 calls
- Handle-bys / Historicals
 - Patterns of violence
 - Patterns of the relationship
 - Criminal History



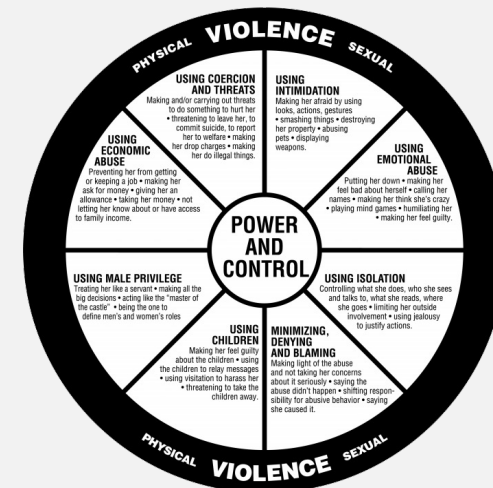
Post-Scene Considerations

- Text messages
- Follow up photos
- Search warrant opportunities
- Jail calls



Post-Scene Considerations

- Follow-up Interviews
 - Witnesses
 - Involved parties
- Post-incident events
- Investigate fear
- Investigate Power & Control



Recognizing Upside Down Cases at Prosecution

Improving Prosecution Decisions



Prosecution Considerations

Look for significant imbalances:

- 🚩 Age differences
- 🚩 Financial
- 🚩 Support outside relationship



Prosecution Considerations

He

- Took her things but is the victim
- Blocked her from leaving but is the victim
- Accused her of cheating but is the victim
- Bear hug | | | | | | | | | |
- She's crazy
- Is calm



Prosecution Considerations

She

- ▶ Intoxicated
- ▶ Crying
- ▶ “Hysterical”
- ▶ Blames herself
- ▶ Doesn't want him in trouble
- ▶ Nothing happened but has injuries



Prosecution Considerations

Ask

- ▶ Who left the scene or tried to leave, when and why?
- ▶ Whose behaviors are more controlling?
- ▶ Who thinks they are the aggrieved person?
- ▶ What does V say to VACs?



Recognizing Upside Down Cases at Prosecution

Improving Prosecution Decisions



Prosecution Considerations

Look for

- 🚩 Indicators of power and control
- 🚩 Language choices
- 🚩 Admissions/omissions of True Victim
- 🚩 Admissions/omissions of abuser



Prosecution Considerations

Ask

- What led up to the physical act?
- What does prior involvement indicate?
- What do criminal histories indicate?
- How does “V” speak to VACs?



Case Facts – Example 2

- “D” employed at a strip club
- “V” was at strip club, caused a scene – both kicked out and “D” fired
- “V” had visible injury “V” claims was from walking into the metal piece behind the hotel room door



Case Facts – Example 2

- “D” states “D” yelled at “V”
- “V” grabbed “D’s” wrists but didn’t cause pain
- After “V” let go, “D” punched “V” in the face
- “D” said “V” was also calling “D” a “hoe”

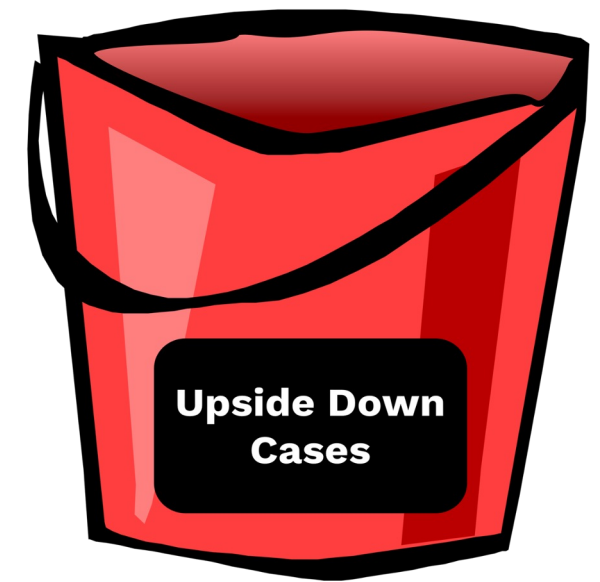


Case Facts – Example 2

- Defense Counsel reported
 - “V” retained DC
 - “V” always present when DC tried to talk with “D”
 - “V” controlled every conversation
- “D” has no criminal history
- “V” has history for drug possession and DV



Plea and Disposition Strategies for Prosecutors



Connect with Local DV Shelters / NGO's

Develop education and counseling programs for victims charged with DV offenses

- Hope Alliance created DV 101 class

Safe Alliance in Travis County officed a counselor in the County Attorney's Office

- Counselor provided hour long confidential victim counseling session for case dismissal



Disposition Strategies

- Decline
- Dismiss
- Immediate expunction*
- Limited early expunction*
- Victim counseling upfront for case decline or dismissal
- Connect services & resources by working with Defense Counsel



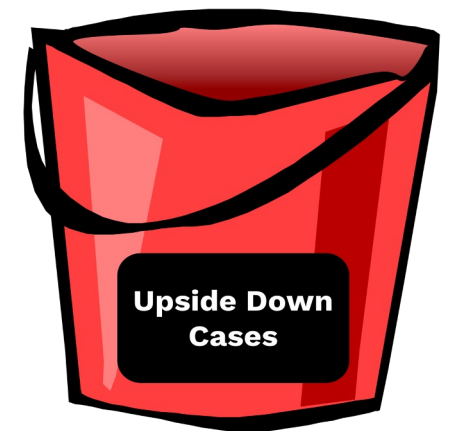
Plea Strategies

- Victim counseling & resources
- DV education – cycle of violence & dynamics of DV
- Diversion programs
- Alternative offense
- MH and substance abuse treatment



Plea Strategy Benefits

- Supports True Victim to reestablish power and control of their life
- Takes away any “control” the abuser tells the victim they have over the case
- Provides knowledge about staying
- Provides guidance on safely leaving

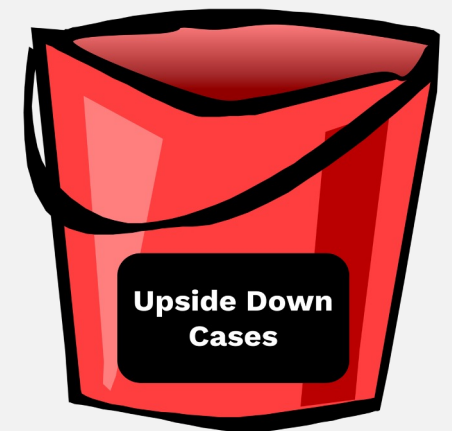


Takeaway Tools



Take Away Tools - Investigations

- **Slow Down!**
- **Be willing to believe her**
- **Listen to what is said and how it's said**
- **Corroborative evidence**
- **Exhaust leads**
- **Use a DV Victim Statement**
- **If the picture isn't clear, ask more questions**



Take Away Tools - Prosecutions

- Review the history of the relationship
- Review prior reports & criminal history for both parties
- Check jail calls – by booking # and phone numbers
- Look for power & control red flags 🚩🚩🚩
- Analyze the scene/evidence – not just the verbal reports
- Work with Defense Counsel when you believe it's an upside-down case*





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