DOMESTIC VIOLENCE LAW
Professor D. Kelly Weisberg
Spring 2013

COURSE DESCRIPTION, COURSE POLICIES, AND SYLLABUS

Contact Information
Class: Mon. 12:00-1:00pm; Wed. 12:00-2:10 pm; Room B2; 198 McAllister Street
Office: 200 McAllister Street, Room 348; Office Hours: Mon. & Wed. 10:40-11:40am
Email: weisberg@uchastings.edu OR kelly_weisberg@yahoo.com

Course Materials
*Domestic Violence: Legal and Social Reality* by D. Kelly Weisberg (Aspen Publishers, 2012). Supplementary materials and Power Point slides will be posted on my website. Access to these materials will require a password that will be released to students in class. Reading assignments begin on page three herein.

COURSE DESCRIPTION

This course explores the legal regulation of domestic violence. First, it explores the dynamics of abusive relationships; influential factors (i.e., gender, age, disability, sexual orientation, gender identity, race, religion, ethnicity, social class); specific contexts (i.e., the military, police, sports); and types of abuse (i.e., physical, sexual, psychological). Second, the class focuses on the law enforcement response (mandatory arrest, no-drop policies, lawsuits against police departments for failure to intervene); the judicial response (Battered Woman Syndrome, self-defense, duress, provocation); and evidentiary issues (testimonial privileges, marital rape exemption, Confrontation Clause, forfeiture-by-wrongdoing doctrine, propensity evidence, and victim recantation). The federal criminal response will also be covered (interstate domestic violence crimes and firearm regulations).

Third, the course focuses on the civil law, including protection orders, tort remedies, and federal tort liability. Fourth, the class explores issues of family law (mail-order brides; divorce grounds, spousal support, property division, child custody, visitation, and parental abduction), and the child protection system.

Fifth, coverage focuses on discrimination against victims in the areas of housing and employment. The class concludes with the study of legal services and ethical issues as well as social service-delivery-system issues concerning shelters and batterer intervention programs.
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COURSE POLICIES

Class Attendance
The class meets twice per week. Because we cover a considerable amount of material each class, your attendance is important. Excessive absences may result in a student being dropped from the class.

Class Participation
Several students will be “on call” for each class. Each of these students will be provided with prior notice. However, all students are expected to prepare the reading assignments for each class and also to volunteer to participate in class discussion.

Final Grade
Students will be graded based on their performance on a final essay examination. The examination will be closed book.

LEARNING OUTCOMES

The primary objective of this course is to expose students to issues that they will confront as legal professionals, while providing an analytical framework from which they will be able to:

- Identify the dynamics of domestic violence and its effects on family members;
- Understand and recognize the stages of a domestic violence case as it progresses through the legal system (criminal and civil);
- Understand the legal issues involved in pursuing and enforcing a civil order of protection (including the applicable legal definitions of abuse, burdens of proof, available relief, types of restraining orders, mutual orders, vacating/modifying/renewing restraining orders, and violations of civil restraining orders);
- Identify and frame victims’ legal remedies (civil versus criminal, federal versus state);
- Evaluate the benefits and shortcomings of the various legal remedies that are available to victims of intimate partner violence (including state and federal criminal remedies; civil orders of protection; tort remedies; and family law remedies), and the different methods of alternative dispute resolution in order to advise clients about how to achieve their goals;
- Understand the nature of screening for domestic violence and safety planning in order to improve client counseling;
LEARNING OUTCOMES (cont’d)

- Identify and resolve ethical issues in family law; and
- Develop skills in the effective representation of victims of intimate partner violence (including sensitivity to issues of race, ethnicity, age, disability, religion, sexual orientation, gender identity and gender).

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SYLLABUS

PART I: INTRODUCTION

CHAPTER 1. SOCIAL AND HISTORICAL PERSPECTIVE:
EVOLUTION OF THE RIGHT OF PRIVACY

Monday, Jan. 14th

CHAPTER 2. CHARACTERISTICS OF DOMESTIC VIOLENCE

Wednesday, Jan. 16th
2. Extent of the Problem; Dynamics of Abuse Relationships; Causes of Intimate Partner Violence; Lethality Assessment; Consequences of Abuse, pp. 29-70

Monday, Jan. 21st - Martin Luther King Holiday (no class)

CHAPTER 3. INFLUENTIAL FACTORS

Wednesday, Jan. 23rd
3. Age (*Neilson ex rel. Crump v. Blanchette*; *Gdowski v. Gdowski*); Sexual Orientation; Disability; Race and Ethnicity; Religion; Social Class; Substance Abuse, pp. 71-119

CHAPTER 3. INFLUENTIAL FACTORS (FINISH)

CHAPTER 4. SPECIFIC TYPES OF ABUSE

Monday, Jan. 28th
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SYLLABUS (cont’d)

Wednesday, Jan. 30th
5. Separation Abuse (Crawford v. Commonwealth); Sexual and Reproductive Abuse: Marital Rape (S.D. v. M.J.R.); Pregnancy-Related Abuse (Smith v. Martin); Birth Control Sabotage; Interference with Abortion Decision-making (Planned Parenthood v. Casey), pp. 144-179

Monday, Feb. 4th
6. Psychological Abuse: Background; Stalking (Weiner v. Weiner); Cyber Harassment (Nadkarni); Financial Abuse (Jackson v. United States); Pet Abuse; pp. 179-209

PART II: CRIMINAL JUSTICE RESPONSE
CHAPTER 5. LAW ENFORCEMENT RESPONSE

Wednesday, Feb. 6th
7. Police Response; Road to Mandatory Arrest (State v. Farrow); Evolution of Mandatory Arrest; Primary Aggressor Statutes; Victims’ Experiences with Police; Statutory Expansion of Police Powers; Introduction to VAWA; Prosecutors: No-Drop Policies, pp. 213-258

CHAPTER 5. LAW ENFORCEMENT RESPONSE (FINISH)
CHAPTER 6. DOMESTIC VIOLENCE AS A CRIME:
STATE LEGISLATIVE RESPONSE

Monday, Feb. 11th
8. Criminal No-Contact Orders; Restorative Justice; Suits against Law Enforcement (Town of Castle Rock v. Gonzales); Testimony of Jessica Gonzales; Legacy of Lawsuits, pp. 258-270

Wednesday, Feb. 13th
9. Criminal Sanctions (Traditional vs. Modern Domestic Violence Statutes); Constitutional Challenges to State Laws (People v. Johnson; State v. Carswell), pp. 271-293

Thursday, Feb. 14 – This Thursday will be treated as an Administrative Monday
10. Film

Monday, Feb. 18th - President’s Day Holiday (no class)
CHAPTER 7. JUDICIAL RESPONSE

Wednesday, Feb. 20th
11. Judicial Response: Historical Background; Defenses; Battered Woman Syndrome (Hawthorne v. State); Self-Defense (State v. Harden); Duress (Dixon v. United States); Cultural Defense (People v. Benitez); Provocation (Murray v. State), pp. 295-334

Monday, Feb. 25th
12. Evidentiary: Issues; Spousal Testimonial Privilege (State v. Taylor); Marital Rape Exemption (People v. Liberta); Prior Bad Act Testimony (People v. Brown), pp. 334-353

Wednesday, Feb. 27th
13. Confrontation Clause (Davis v. Washington); Forfeiture by Wrongdoing (Giles v. California); Victim Recantation (People v. Santiago), pp. 353-386

CHAPTER 8. FEDERAL CRIMINAL RESPONSE

Monday, Mar. 4th

PART III: CIVIL LAW RESPONSE

CHAPTER 9. PROTECTION ORDERS

Wednesday, Mar. 6th

Monday, Mar. 11th – Mar. 15th -- Spring Break

Monday, Mar. 18th
CHAPTER 10. TORT REMEDIES

Wednesday, Mar. 20th

FINISH CHAPTER 10. TORT REMEDIES
BEGIN CHAPTER 11. FAMILY LAW (MARRIAGE AND DIVORCE)

Monday, Mar. 25th

Wednesday, Mar. 27th

CHAPTER 12. FAMILY LAW: PARENTING

Monday, April 1st

Wednesday, April 3rd
21. Role of Special Participants: Child’s Preference and Traumatic Bonding (*Wissink v. Wissink*); Role of Child’s Representative; Role of Custody Evaluators, pp. 630-646

Monday, April 8th
CHAPTER 13. DISCRIMINATION AGAINST VICTIMS

Wednesday, Apr. 10th
23. Housing Discrimination (Bouley v. Young-Sabourin); Employment Discrimination (Danny v. Laidlaw Transit Services, Inc.), pp. 693-716

PART IV: LEGAL AND SOCIAL SERVICES
CHAPTER 14. LEGAL SERVICES

Monday, Apr. 15th
24. Legal Services: Representing the Victim (Dando v. Yukins); Effective Representation; Mediation (Adolphson v. Yourzak); Specialized Domestic Violence Courts, pp. 719-727, 735-768, 772-776

CHAPTER 15. SOCIAL SERVICES

Wednesday, Apr. 17th

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