

JEWISH WOMEN INTERNATIONAL CONFERENCE ON DOMESTIC VIOLENCE
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Going to Court with Battered Women and Surviving Cross Examination
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Works of and Training from Stanley Brodsky

25 Pointers for Testifying

- 1. Admit, deny.** Although it is true that the field of domestic violence has a long way to go, it is my definite professional opinion, based on a careful and detailed interview and examination of records, that this woman is afraid of her husband and based on her interview and examination of records and his writings and tapes, she has good reason.
- 2. Bought expert.** The reason I work for the attorney is after spending time with the woman and examining materials supplied to me that I can make an objective determination about my findings. After relating that to the attorney, the attorney can choose to use me or not. There have been quite a few who chose not to use me. Once I have determined that the case is meritorious, I might then be called an advocate.
- 3. Degree of certainty.** It is my best professional judgment that is always my criterion for my clinical conclusions.
- 4. Inexperience.** Years in field, training, teaching, direct service. Say what you have realizing that it could always be more.
- 5. Experience.** Not only do I have professional experience of the subject, I also have personal experience and that has served to enrich my professional knowledge.
- 6. Generalizability.** Even though the experiences of battered women are not all the same, there are many similarities and these we find repeated over and over in the field.
- 7. Changing your mind.** Based on the full evaluation I conducted which included interview, review of her social history, documents supplied me, writing samples of both parties, video and audio tapes of both, tape transcriptions, and on my 25 years in this field, it is my considered judgment that she is a battered woman and had good reason to act as she did.
- 8. Lying, faking.** Clinical data included spontaneity, knowledge that many who have not had the same experience would have, and consistency in retelling of the facts. Faking can be observed in ways during an evaluation: 1) Consistency of facts, 2) Clinicians withhold hints, 3) discrepancies between verbal and non verbal behavior, 4) clients tone of voice and facial expressions are revealing, 5) difference between clients wanting to make a particular impression and succeeding in making that impression (hang dog look and then flaring). Although any clinician has the potential of being fooled, the data were strong and clear that there is little likelihood that this client fooled me during my evaluation.
- 9. Research re faking.** While I agree about weaknesses of some studies, my findings are based on clinical work with this client.
- 10. Collaborative criticism.** Acknowledge your field's shortcomings, but be poised to regain control. Meteorology and relying on the weatherperson.
- 11. Culturally different clients.** Even though there are differences, most cultures document violence against women from killing girl children, to burning young women who have sex out of marriage, to clitorises being removed, to not giving women the vote, to making them veiled.
- 12. Your role.** The role of a domestic violence expert is to examine for domestic violence findings which I do and I not to come to legal conclusions. Example: This woman has suffered violence at the hand of her abusive partner and defended herself from a beating in which she feared for her life. Not, she is not guilty of murder.

¹ Ignac Semmelweis discovered in 1849 that hand washing reduces childbed fever mortalities from 25% to only 1%.

13. **Examiner effects.** While people respond differently to different people, they respond similarly to various examiners in many basic and important ways, but slightly different in other ways. A chameleon still looks like a chameleon no matter what color it changes to. While not a behavior principle, it is part of common sense. Our training helps us assess and plot on the Power and Control wheel from the social history.
14. **Attacking profession instead of you.** Actually compliments you and so the field can be attacked. Semmelweis was laughed about. Our field is relatively new and my clinical interviewing of woman left me with no doubt whatsoever that she is a battered woman.
15. **Idealism hazard.** Marriages/relationships do not have to be ideal (mutually respectful, mutually satisfying, growth promoting), a divorce can result when they are non respectful, unsatisfying, and growth stalling. However, they are really in danger when they are violent, abusive and controlling.
16. **Intimidation.** Answer quietly, softly and evenly. Restate question to sort out the content from the attack. Is what you are asking is whether my not doing something is a lack of comprehensiveness on my part? In a history, I select relevant areas of the client's life on which to focus. A history can be so comprehensive that it includes a huge clutter of irrelevant information such as about clothing, furnishings, et cetera would be a wasteful and unnecessary accumulation. The Case History I took was designed to explore the person's life sufficiently so as to draw my conclusions.
17. **Bias.** If what you are asking is whether or not I use mysticism and voodoo as part of my evaluation, I can assure you I use well accepted methods and focus on relevant areas of the client's history on which to focus. Or, if what you are trying to do is discredit me, you are giving the jury a perfect view of discounting by intimidating that I am not professional in my evaluation and that I am making up things when there is clear, comprehensive, and compelling corroborating evidence of the facts that of this case. This is tantamount to collusion with the batterer.
18. **Push/pull agree more.** You are not a PhD are you? No and I am not an MD or a psychiatrist or board certified. Isn't validity a serious problem? Yes and so are reliability, and objectivity.
19. **Power and control-process, time, eye contact and gaze, personal space.** Following the unfolding of the cross helps to cope with it. Time. Deep breath, break gaze, lean back to think, forward to answer. Eye. Talk to courtroom participants--observers, reporter, bailiff, all attorneys, judge and jury. Begin with looking at attorney and then scan. Palms up. Personal space. Good posture, lean toward answering.
20. **Direct service workers as experts.** They know the person better over time, but get into conflict over confidentiality and advocacy.
21. **Transformative moments.** These can be negative causing credibility to evaporate like cheap perfume. It is replying in such a way that cuts to the heart of the matter and cannot be planned. The ability to seize the presented opportunity is important. Have you taken university courses in domestic violence? Taught the first one in our state. Isn't it true that the police aren't any better here than in Nicaragua in handling domestic violence. *Tact collusion*, like Clarence Thomas' *electronic lynching*. Tracy Thurman received an award of 3.2 million against the City of Torrington, Connecticut Police Department for violating her 14th amendment right of equal protection under the law.
22. **Rumpelstiltskin.** Know everyone's name. If you are testifying, it is a plus to give your card to the Court Reporter rather than making her/him struggle to spell your name.
23. **I don't know.** Say so or that is beyond the limits of my expertise or that question calls for a neuropsychologist.
24. **What to wear.** Be yourself in clothes that are familiar comfortable and professional. Brown is sincere.
25. **After it is over.** Be poised, careful and confident when you leave the stand. Hold yourself well, walk deliberately and comfortably, and exit with grace and dignity. Glance at the participants in a friendly manner and if warranted you can say good questions or interesting case.