DISTRICT COURT, JEFFERSON COUNTY,

STATE OF COLORADO
100 Jefferson County Parkway
Golden, CO 80401

Case No. O6CR2779

THE PEOPLE OF THE STATE OF COLORADO,

v.

SHANNON JOHNSON,

DEFENDANT.

The Motions Hearing in the matter commenced on May 30, 2007, before the Honorable MARGIE ENQUIST, Judge for the District Court.

FOR THE PEOPLE: ANNE STAVIG, ESQ.
CHARLES TINGLE, ESQ.

FOR THE DEFENDANT: DOROTHEA LILLIAN REIFF, ESQ.
ERIC SIMMS, ESQ.

I N D E X P A G E

P R O C E E D I N G S

(The following proceedings began at 1:21 p.m.)

THE COURT: Court calls People vs. Shannon Johnson 06CR2779.

MS. STAVIG: Your Honor, Anne Stavig and Charles Tingle for the People. Also present is our paralegal Lesley Merry.

THE COURT: I'm sorry?

MS. STAVIG: Our paralegal, Lesley Merry.

THE COURT: Good afternoon.

MS. STAVIG: For the record I have Jean McAllister the domestic violence expert in the courtroom as well.

THE COURT: Do you want to start with her?

MS. STAVIG: We would.

MS. REIFF: I think, for the record, Ms. McAllister is the only witness that will be called and if that's so we waive sequestration.

MS. STAVIG: That's our only witness, Your Honor.

THE COURT: Okay. So the issues that are facing us today are the admissibility of the letters from the Defendant to the victim; portions of the DVD that will be offered by the Prosecution; and the victim's

arrest for Driving Under the Influence; maybe her being taken to detox, I am not certain if that's in the DVD also, and then Ms. McAllister's testimony; is that correct?

MS. STAVIG: Yes. We did meet last week and we have agreed on almost everything.

THE COURT: Okay.

MS. STAVIG: We have some very, very small points to argue in front of the Court, but most of it we have come to an agreement on.

THE COURT: Okay. I want to be sure we cover everything. We will go ahead with Ms. McAllister then. Ms. Stavig do you want to call her?

MS. STAVIG: Yes, the People call Jean McAllister to the stand.

THE COURT: Good afternoon. Raise your right hand.

JEAN MCALLISTER,

called as a witness by the People, having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. STAVIG:

Q. Good afternoon.

A. Good afternoon.

Q. Would you state your full name and spell

your last name for the court reporter please.

A. Yes. My name is Jean McAllister, M-c-A-l-l-i-s-t-e-r.

Q. What is your occupation?

A. I am currently a consultant and trainer in the areas of domestic violence and sexual assault trauma and offender management.

Q. Could you describe your educational background.

A. Yes, I have a bachelors degree in Sociology from the University of Northern Colorado and a masters degree in Social Work from the University of Denver.

Q. Do you also have other additional training in these areas?

A. Yes, I have been attending training locally and nationally regarding domestic violence since I started working in the field which was in 1981.

So I have attended extensive training in a number of different arenas.

Q. Roughly how many times a year or how many trainings have you been to? A couple or many more?

A. No, we are talking about several times a year and I currently develop a lot of training in this arena so I also review the research and present training

so we are talking multiple times per year every year.

Q. Let's talk about your professional experience. Can you tell the Court about that?

A. Yes, currently, as I said, I do consultation and training in these arenas. I provide training for a variety of different groups including victim advocates, psychotherapists. And battered women's shelter programs, rape crisis centers, and then I am a part of Ending Violence Against Women Training Team for Colorado that addresses domestic violence.

In addition I do expert testimony periodically when requested and I do -- I do organizational consulting on how to develop programs to respond to some of the issues.

Prior to working independently I worked previous as the Executive Director for Coalition Against Sexual Assault. Prior to that I administered the Domestic Abuse Assistant Program for the Colorado State Department of Human Services which was the program that set standards for programming for battered women and their children and provided funding for those program.

Prior to that I administered the Sex Offender Management Board and the Domestic Violence Offender Management Board at the office of Domestic Violence and Sex Offender Management for the Department

of Public Safety.

I administered the DV board for a shorter time because they modeled the board after the sex offender board and since I was already the administrator there I administered it for about a year and then we hired another full-time staff person to take that over.

Prior to that I was a trauma treatment therapist at West Pines Lutheran Medical Center where we did the Assault Survivors Assistance Program.

We did treatment for victim survivors of a variety of different trauma including domestic violence. Prior to that I worked at Gateway Battered Women's Shelter as the program supervisor which meant that I supervised all the staff that had direct contact with the victims and their children and all the staff that did advocacy in the community for victims.

Prior to that I worked at Child Protection at Arapahoe County Department of Social Services, and in residential treatment at Excelsior Youth Center. That's an overview of the jobs that I have had.

Q. And you also indicated earlier that you give training. You actually train people in this area; is that right?

A. Yes, that's accurate, yes.

Q. Have you testified as an expert before?

A. I have.

Q. And how many times have you testified as an expert?

A. For the last three years I would say at least 50, and I counselled at that time, things that I would definitely remember, and so I know more than 50 times.

Q. And what kind of expert designations have you been qualified for?

A. Typically in dynamics of domestic violence, the dynamics of sexual assault, victim responses to domestic violence, victim responses to sexual assault.

Periodically in trauma and periodically in domestic violence or sex offender management, but less often in those.

Q. I am showing you a copy of what has been marked as People's Exhibit 1. What is this?

A. That is my, I believe, most current CV. I can tell you. Yes, it is.

MS. STAVIG: I move to admit People's Exhibit 1.

THE COURT: Any objection?

MS. REIFF: Not for the purposes of this hearing.

THE COURT: One is received.

Q. (By Ms. Stavig) Ms. McAllister, I would like to ask you some questions about the nature and dynamics of domestic violence. Is it sometimes described as a cycle?

A. Yes, it is. Actually domestic violence is identified in the literature for offenders and victims as a pattern of behavior that is directed by one intimate partner against another for the purpose of establishing power and control over that partner.

It is typically identified that there be multiple techniques or tactics that might be used to establish control. Those include either physical or sexual violence, coercion, intimidation, the use of threats against the victim of domestic violence or family members, and sometimes friends, sometimes pets.

Isolation of the victim from other sources of support, emotional abuse, and economic control at times.

Different offenders use different techniques, but those are the generally identified techniques used to control victims.

In many cases, the large majority of cases there has been observed to be, both clinically and literature, a cycle of violence which is a description of

how the offender and the victim go through the battering cycle and what their relationship looks like over a period of time.

Q. What kind of sources do you use to get this information about a cycle of violence? Where does it come from?

A. As I said, it comes from my working with many, many victims and some offenders, from the research literature on victims and more recently on offenders.

We have fairly large groups and studies on domestic violence victims since 1979 when Lenore Walker came out with The Battered Woman which was the first book that formally identified the cycle of violence and has been re-identified in things that have been written and research studies that have been done over the years both -- some of the large national random samples studies and more specifically people who studied on domestic violence specifically both with victims and offenders.

There are a number of studies that come from random sample populations and that come from people who study identified populations that verify that there is an observed cycle in many domestic violence relationships.

Q. Would you say that such a cycle, the patterns that make up the cycle are well accepted among

the community?

A. Yes, they are. They are included in almost all basic training in any arena I have ever been exposed to.

I was responsible for developing the training to meet the JCHO hospital standards when I worked at Lutheran Medical Center and we based that training for all medical providers and medical doctors on the cycle of violence materials.

The AMA at that time was -- had published some materials that supported the use of training people about the cycle of violence and power and control. You see that across the board when you train people in graduate school and in basic volunteer programs that help out shelter programs.

It's very consistent that this kind of material is included in training across the board whether it's very basic or whether it's people that will be doing extensive intervention.

Q. Could you talk about the stage leading up to a period of violence and what do you typically see as part of the cycle prior to the violence.

A. Yes. At that stage -- typically there are three stages and that's the first -- what we consider to be the first stage typically called the attention

building stage.

And the behaviors that are described during that time are that an offender will begin to experience tension or distress, become more short tempered, more pouty, more crabby, more demanding.

Often they will focus their distress or tension on victim behavior and say: You are not doing this right. You need to do this differently. You need to spend more time with me. You shouldn't spend time with that person, so demands increase.

And we typically see victims who feel typically responsible for their relationship, and for people getting along in the relationship, trying to comply with offender demands.

Early in the relationship these kinds of things look very similar to what most of us go through when we have a bad couple of weeks and we end up having an argument with our spouses or partner.

The difference is that over time the offender will direct more and more attention on the victim and blame the victim for problems. And victims, in an attempt to placate the offender, will take on the blaming role, apologize in attempting to do what the offender asks over and over again.

If that was all that was happening it

would not be so difficult, but that stage typically lead to a second stage that is called the acute battering stage. And initially that stage may be just a blow up where somebody gets yelled at, or pushed, or not allowed to leave the house, or slapped.

Typically that starts with a very low level of violence on that stage. Unfortunately what we see with the second stage is that the violence during the second stage tends to increase over time and the risk of serious bodily harm to victims gets greater over time.

And later in a relationship that may result in a full-blown beating, it may result in a sexual assault, it may result in some of the things that we typically think of in a battered relationship.

The third stage is typically considered to be the heart and flowers or the reconciliation stage. And what we observe there is that fairly soon after a battering incident an offender who has just released all of their tension will begin to feel sorry or guilty for harming someone they care about.

They will be very often apologetic, we literally see things like people get sent flowers and brought presents, they are very solicitous.

Women that I have worked with often describe this is at the stage where they get the person

they married or the person they fell in love with, this is the kind, giving person that they love.

It's often coupled, however, that loving behavior, with subtle blaming of the victim.

Offenders will say something like: I really don't want to hurt you, I love you. If you just wouldn't do X, Y, or Z I wouldn't have to hit you again.

Victims who are often very grateful that the violence has abated, will at that point accept responsibility and say: Yes, I'm sorry. I won't do that again.

Unfortunately what happens is over time the victim and the offender begin to believe that the victim is some how responsible for the offender's violence.

And ultimately they don't stay in the heart and flowers stage permanently, you will begin to see the offender slipping back into the attention building stage again.

The victim will try harder to placate and try to do the things she promised to do during the hearts and flowers stage, but in a battering relationship over time there will be additional explosive periods that are the acute battering stage.

So what we see over time is the cycle

tends to happen more often, and the incidents of violence become more dramatic and more serious over time if there is not outside intervention in the relationship.

Q. Would you say that it is unusual particularly in the tension building stage to see a victim who may start a fight or may instigate something or she, you know, like a verbal aggressor?

A. I have actually worked with victims who have indicated that they feel like they have tried to pick fights or pick the time when fights happen.

I have worked with some victims who -- as overtly as saying: I picked a fight two days before high school graduation so my kids didn't have to have him blowing up on graduation day.

I have seen other things where women say: I knew it was coming and I just got tired of waiting and so I just got mad and -- so I started yelling so I at least felt like I had something to say about where it happened and what happened.

So you see it as a coping behavior to protect someone or to lessen the violence and sometimes it's just literally: Knew it was coming and I couldn't take it any more, and victims will respond.

And you see that written in some of the literature in addressing intervention with battering

victims.

Q. How might alcohol play a part in that?

A. Alcohol plays a dominant part in many domestic violence situations depending on the studies that we have and the populations that you look at.

Somewhere between 65 and 95 percent of battering incidents or domestic violence relationships have alcohol involved at some point in time.

Offenders are slightly more likely than victims to consistently use alcohol or drugs, but victims often use alcohol or drugs to cope.

They search for two things, one is they are searching for a numbing function where the victim is trying not to think about what has happened or trying not to feel bad about her life and may just want to kind of be numb and not feel things and so the victim may use alcohol or substances to -- literally to cope with the violence in their lives.

It's not uncommon that that might happen before an incident and it is very common that offenders use substances to try to manage the tension that they are having prior to a battering incident and so they may be using as well.

In some situation you see people using alcohol or drugs together.

Q. How does the possible imminent end of the relationship affect the cycle or the course of the relationship?

A. Well, typically we have a lot of misinformation about that in our culture. We tend to believe and consequently victims and offenders tend to believe that if the victim didn't sort of like put up with it or like it she could walk out at any time.

Actually the research indicates that the victims are at the greatest risk for death or serious physical injury if they are planning or attempting to leave a relationship.

It's my perception that victims understand that fairly substantially. Part of what contributes to that, from the offenders' literature, while they may be very violent and controlling often have some internal feelings of inadequacy or fear or dependency on the victim and so any idea that she might be leaving leads them to feeling further out of control and they will need to establish control more strongly.

Actually a victim telling an offender that she plans on leaving can precipitate a violent incident. And we know that there are times when offenders are so distressed about a victim leaving that they will threaten to kill a victim to stop that victim from leaving or to

harm someone else they care about, children, pets, or other family members.

It's a dangerous time when someone attempts to leave a battering relationship.

Q. Can you describe what an offender typically looks like after the battering actually occurs or after the violent episode?

A. Yes, I can actually. This is another place where we have misinformation in our general compilation.

People tend to perceive that people who commit violent acts will be identifiable as criminals and appear to have criminal behaviors.

What we have learned about offenders is that they typically -- part of the way they get away with the battering is they are nice people sometimes or nice women if they are female offenders.

They are relatively truly good people who people like or trust. And what we know about the battering incidents and what treatment providers work with offenders about is that after a battering incident they typically have released all of their tension and feel profoundly in control of the victim.

They often look good, what we call good when people intervene. They seem calm, they seem

rational, they seem concerned about the victim, they can often tell really good stories about what happened.

Victims on the other hand look distressed because they have just been traumatized, they may be less clear, they may be either angry or crying or not look as collected as an offender and we actually teach people about how they need to intervene in domestic violence situations because of that behavior.

So offenders typically look better immediately post battering incidents than victims do and they often are very calm and rational and will provide explanations for what happened that seem reasonable given their very calm demeanor which, if people look further, aren't always accurate.

Q. Is this what happens when law enforcement gets involved too? Does that throw an additional dynamic in?

A. It's very common that law enforcement intervene either --

MS. REIFF: I am going to object, this is outside of the scope of the expertise of the witness which is apparently couched mainly in clinical experience.

This is opining as to what happens when law enforcement becomes involved and there is a bulk of

clinical work or research on the part of the witness with regard to the dynamics of law enforcement involvement in an investigation in a domestic violence allegation and I think it's outside the scope.

MS. STAVIG: Your Honor, I think that we are talking about different factors that play into the cycle of how it impacts the patterns and behaviors that have been studied not only by Ms. McAllister, but by many, many other experts and she has reviewed much of that research and is very familiar with it.

I think we are adding different factors and discussing the ramifications or how the factors might change or affect the dynamics in the patterns.

THE COURT: Are you intending to have her talk about police response?

MS. STAVIG: No, I am actually focusing on an offender's response as part of the cycle and more of an emotional response. How one might come across as part of the whole pattern and cycle of violence.

THE COURT: Okay. The objection is overruled.

MS. REIFF: For the record, I don't have anything about the intervention of law enforcement in regards to how it affects the dynamics of the situation, with regard to discovery as far as Ms. McAllister's

report.

THE COURT: Well, let's hear what she has to say, we are here for motions. I am trying to determine if it is helpful, whether there is any support or not for it and if she is qualified to render this opinion. Overruled, go ahead.

THE WITNESS: Thank you, Your Honor. First of all there has been substantial studies about law enforcement intervention because it is partly how we identified what sort of programming we need to develop for victims and what sort of containment we need to develop for offenders because we saw, based on reactions to intervention, differing kinds of behaviors happen.

I have also reviewed and participated in training law enforcement who respond and typically what we train about and why we train about dynamics is because offenders tend to have -- unless somebody arrived during the battering incident and while violence is happening, offenders appear to be more controlled, more calm, they tend to be able to be more rational in their discussing of the events and they have what appears to be objective distance from the event than victims do.

Victims, because they have just been traumatized, tend to look distressed and overwhelmed and that leads us to understand that you need to do different

kinds of intervention if you are intervening in a home, whether you are a child protection worker who shows up or a law enforcement officer immediately post battering incident.

Some of the things that we recommend are separating people, making sure that they are interviewed differently, that they can't see one another because that helps people get more accurate information.

We always recommend when we train about intervention that you don't just listen to the story of the people because both have some investment in denial and minimization of violence, but that you have to look at a number of different factors including the scene, the history, and other sorts of things to establish battering.

It's different than a single incident, stranger kind of crime setting. So really what we see are that offenders are very good at looking like nice guys, really concerned about victims whom they describe as being irrational, often to blaming.

And victims often do look distracted and upset and maybe angry or scared and not very responsive to law enforcement and that's a common response.

Also if an offender has threatened a victim about reporting or not reporting, saying: Don't

tell anybody about this or I'll hurt you worse or I'll get in trouble if you report me and we are going to be screwed financially, or there are a number of reasons that they may say that.

Then what we see is victims may even refuse to cooperate with law enforcement or may not answer questions, may not answer questions honestly because typically when people are traumatized they are not thinking about the potential risks or the history of risk.

They may be trying to protect an offender or trying to protect the person they love from getting in trouble because they believed him when he says: I am really sorry and I'll try not to do it again. They believe him.

Q. Are there reasons that a victim might minimize or deny past abusive incidents?

A. Well, there are a number of reasons that are identified in the literature and I have seen in my clinical exposure that victims may deny or minimize past violence.

One of the most common of course is that they are ashamed or embarrassed about the violence. They know that the offender is blaming them for the violence, the offender tells them that.

They feel responsible because of the things that happen in the battering cycle and so they often feel like it is their fault and there is some failure in them for why the offender is being violent.

They also typically have vain misconceptions about violence, as the general public does, and they feel stupid for having not left or getting away.

They can't explain why they stay, they are often ashamed about staying with someone who has harmed them in the past.

Additionally there is some strong research about how people store information and respond to trauma which -- a domestic violence incident where violence is involved should be considered a trauma.

They may be experiencing what is called a dissociative response. That's a normal human response to trauma. One component of normal human responses to any trauma and it means that they compartmentalize all or a part of their reaction to an event that's traumatic.

They distance themselves from it, they try not to think about it or feel it. In extreme cases they may literally not remember it.

We know that traumatic material is not subject to voluntary recall or dismissal until a person

has it integrated, that it's actually stored in a different part of the brain.

We know this from medical research that was initially developed and confirmed by Harvard Medical School in the mid 90s and has been replicated a number of times at Harvard and other place.

We have very good information that people behave differently when they are traumatized and one of the ways that they try to distance themselves from the negative impact of what has happened to them is by doing what we call disassociating, that there can be post trauma for people who continue to be exposed to repeated trauma and that they may not be subject to voluntary recall or dismissal of certain kinds of material because it's literally not stored in the cognitive part of the brain attached to time lines and language and story telling and meaning.

It's stored more as images, physical sensation, feelings and behavioral states. It is often experienced as distressing by the person until it is integrated, as it's remembered, so disassociating or trying to be separate from it.

It has certain very similar functions like shock does in a physiological trauma. It protects the psyche from the negative event in the same way that the

drop in heart rate, body temperature protect the body from absorbing the impact of a physiological trauma.

We have similar, but differently used coping behaviors for physiological and psychological trauma.

MS. STAVIG: If I can have just a moment. I am going to approach with what has been mark as People's Exhibit 2.

(Ms. Stavig showed the Exhibit to Ms. Reiff and the following proceedings were had.)

Q. (By Ms. Stavig) Can you tell the Judge what People's Exhibit 2 is please?

A. Yes, this is a report that I prepared for you at your request based on general dynamics of domestic violence situations.

MS. STAVIG: Your Honor, at this time I would move to admit People's Exhibit 2 for the purposes of this hearing

THE COURT: Any objection?

MS. REIFF: No, Judge, not for this hearing.

THE COURT: Two is received.

MS. STAVIG: Your Honor, I have no further questions.

THE COURT: Cross-examination.

MS. REIFF: Thank you.

CROSS-EXAMINATION

BY MS. REIFF:

Q. Ms. McAllister, your CV has been introduced into evidence. I want to review a few aspects of that with you.

A. Okay.

Q. You have testified with regard to what we can term a behavioral science; is that correct?

A. Yes.

Q. Okay. And you are currently a consultant and trainer; is that correct?

A. That's correct.

Q. In trauma and offender management with regard to domestic violence?

A. Sexual assault, victim responses, victim trauma, domestic violence. It depends on -- they are large general categories. Some people call it interpersonal violence.

Q. Okay. The primary duties in your present position are providing consultation and training regarding trauma and victimization; is that correct?

A. Yes.

Q. You are not currently treating any individual patients; is that correct?

A. I am not currently treating individual patients.

Q. Prior to your current profession as a consultant and trainer, you had worked for Project Safe Haven?

A. Actually, yes. I worked with the Colorado Coalition Against -- I'm sorry, the Colorado Coalition for Victim Assistance called when we had the evacuees come in from Hurricanes Katrina and Rita and asked me to co-coordinate the on-site victim advocacy response at Lowry Air Force Base when we moved evacuees to Colorado.

Q. On-site? You were working in the capacity of victims advocacy service; is that right?

A. We did direct intervention, we paired advocates on-site with every single family that come through Colorado, some of whom came on the planes that had just been plucked out of the water, and some were able to get here on their own.

And I did direct intervention with a number of the families and we had families that were here and we provided that service for about eight weeks.

Q. Okay. And the trauma and reaction to trauma that you were able to observe from the Hurricane Katrina victims, that's a different source of trauma than in a domestic violence relationship, right?

A. It's a different source, yes.

Q. Prior to that, in 2004, you were the Executive Director of the Colorado Coalition Against Sex Assault?

A. Yes.

Q. And your duties in that position included directing and administering agent activities?

A. Yes.

Q. And program planning and implementation?

A. Yes.

Q. So that was more of an administrative position; is that correct? As opposed to clinical?

A. It was more administrative. We helped programs who provided direct services, developed programing, appropriate intervention for working with victims.

Q. Okay. And during your tenure you did not treat any victims or offenders?

A. Not directly, no.

Q. You also -- in 2004 you served as an Adjunct Faculty Member to the University of Denver?

A. Yes.

Q. That was social work?

A. Yes.

Q. Your duties there involved developing and

teaching a course in domestic violence intervention; is that correct?

A. That's correct. It was their first course in domestic violence intervention at the graduate level and they requested that I become involved and co-teach the course the first time it was taught.

Q. In that capacity you were not charged with clinical evaluation or therapeutic treatment of any victim or offender?

A. No, I was training graduate students how to intervene.

Q. How to intervene in those cases?

A. Yes, yes. The training was for people who were going to be providing direct service to domestic violence victims or offenders after they received their graduate degree.

Q. You yourself did not do the therapeutic --

A. No, I did not.

Q. Before that from 2001 to 2004 you were the Program Administrator for the Domestic Abuse Assistance Program with the Colorado Department of Human Services?

A. Yes.

Q. That again was an administrative position?

A. Yes.

Q. You were charged with administrating the

activities related to the distribution and management of state and federal program dollars; is that correct?

A. Yes, and setting standards for programming for all of the battered women's shelters and their programs in the state.

Q. So you were charged with basically organizing training and services for people who had been established as victims, correct?

A. Yes.

Q. And in that capacity you did not do any hands-on therapeutic work with individuals, either offenders or victims; is that correct?

A. Very little. There were times when I would -- we did on-site visitations on the programs and we did sit in on things like that. It was minimal, observational more than direct intervention.

Q. And the observations that you were taking note of were collected by you with the end goal of supervising staff, developing programs in that vein of work; is that correct?

A. Yes, insuring that their programming was effective and met the standards that we have set for that kind of programming based on victim need.

Q. Again this was a victim advocate based program that you were developing training and services

for?

A. Actually most of the programs in Colorado have on-site residential crisis center intervention services, they have hotline crisis intervention which are advocate driven.

Almost every program in Colorado has a longer term counseling program attached to it, some of the very tiny rural programs don't have any counseling services, but a lot have counseling programs as well for the victims and the children. And there are other advocacy programs for connecting them with resources in the program.

Q. Okay. And are any of these curriculums or programs or courses that you helped to develop -- the courses or curriculum designed around the issue of whether there was in fact at all a domestic violence situation to begin with, correct?

A. Actually much of what we teach in terms of basic assessment is determining domestic violence not -- not what I was teaching people in domestic violence programs, but for much of the other training that I do and have done, assessment is a core issue because domestic violence issues rarely present to counselors or medical doctors saying: I am a domestic violence victim.

They often present saying: I am having

relationship problems, I have substance abuse problems or other problems, I am depressed, I got injured and they don't give accurate information so some of what we teach is assessment of domestic violence situations and how you assess it appropriately.

Q. And that wasn't quite my question. What I was intending to ask is these are not courses or programs that are designed in investigating whether a certain incident happened, correct?

A. The work with the Domestic Abuse Assistance Program was not.

Q. Okay. And it's called the Domestic Abuse Assistance Program; is that correct?

A. Yes.

Q. The assistance is not directed at offenders but victims?

A. I served on -- as a part of that job I served on the Domestic Violence Offender Management Board appointed by the head of the department and services so that was a component of my job, but not a primary component of my job.

Q. In terms of that component did you have the opportunity to work clinically with offenders?

A. Not in that role. That role was setting policy for how clinical intervention happened with

convicted offenders post treatment.

It was the state-wide appointed board of experts who determined what appropriate interventions were.

Q. Okay. So this was not an endeavor that requires hands-on experience going on at the same time with regard to any clinical --

A. It wasn't a treatment program. It sets standards for all the treatment programs in the state.

Q. Okay. Now prior to your position with regard to Human Services you were on the faculty of the American Prosecutors' Research Institute; is that right?

A. That's correct.

Q. And in that capacity you developed course curriculums and materials and taught developed course content related to sexual assault, domestic violence, expert testimony and work related secondary trauma?

A. Yes.

Q. And what was the American Prosecutor's Research Institute?

A. It's a training program that's a part of the National District Attorneys' Association that provided training to Prosecutors in different content areas and mine obviously were domestic violence and sexual assault and secondary trauma.

Q. Okay. And in fact they provide training solely to Prosecutors; is that correct?

A. That's my understanding.

Q. Prior to that you were in the Denver C.A.R.E.S. Counselor Training Program; is that right?

A. Yes.

Q. You served as faculty there?

A. Yes, I did.

Q. In that capacity again you developed course content and taught courses on sexual trauma treatment and victims/survivors of domestic violence; is that correct?

A. That's correct.

Q. The subject of the courses that you developed and taught was to provide training for working professionals according to your CV; is that right?

A. Actually people who -- there are requirements for substance abuse counselors and therapists, and people who intervene with domestic violence that they have training in certain issues about intervention.

So people working the field will come to get training about how to do effective interventions with victims.

Q. The bulk of this work is victim centered

as far as the training in the area and expertise; is that correct?

A. Yes, that's accurate.

Q. From 1997 to 2001 you worked with the Colorado Department of Public Safety in the Division of Criminal Justice?

A. Yes.

Q. That was your work on the Sex Offender Management Board that you spoke of?

A. Yes, yes, that's correct.

Q. And that was from '97 to 2001?

A. Yes.

Q. And then again that involved largely administrative functions as far as your role there; is that correct?

A. Yes, we did set standards for sex offender intervention and then when the domestic violence offender board was established in -- to function in the same way that the sex offender board was established, that was added to the office, and I administered that for almost a year until we hired staff.

We set standards for treatment and any other kind of behavioral intervention post conviction with sex offender or domestic violence offender and as well as provide treatment in the state.

Q. So you are basically agreeing on standards and treatments; is that correct?

A. Yes, practices, reviewing the research that exists and setting standards.

Q. As far as your administrative duties in this department and as far as all of the faculty positions that you have held, none of those involved a hands-on clinical practice with regard to either victims or offenders on an individual therapist basis; is that correct?

A. They do not.

Q. From 1999 to 2000 you worked with Columbine Connection Victim Advocates?

A. Yes.

Q. That was victim outreach information in the Jefferson County Sheriff's Victim Advocates here in Golden?

A. It was during the time that I was administrating the Sex Offender Management Board.

After the Columbine shooting a number of us were called out to help respond initially and I was requested to provide direct supervision and consultation for all of the advocates that were responding to families who had either lost someone or the injured, and did a lot of work with the school personnel and the families of

students at the school for the first year after.

Q. It was an emergency coalition to address the trauma created by the tragedy?

A. Yes, I provided training for the mental health people that were hired to do -- to become the mental health component of Columbine Connection Intervention and I provided supervision and ongoing consultation for the victim advocates.

Q. All of the victims as a result of Columbine, or those people that were traumatized, could correctly be called victims, it was a traumatic event?

A. That's correct.

Q. None of those were domestic violence based services, correct?

A. No, they were not.

Q. From 1989 to 1997 you worked with the Assault Survivors Assistance Program at West Pines and you mentioned that on direct as well?

A. Yes.

Q. Was that the same?

A. Yes.

Q. And you worked as a therapist in that capacity; is that correct?

A. Yes, I did.

Q. With regard to that, did any of your

clinical work extend past 1997?

A. Very minimally. I had -- I had periodic contact, but primarily I have done teaching and training or administering programs that supervised people that did direct intervention.

Q. Okay. From 1988 to 1990 you were an instructor teaching a course on domestic violence, correct?

A. Yes, I did while working at other jobs, it was a part-time position, an adjunct position. I think you are referring to Aurora Community College.

Q. It say Aurora, Colorado.

A. Yes.

Q. So that would be the one?

A. Yes.

Q. And in that capacity in developing and teaching the course, that did not include hands-on clinical work in terms of your class being involved in therapeutic sessions; is that right?

A. The class wasn't involved therapeutically, but at that time I was doing clinical work.

Q. This overlaps from '89?

A. Yes.

Q. And prior to that you worked as a social worker at the Senior Resource Center?

A. Almost a year and it was the Senior Resource Center in Jefferson County and I set up some victim programming for elderly domestic violence victims, working directly with them and with victims of other sort of crimes against the elderly.

Q. Okay. And you also prior to that did serve as the program supervisor to Gateway Battered Women's Shelter?

A. Yes.

Q. And that was an emergency shelter from the description is what I am assuming.

A. We actually had an emergency 24 bed shelter for women and children, a 24 hour hotline, we had the first out-client counselling program for battered women and their children.

And then we worked with couples after we established safety, a period of time after they were initially identified, and an offender had been in treatment for a period of time.

We did couples counseling in cooperation with the AMEND program. We had the first long-term counseling program in Colorado so we had -- we did counseling for about 650 individuals a year and I carried an ongoing case load the entire time that I was supervising that program as well so I did a lot of

clinical work with victims and then with couples and some with offenders as well.

Q. And the individuals who presented to the shelter for sheltering and counseling and help, I am assuming these are not offenders who feel like they need to take a break before they do something they would regret?

A. Actually there were some programs that we worked with AMEND to try to set up so offenders could have access, but our shelter was not providing the offender time out kinds of programs.

Q. Okay. So the experience you had in terms of treating individuals was victim based; is that right?

A. Victim based and then working with offenders as a part of the family system once they were far enough out from the immediate violence circumstance so we felt it was safe to do family intervention.

It's not advisable to do family intervention immediately post violence until the offender learns some control behaviors and techniques to managing the violence.

Q. And individual treatment as far as offenders and the dynamics in their experience is not what you were focused on in terms of individual therapy in your career; is that correct?

A. That was not primary, no. There were periods of time when that came up at West Pines because people don't always present saying what they have initially going on and we saw people that were self-referred rather than by law enforcement.

There were some intervening in child protection cases prior to Gateway, but it was small -- much smaller component of my work.

Q. Okay. So as far as your work and your experience, individual input from one person being given in therapy or counseling by one provider, that has been in the context of a therapist and victim dynamics for you?

A. The majority of it has been, yes.

Q. And treatment and counseling of offenders typically comes into play after you have done extensive counseling with the victim and feel that it was a safe step; is that right?

A. Sometimes it was after I did counseling with a victim. Sometimes it was a victim and an offender referred by another therapist who was recommending couples counseling because we are trained to do that and we had good clinical supervision for it and --

Q. Those are -- I'm sorry. Those are there in terms of taking a step towards helping with family

assessments?

A. Right, and we did our own assessment of course about previous treatment, but, yes, they are referred that way.

Q. Okay, okay. And I know this is a little tedious for you because this is stuff you have done, but Arapahoe County Department of Social Services from 1979 to 1980 as a caseworker as well?

A. That was as a caseworker.

Q. And in that capacity you were providing services to adolescents and their families who were experiencing conflicts dealing with juvenile abuse, juvenile delinquency?

A. Back then it was literally from risks to serious child abuse and domestic violence. Back then we had different child abuse and child protection laws.

Q. I see Group Living Counselor with Excelsior Youth?

A. Yes. That was a residential treatment facility for adolescents.

Q. And then Summer Youth Counselor with regard to the Summer Youth Program.

A. And that was an employment program for kids when I was very first out of college.

Q. Okay. So your first experience in terms

of becoming involved in domestic violence is with Gateway Battered Women's Sheller; is that right?

A. No. Eventually while I was doing child protection which is what motivated me to want to go do domestic violence work because so many of the children I saw with problems had violence in the family beforehand that we identified as one of the issues that needed to be addressed to help the kids.

Q. And this was at the Arapahoe County Department? Is that what you are referring to?

A. Yes.

Q. Talking about your family experience?

A. We would go because a child was having trouble of some sort or another and often we have identified there was on going domestic violence in the home.

Q. You served in that position, it says from 1979 to 1980, was that a full year or --

A. It was about a year and six months. Approximately a year or seven months I think, not two full years, but it was --

Q. So your first working experience with domestic violence is through the children?

A. Yes.

Q. And that led you to seek out a position at

Gateway Battered Women's Shelter?

A. Yes.

Q. And that's the Gateway Battered Women's Shelter from 1981 to 1988 is the bulk of your clinical experience as far as hands-on therapy with individuals; is that correct?

A. That -- that work and the year at the Jefferson County Senior Resource Center and the seven and a half years at the Assault Survivors Assistance Program, that was direct clinical experience as well, all of that.

Q. That ended in '97; is that correct?

A. Yes, that's correct.

Q. Ms. McAllister, have you reviewed any of the discovery in this case?

A. I have not reviewed any documents related to this case except for a brief e-mail that was a question from Ms. Stavig that said: I have a domestic violence case. Are you available on this date, and I think it said first-degree assault. About this much description.

(The witness motioned with her hands.)

Q. (By Ms. Reiff) Are you aware of the particular facts in this case?

A. Only that there was a fairly serious violent incident that resulted in some head and facial

injuries. That's all really that I know.

Q. Have you interviewed any of the witnesses or the alleged victim in the case?

A. I have not.

Q. As far as I can tell from the court report that is now submitted into evidence for this hearing, and as far as your direct testimony goes, you have got three main areas that you spoke about with regard to this area?

A. Yes.

Q. And that was typical victim reaction and offender behavior; typical reactions to trauma, and domestic violence dynamics; is that correct?

A. That's how I categorize them.

Q. Is it your intention to testify to all three areas with regard to this case?

A. It's my intention to respond to questions that I am asked so I am available to respond to any questions about any of this, but it depends on what I am asked because this was not something where I made a determination about something by doing an interview of somebody.

Q. Okay. I take it that hasn't been discussed as far as what would be asked of you at trial?

A. Just generally the dynamics of domestic violence, typical offender and victim behavior, and I

suggested that trauma also be added because all human trauma is responded to very similarly.

Domestic violence is a form of traumatic experience and so that information in the form of domestic violence -- or the understanding of domestic violence and victim behavior.

Q. With regard to the affects of trauma, you said this is pretty consistent with the whole spectrum of human beings. Can you describe what you mean by that?

A. There are common human reactions to any kind of trauma with anything that the brain perceives as a threat.

The literature defines it as something that is so powerful, harmful, overwhelming, or severe that it requires the use of extraordinary coping mechanisms, so it changes how we function and it's consistent across combat, natural disasters, domestic violence, any kind of interpersonal violence.

It could be a crime, accident, so there are very common reactions and then there are differing dynamics about long-term responses and dynamics of situations in which people are traumatized, based on what the trauma is, but they are common reactions across all -- all traumatic experiences.

Q. What are those?

A. There are actually several. The extraordinary coping mechanism to which I referred are first, what's in the literature called hyper-arousal, which means the body perceives threat or distress or being overwhelmed in some way.

Consequently the way the brain functions happens differently. We stop using the front part of the brain, the cortex, where language and previous learning things are stored and the -- much of the activity is referred to the amygdala, which some people call the fear center, it's a more primitive part of the brain.

It's what our culture talks about the fight or flight response coming from and actually that's inaccurate.

There are three typical responses in human beings: Fight, flight, or freeze. They are all designed to survive an immediate trauma. So you get that hyper-arousal which includes the physiological responses in the changes in the way the brain functions, that refers to how material is stored.

It is stored in the amygdala, it's stored as images, sensations, feelings and behaviors rather than as memory with a story line and a time line and specific capacity to be subject to voluntary recall and what we call social demand which means that you can tell how much

of something somebody wants to hear about or you can say a little bit or a lot.

And it's also subject to what we call triggers in the environment and that's called state dependant. In the research literature that means that things in the environment that remind the person of the trauma.

For instance, one of the things we saw with the survivors of the hurricanes is the first day it started to rain here in the afternoon, everyone -- literally 450 people were incredibly distressed because they were smelling the rain.

So if somebody has been threatened while they are being beaten, the sound of that person's voice might -- again, whether the person is currently threatening them, that's --

Q. What's hyper-arousal?

A. Hyper-arousal is the whole set of physical responses that cause those differences in the way people react.

Q. Everything you talked about --

A. Yes, yes.

Q. -- pertaining to the hyper-arousal aspect?

A. Yes, yes, correct. And then the other thing with psychological trauma are the responses during

trauma and post trauma and they include two primary types of responses being excited responses which are those responses that look to us like distress, crying, shaking, fear, being -- being terrified of someone, sometimes being angry in response to someone attacking you.

It's the external visible responses and they are the responses that are designed to tell our brain something bad is happening, do something about it.

The other set of responses are the dissociative responses that I described earlier where they are essentially compartmentalizing all or part of our reaction to a negative experience.

And what they do is protect us from absorbing the impact of the negative event all at once in much the same way that psychological shock protects people from absorbing the full impact of physiological trauma, it helps us not go crazy because we are so distressed about what's happened to us.

And it ends up that in a simple trauma where somebody has one exposure and they are immediately in a safe environment after, they will often fluctuate between the intrusive or the anxiety and the dissociative or the sort of numbing or avoidance responses until they can fully understand what happened, feel it, not need to distance from it or compartmentalize it, but not be

overwhelmed and it is integrated and moved into the cognitive part of the brain where it is remembered as past.

Q. Okay. Is there any time line in terms of studies with regard to how quickly this reintegration can occur?

A. Some of the things depend on a number of things. There are not -- there is never an absolute, it's -- it's always dependant on the individual.

People who are exposed to repeated trauma are much more likely to have trauma happen over a longer period of time, but unlike other things, because of the hyper-arousal and changes in our functioning, we are not really designed to keep being exposed to trauma.

We don't get better at it over time, people who are repeatedly exposed are more likely to have a longer term negative response without being able to fully integrate over time.

People who are not able to establish a safe environment don't even start to integrate it typically. In all of the theories and programs that are designed for trauma response, basic safety is a requirement prior to starting to recover from trauma or integrate it.

So people who are not in a safe

environments, people in war zones, who are still exposed to natural disasters, accidents, or people exposed to domestic violence in the home have a longer negative response and be less likely to integrate.

So there is not a consistent period of time when you can say somebody will be recovered.

Q. Okay. With regard to the three different presentations of possible traumatic events or reactions to traumatic events, if somebody is presenting with none of this, does that mean there is no trauma, ipso facto analysis on your part?

A. No. Actually for any single traumatic event at any one given time, about a third of human beings will integrate that relatively reasonably on their own.

If you saw them five minutes after what happened you my observe some of the initial trauma responses, but about a third of the people will integrate it on their own without additional help or without looking very disturbed externally to other people.

About a third end up looking disturbed to the people around them and they will need assistance and support from their support system to feel better and start to look more normalized and about a third end up developing some long-term trauma.

The problem with assessing trauma is that when someone is experiencing the avoidant or numbing post trauma symptoms and compartmentalizes their response, they can look normal to people and even feel normal to themselves.

And some of the trauma literature about interpersonal bounds, we identify a period called pseudo-adjustment post-trauma where people try to act like things are back to normal.

It's actually very much what it looks like in the hearts and flowers stage of a domestic violence stage for a victim. She will try to appear like things are more normal, she won't express distress overtly, she won't be trying to compartmentalize it.

So that is a common part of trauma when people have ongoing exposure.

Q. Okay. And a third of the people won't display three of the common reactions that you have described?

A. A third of the people will have difficulty over time long-term -- what are called long-term negative sequelae, but they may not at any given point in time look or be observable to outsiders that they are having trouble. For instance --

Q. And that's important because your science

or expertise here is based on observations; is that correct?

A. Some it is based on observation and some of it is based on research findings. The trauma material is actually based on medical research conducted by medical doctors who have looked at brain function and used brain scans to determine how the brain is working and those sorts of things.

So some of it is medical research, some of it is observation, and some of it is other kinds of social science research which is not just observation, but following people over time, tracking behavior, those sorts of things.

Q. So -- and you are familiar with the term postdiction, right, ma'am?

A. Yes.

Q. Just in terms of using what you know to predict some things as a factor in the past?

A. Yes.

Q. With regard to past trauma, an individual could present with no difference in behavior or outward responses and still be victimized, correct?

A. If you have observed them at a single point in time, yes, that's accurate.

Q. And someone could have a dissociative

response of compartmentalizing and supression of memory can be a victim of trauma and --

A. Yes. We actually don't call it suppression of memory, we call it disassociation. That's a different thing.

Q. So somebody can present with these dissociative aspects when you observe them and that can be an indicator of trauma?

A. It can be, but not by itself. It's important to understand that any of these things could be, but you have to look at the pattern, you have to look at what you know about what's happened to the person and the pattern of response over time.

Q. Okay.

A. Any individual factor by itself can't be an indicator because it might mean something else if you look at a larger pattern or it might be a part of a different kind of pattern or larger pattern.

Q. So any of these presentations of affects in an individual cannot be conclusively related to --

A. That's correct.

Q. -- the pattern would have to be, you know, research would have to be conducted?

A. No research, but you have to establish that you see evidence of a pattern that is -- that

indicates that there is a trauma response over time.

Q. Over time?

A. Uh-huh.

Q. Okay.

A. Yes.

Q. You have not seen any pattern in this case because you have not reviewed the case; is that correct?

A. I have not reviewed the case at all.

Q. So you can't say whether any of the common behaviors involved with regard to your testimony, in your area, would have any bearing on the jury's assessment of facts in this case; is that right?

A. I can't say that. I could be asked a hypothetical question like you just did: If I see this, does this cause trauma, but I can't make any statement about this case specifically at all.

Q. If there are witnesses in the case that testified to isolated incidents of observation as to how an alleged victim looked at this moment in time and another witness testified how she looked on another day after the alleged incident, how much of a picture do you need to have in terms of any of this being relative?

You testified to a pattern of behavior, not just a couple of isolated incidents; is that right?

A. I said not any individual symptoms or

behavior absent a pattern, and I can't tell you, given different circumstances, how much you would need to observe.

Q. Uh-huh.

A. It's very -- it's going to be very different depending on the situation and what information people have access to.

Q. If there are no observations of a victim's behavior in a relevant time period, none of those observations with regard to common reactions would be relevant as a -- you need the facts, you need more than just --

A. Right. You need to know if there is evidence of a specific trauma happening or specific injury happening. You need to know if -- if that person was exposed to that particular trauma or injured in that way.

You need to know what they describe as their reactions over time. You would need to know --

Q. If -- if we don't have a description of reaction over time, then your testimony with regard to the different reactions of people to trauma would not have a place in discussing the facts; is that correct?

A. It depends. If you have a description of certain reactions and not others it might be useful.

If you have no description of any behavior at all or any -- or any -- like if somebody says we have -- you could determine that somebody experienced trauma if they have physical injury and nothing else, but you would not know what the level of their trauma reaction was or whether there was other stuff going on if the only thing you had was the physical injury. And so --

Q. You would not use any of your observations of the different behaviors as far as reactions to conclusively say, without more, that the person has been a victim of trauma without knowing there has been a traumatic event, without knowing the pattern of behavior.

Because somebody is appearing anxious, you wouldn't assume that it was due to a traumatic event; is that right?

A. I would not say that is accurate. I would not make an assumption based on any single piece of information in any way and I wouldn't assess trauma certainly for somebody that I hadn't personally met.

Q. With regard to dissociative responses, those have to do with memory; is that right? The function of recall?

A. What they have to do with, they are responses that happened. The compartmentalization

happened in response to trauma.

Sometimes how it compartmentalizes means that those memories are not subject to voluntary recall or dismissal.

For instance, when we talked about interpersonal violence, and we teach people to interview, if you ask someone: Were you ever hurt? You are likely to get a no answer from anyone.

But if you ask a behaviourally specific question: Did this thing ever happen to you? It's more likely they can give you an accurate yes or no answer to that because of how the material is sorted.

It might not be that they don't remember it at all, in some cases that's accurate. In some cases it's there but they are not thinking about it, they are trying to push it away so it's not in their consciousness at any given time.

As their memory is triggered by something or they are asked a very specific question, they may be able to retrieve it. So there is a range of dissociative behavior --

Q. Okay.

A. -- some of which involves completely not remembering something and some of which involves lesser impact to how that is -- how that material is

compartmentalized.

Q. And if the victim says: I don't know or I don't remember, it can be anywhere along the spectrum of dissociative responses causing that response, the: I don't know, I don't remember?

A. It could be, it could be at any given one time. Again you want to look at a pattern over time of how those responses look, but, yes, it could be any one question at any one given time --

Q. Okay.

A. -- it could be that --

Q. Okay.

A. -- but it might not be that.

Q. The one thing that you kept coming back to with regard to this area is the pattern over time -- that pattern of behavior over time, and I assume that that's a focal point of yours because of your clinical experience and your opportunity to observe someone over time?

A. It's -- yes, and it may be a short period of time if we are talking about immediately post incident --

Q. Uh-huh.

A. -- for instance we saw a lot of people the day of the shootings at Columbine, and the day after the shootings at Columbine, a very short period of time, but

there is still a pattern that you want to look for in that short of a period of time.

I don't want to imply that you always have to have months, and months, and months of direct observation of someone to have indicators about whether someone is experiencing trauma, but you do have to look at whether -- what you can observe is consistent and whether you have enough that is consistent with what trauma looks like to establish that that pattern is present.

Q. There can be other causes behind lack of memory in terms of any event; is that right?

A. Absolutely. Someone could have -- someone could have pre-existing brain injury. People who have head injuries as a result of trauma sometimes have real trouble with short-term memory around the incident.

Q. Let me stop you there. Are you talking about sort of a directed amnesia towards the incident itself? Not: I forgot who I am or what I do.

You can have the short-term loss of memory of the time surrounding the incident because of physiological reasons resulting from the actual trauma to the brain?

A. You can have any level of amnesia resulting from trauma to a brain. I don't want to say --

you might have somebody that has severe enough injury that they don't remember who they are, so I don't want to say that never happens either.

Q. Right.

A. Again, you need to know the severity of the trauma, but head injuries can impact somebody's capacity to remember, yes, it could.

Q. People who use alcohol, it's not uncommon for people who kind of -- practiced alcoholics in terms of their level of tolerance to have blackouts and that must have been something that you have experiences in your counseling?

A. Actually people can have blackouts if they consume enough and even if they don't drink a lot regularly.

We commonly see blackouts with people who drink regularly and have higher tolerance and people can drink enough to have blackouts even if they drink rarely.

Blackouts can happen, certain drugs can cause memory problems. So there are a number of -- again you need to look at more than just a single thing to know what it's related to.

Q. Okay. You mentioned some studies in research on direct and during the cross-examination.

A. Yes.

Q. What relevant psychological studies in the field regarding victim reactions or offender behavior have you participated in or reviewed?

A. Well, I have reviewed a lot of them. I actually wrote down in my report several of the things that I specifically reviewed before writing this report.

So the Diagnostic and Statistical Manual of Mental Disorders is a research-based manual that identifies, based on the best research in the field over a number of years, what specific symptoms are for different disorders.

People or clinicians or who teach clinicians refer to this manual because it is based on the best research we have about what kinds of behaviors are observable in certain kinds of disorders or reactions.

Q. That's a book you read?

A. I read that. You are asking me -- I am going to review some of the things that I have read in my life, but I need to tell you I read voraciously.

I have reviewed probably thousands of articles on domestic violence and that's easily done. In my life there are specific works that I think are particularly relevant, but I can give you an overview of some of those things that are particularly relevant, but

I do regularly review the --

Q. Okay. And --

THE COURT: Don't talk over each other.

Q. (By Ms. Reiff) So let me stop you for a second. Are those the ones that you have read and included in writing?

A. Yes, I had included in writing several that I referred to specifically in writing this report.

Some of the questions you asked me, or that Ms. Stavig asked me, I may have referred to some other things. I know that I referred to some of the research done by William Gondolf who has done a lot of research on offenders.

I know that I have referred to some of the things that I reviewed when we were looking at standards for offender management as well and they were not included in this report because of questions that were asked.

Trauma and Recovery is a book written by Judith Herman.

Q. What are her credentials?

A. She is a medical doctor, she teaches at Harvard Medical School, she works at Cambridge.

There is a hospital in Cambridge that specializes in trauma. She has written and studied on

trauma for years, and years, and years. Her first major work on trauma which reviewed existing research and some of her own on trauma and recovery --She is one of the people who was initially credited with understanding that we need to include child abuse and domestic violence and other sorts of repetitive trauma in the home with the kind of trauma that people experience who are held prisoners over time or kidnapped and held because they have symptoms over time that end up looking similar.

She identified complex trauma reactions that result from repeated exposure to trauma, that's some, of what her initial work was about.

The Body Remembers: The Psychophysiology of Trauma and Treatment, published in 2006, and it is published by Rothschild, but also rely on a lot of the medical research that has been done on the biophysiology of trauma more recently so she has overviews of how people respond and what the research says in her book.

A lot of -- a lot of research literature will find -- will address a number of studies and compile those findings in ways that help people make sense of things over time.

That's something that she did. Psychological trauma --

Q. I need to clarify the question I initially

asked. What I was wondering is how may studies you have participated in or reviewed in terms of peer review and --

A. Oh, you mean --

Q. -- that involved the --

THE COURT: Wait.

THE WITNESS: I am sorry, Your Honor.

Q. (By Ms. Reiff) I know that you are well-read, I see the books on the --

THE COURT: Just a minute. We are asking Ruth to record this and if she is going to we need to speak one at a time. So make sure you wait --

THE WITNESS: Okay.

THE COURT: -- until she finishes asking the question and once she asks the question, you know, give her a hand gesture or something if you are going to interrupt because I really don't think it's fair to Ruth so --

THE WITNESS: Thank you.

THE COURT: You're welcome.

THE WITNESS: I apologize.

Q. (By Ms. Reiff) Does that make it clear? I don't want to go over everything that has been admitted in terms of evidence and I think that -- unless you want to give any clarifications on the titles, they are

clearly self-explanatory in terms of the topics of the books.

What am I wondering is what studies have you been either directly involved in in terms of conduction of the studies, or have you been involved with in terms of peer review in clinical settings?

A. Okay. I am not primarily a researcher so I have not been the primary investigator on any research studies myself.

I have been involved -- when I worked at Gateway Battered Women's Shelter we worked with Katheryn Jenn (phonetic) and Robbie Rossman.

Robbie Rossman is known as one of the people who has done a lot of research on the impact of domestic violence on women and children.

Katheryn Jenn initially worked with Lenore Walker together researching. Both of them did research on people in our programs and we -- I sat on committees that looked at the questions for that research, so I did some components of the peer review.

Sometimes it was initial face validity reviews, sometimes it was looking at whether we were -- whether there were questions that were going to be responded to adequately by the population.

Sometimes you need people in the field who

are working with people to understand the way questions are asked will be different.

So I sat on a number of committees with those people doing research on battered women and on their children while I was working at Gateway.

And when I worked at the Assault Survivors Assistance Program we participated with the Colorado Chapter of the American Medical Association.

Again I was not the primary researcher, but I sat in on committees to review some of the initial questions for studies that were done on medical intervention with domestic violence victims and offenders.

When I was -- and also worked with the Colorado Department of Health and Environment and the Colorado Coalition Against Sexual Assault very closely to work on Colorado's Behavioral Health Survey that looks at questions about sexual assaults in intimate relationships and by unknown people.

We were the first state in the country to include those questions on a standard behavioral health survey as a common practice now. I helped develop the initial questions and actually tested.

What you do in strong research, in addition to having peer review and having people review

for reliability and consistency with other research and having other people review for statistical tests to analyze the data, you also have people who sample with the research with the population that you are trying to study and then see how they respond and then often go back to interview those people to see if they understood the questions or if they were responding to what was expected to be asked.

So are your trying to be sure that your information is actually studying what you want to study and not some accidental outcome because the people in your research group understand something differently or they are responding to a question the way it's written instead of what is actually being asked.

So I actually did testing of some of those studies with my treatment groups during the time that I was at Assault Survivors Assistance Program.

When I was at the Sex Offender Management Board and the Domestic Violence Offender Management Board both, we were instructed by the legislature to -- in some cases -- do studies on convicted offenders in Colorado and in other cases to find information which resulted in doing a study.

So I helped develop questions, traveled around the state, and had peer reviews from people in the

criminal justice system and treatment community on a number of studies and I also helped -- helped review and gather data out of case files, and then reviewed the findings against the case files to see if we were again gathering accurate information and finding what we need to find.

I worked very closing with the Office of Research and Statistics at the Division of Criminal Justice because that was part of the requirement by the legislature about what the board did and how they based their work on existing research and best knowledge in the field.

And we also met with researchers from around the country to have them train the board about appropriate intervention in those cases and how to research for reliability, for validity, for usefulness in clinical practice, so we had regular training.

We invited people in from around the country to do training with those boards on how to do that, that was part of the charge from the legislature.

Did some work with -- and more -- more minimally when I was with the Domestic Abuse Assistant Program in the same vein.

So I have done a number of things that involved either peer review of findings, or use of

findings in setting standards, or face validity, or actual testing of the instruments in the field in a number of different studies.

Q. During your time at Gateway you testified you helped develop questions for a couple of studies that were going on which used your population; is that correct?

A. Yes, yes.

Q. And these were victim-based studies?

A. Those -- yes, those were victim-based.

Q. Okay.

A. Also reviewed other literature to see what kinds of findings we were looking for, helped to identify -- when you are doing that sort of research or involved in the quantitive research committee, you look at your sample population, how to make sure that you are getting a broad enough sample.

If you don't have control groups, which in most cases you don't have those standard --

Q. You don't have control groups or --

A. You don't have standard, formal, control groups like you do in scientific research because most ethics committees that fund research won't allow you not to intervene at all with someone who is in serious trouble, which in a lab you can put one set of cells in

a solution and put a set of cells in the other solution, but if you are talking about domestic violence, even the major national studies have grave concerns about recommending that anybody not receive interventions at all.

You have to find groups of people that didn't receive intervention and study them to compare. So you have to consider those things, but you don't do the kind of things that you do in hard physical science.

So you have to discuss those things and make recommendations to the researcher about how the things would look from the field.

Q. And that was kind of how these studies -- which you were involved in during your time at Gateway; is that correct?

A. Yes.

Q. And your studies in terms of reviewing and gathering data for the Sex Offender Management Board has to do with sex offenders?

A. Yes, and there was some studies with domestic violence offenders as well.

Q. I'll ask you about that. How many offenders did you have the chance to study or do psychological research on individually with regard to the studies?

A. Okay, I didn't do individual psychological research, those are case studies and I did not do any of those.

We reviewd some case studies, but those are not what I did. We did -- typically with domestic violence offenders we were doing follow up, we were helping to develop follow up studies that look at behavioral change post treatment, and that looked at having additional sources of information besides offender only reports that look at previous victim reports, other family members, so that we had multiple sources of information to determine if the behaviors were really changing and --

Q. Okay. These studies had to do with the treatment of an offender after it had been established that this is a domestic violence --

A. Yes. Those studies did, yes. We also did studies --

Q. I'm sorry, they did not have to do with trying to discern the behavioral issues, whether you had a domestic violence situation in play, these were what the board then would treat?

A. The study that the board typically were -- at both boards typically were about post conviction offenders. So we looked at people they were trying to

intervene with, yes, trying to identify as much in those studies, yes.

Q. Okay. So the only studies with regard to victim reaction, offender behavior, and domestic violence dynamics on the pre-adjudicatory side of it, before we go through the court process, before we have an offender in need of treatment, when we are talking about the topics of reactions within a relationship and the dynamics of a domestic violent relationship, the studies that you had any involvement with were those that you helped out with in terms of formulating questions and helping with the testing population at Gateway; is that correct?

A. At Gateway and some results of the Assault Survivors Assistance Program with the medical providers and medical intervention.

Q. You testified that in both of those positions you were acting in the capacity of a victim advocate primarily in terms of shelter and working in shelters?

A. I was a psychotherapist at Assault Survivors Assistance Program, that was my title, and provided psychotherapy that was in trauma and assessment at the request of the psychiatrist who were confused about whether the cases had trauma in them.

At the shelter I was considered a

caseworker or later the program supervisor, so I was never identified as a victim advocate in either of those jobs.

Q. I'll clarify a little bit, I don't mean in terms of your actual title, the District Attorney has victim advocate positions. What I mean is you were charged with helping and aiding people who were determined to be victims of --

A. Yes, to work with victims of domestic violence or a number of different traumas at the Assault Survivors Assistance Program.

Q. Now as far as your qualifications with regard to degrees, you do have a masters in social work?

A. Yes, I do.

Q. And you are not a licensed social worker, it doesn't look like from your CV; is that correct?

A. That's correct.

Q. Have you ever worked in the capacity of a practicing social worker? As a licensed social worker?

A. No.

Q. Expired license I guess is what I am --

A. No, no. I choose not to get my license after I got out of graduate school.

Q. Okay. As far as your bachelors, you noted on your CV that you do have a bachelors. What is that

in? It does not indicate.

A. I'm sorry, sociology. I thought I said it earlier.

Q. You may have in terms of direct, I didn't see it on the CV.

In regards to -- your other qualifications consists mostly of the time you spent in clinical work and the review of other information; is that correct?

A. The review of other information?

Q. Books, articles --

A. Yes, and the responsibility for supervising and setting programing and intervention with large numbers of victims around the state and offenders around the state as well.

Q. Okay. With regard to the typical behavioral reactions to trauma, what percentage of the general non-abused population displayed those kind of behaviors?

A. Of the non-abused population --

MS. STAVIG: I object. This is outside the scope of direct.

MS. REIFF: Judge, she is reported to be an expert in the behavior of abused women. I think that any control group or any control data in terms of how relevant or reliable the testimony is can be gone into on

cross.

If she doesn't know, she doesn't know and can explain why she doesn't know.

THE COURT: I think that certainly is fair for cross-examination in terms of the trial, but in terms of her qualifications right now it's sustained.

Q. (By Ms. Reiff) With regard to the domestic violence cycle, can the cycle be observed in a relationship that is verbally abusive but falls short of being physically abusive?

A. At times it can, if it's very controlling, yes.

Q. Do you have any statistics with regard to how many DV relationships fall into a verbal abuse category versus physical abuse?

A. I don't have current statistics on that.

Q. With regard to victim behavior and victim reactions to these kinds of dynamics, are they consistent or is there a noted difference with regard to a cycle of verbal abuse versus a cycle of physical abuse?

A. That depends on whether there is a degree of threat felt or experienced by the victim. Verbal abuse can be very frightening and controlling and someone can threaten to harm you and never harm you.

Those kinds of cases that I have seen look

very similar to situations where there is physical violence and often they become physically violent over time.

In my clinical experience there are some cases where there is just what people call verbal abuse, yelling, and screaming, people are not really afraid, and I would label that differently and wouldn't actually put that in the category of domestic violence because I think that that -- that the central core of power and control I went over requires some component of fear on the part of the person victimized. That's my assessment.

Q. What percentage -- based on your clinical experience, what percentage of domestic violence instances are isolated incidents of abuse where evidence of domestic violence cycle or domestic violence pattern is not there?

A. Actually that's a real good question. One of the things we try to look at over the years, and different researcher look at and people doing programing, because we initially heard and we often hear this is the only time it ever happened.

And then we started observing that the same victims came back through whatever program was available. So researchers started looking and what we identified as -- you actually don't identify most of the

battering incidents or parts of the cycle through the system that -- that actually more commonly additional incidents have happened that haven't been identified by the system that aren't documented else where.

And that's been done by -- that's been looked at both by the offender research and offender self-report and victim self-report that it's very rare that there is only one incident. It does happen and --

Q. The question was: Was percentage of the incidents turn out to be isolated incidents as opposed to part of a larger pattern. Do you have statistics with regard to any of these cycles or dynamics in interpersonal relationships?

MS. STAVIG: Your Honor, as to that question I object to being outside the scope of direct and --

MS. REIFF: Judge, if she is an expert on the cycle of domestic violence she should be able to render at least her best guess as far as where the cycle comes up and if it does not, then in regards to the percentages of the cases.

THE COURT: I am not sure that's the question that was asked, but I'll allow her to answer how often the research indicates there is one incident versus multiple if she can do that.

THE WITNESS: From what I understand and what I have reviewed in my personal experience, it's well over 90 percent of cases there are more than one incident even when that isn't identified by the system.

So there are other hidden incidents. It's very high numbers, it's rare when there is only one incident and I would classify that in my understanding as domestic violence because that actually requires a pattern -- an ongoing pattern of behavior that establishes control.

A real single incident isn't really domestic violence, it's an anomaly in a relationship and not designed to establish control over time.

So I wouldn't classify that as domestic violence. It might be charged that way in a criminal setting, but it wouldn't be actually a part of a cycle of violence if it was a general single incident without the other controlling behavior ever being present.

Q. Okay. So essentially to meet your definition clinically of domestic violence there has to be a pattern or cycle of control in using an overbearingness, or verbal, or physical, to gain that control in a cyclical pattern?

A. Yes.

Q. And the cycle would imply that it rolls

around more than one?

A. Yes.

Q. How often or do you ever find an isolated cycle, with regard to your clinical experience or the studies or the three steps of going along, one isolated incident and then never returning?

A. To meet the definition of this cycle, one incident, even if somebody got mad and blew up and then was nice afterwards doesn't meet the definition.

And it's not likely that all of the incidents in any domestic violence situation are ever identified by the system. So that would require other kinds of indicators.

Q. When you talk about domestic violence and when you use that term, you are using that term to characterize an entire relationship's dynamics, not just what's happening during a bad patch or during the beginning and then never again?

A. If something happens one time I wouldn't classify it as domestic violence. If somebody had a difficult bad patch, I wouldn't expect to see controlling behaviors.

You might see conflicted behaviors, you might see people not getting along, there might be a lot of arguing or fighting.

I wouldn't expect to see controlling of one partner by the other in a bad patch in a reasonable relationship. So, yes, I expect domestic violence to require ongoing patterns of the use of power and control techniques by one partner against another over time.

Q. I want to talk to you briefly about the studies that you mentioned on direct as supporting evidence with regard to the circle.

A. Uh-huh.

Q. You mentioned that they were supported by evidence that was both clinical and in literature. I am assuming the literature you are talking about is write-ups of case studies and so forth?

A. Some of it is case studies and some of it was actually not just case studies but formal survey literature that interviewed initially the victim.

I think I said Lenore Walker's first book was on structured interviews of victims that -- that began to look at the pattern, but you see support for that in some of the research that Gondolf has done over time and there is often a pattern that occurs with an ongoing cycle.

You see that in a number of other people's work. Susan Schechter, Jones, a number of other people have again seen that either based on survey research data

from case materials in the criminal justice system, clinical work with offenders and with victims, and part of the reason that we identify that as a part of what domestic violence is that the more difference sources that you have that identify the same things, the stronger the possibility that it's not just an anomaly, but a legitimate finding is.

So because we have information from the offender literature and the victim literature from survey studies and from case reviews, because you have those different sources finding similar things, it's considered to be fairly strong -- fairly strong that -- strong likelihood that this is a legitimate representation of how domestic violence happens.

Q. It's a collective inference type of approach towards studies?

A. Could you --

Q. Let me rephrase. You are familiar with the scientific methods for conducting research; is that right?

A. Yes.

Q. And that method is used in psychological studies and research in regard to brain function?

A. Yes, yes. When you have physical evidence -- when you have physical evidence you can use a

very rigorous -- what is typically referred to as the scientific method.

When you have control groups and people who are experiencing similar things and you test one set one way and one set another way in social science research, which is still based on scientific methods, but modified slightly, you still do things to determine reliability of your data, you still do things to determine validity of the outcome of your studies, but they are not based on an external control group in the traditional sense.

Q. That's what sets apart scientific method in it being -- a method that consists of controlled experiments on specifically significant and externally validated populations and that's the purpose of testing the validity of a hypothesis, correct?

A. Yes.

Q. That's not the type of method that we are talking about in the studies?

A. Some of them are, like the large national random sample studies like the Intimate Partner Violence Study. That is a large random sample set of survey literature that does not preselect a group of people already identified as having domestic violence.

The behavioral health surveys also do

that. They have standardized behaviorally based survey questions across a general population of people.

So those studies are most closely based than traditionally scientific methods while others aren't and --

Q. The ones that utilized the control group that you spoke about, do those pertain to studies where the domestic violence cycles can be excised or do those studies pertain to behaviors of victims and offenders?

A. There are different studies that measure different things and, as I said, they are very rarely overt kinds of control groups like you would use with physical things.

The couple that I know of that are done in domestic violence that are actually done that way were done around the efficacy of arrest and what would happen prior to an incident, what would happen when law enforcement responded and what happened after.

All of the things were studied, the first was done in Minneapolis and it was roundly criticized because they withheld intervention from a group of people that were experiencing assault. That was a normal control group and those studies are in the literature.

They are very, very rare, so there are some of those and that looked at behaviour, reasons for

arrest, or reasons for calling law enforcement, what was happening at the of law enforcement, what happened post with offenders and the victims, so that followed both.

There was another one of those that replicated -- some of it was in Colorado Springs.

Since then I don't know of any social science study that had actually created that kind of a control group because again it's highly unethical to withhold intervention from somebody in danger, but you do look at things like --

Q. Just to clarify, I assume you are talking about it seems to -- the aim of the studies seems to be intervention and treatment.

What was the goal of the study that you just spoke of? You described it but -- what was the --

A. It was to look at --

Q. -- what was the goal of the study?

A. It was to look at, as I understand it, whether people were responding to things that were actually domestic violence with domestic violence responses and, if they were, if they appropriately identified them as domestic violence at the scene, and then whether or not the different interventions that happened afterwards made a difference in repeated violence symptoms to the victim, offender behavior over

time, and a number of other things.

So we are trying to look at -- it was a -- it was a big study and they were trying to look at a number of different things over time.

Q. So the control group that you are talking about in this study is a control group of untreated couples as opposed to a control group of non-DV couples?

A. It was a control group of non-intervention --

Q. Correct.

A. -- in response to calls for assault, some of which weren't domestic violence. So the first sorting was a call to an assault, the first sorting was DV or not DV and then intervention so --

Q. It is not an indicator of some violence in the home with regards to control groups and test groups; is that correct?

A. In that particular study, yes. And then there are other studies that take people who have never reported domestic violence and look at their behavioral symptoms and to compare them to studies that have been done on people who have reported domestic violence and --

Q. Okay.

A. -- and try to match them by similar socioeconomic status, interracial status, so you can --

you can make attempts to insure that you are not falsifying your findings based on a skewed sample, which is what we call what happens when you pick only a certain kind of people to study.

You look at this and you say: Oh, oh, oh, it looks like this and you really have missed a lot of other things.

There are ways to try to establish control groups in social science that are not as rigorous as putting the same cells in two different buckets, but that really do try to look at it and evaluate whether you are misrepresenting what's happened because of a skewed sample.

And they do try to compare to samples that don't have the problem, but they are often not. It's more complicated in social science research.

Q. Two main areas you talked about in terms of your purported expertise in the cases have to do with victims' behavioral reactions and offenders' behavioral reactions; is that correct?

A. Yes.

Q. Are there any studies using control groups to observe behavior where that control group does not have anything to do with domestic violence and is not involved in a domestic violence relationship? Either

individuals or couples?

A. Not using them specifically as a control group for domestic violence intervention, but there are studies on conflicts on interpersonal conflict in marriage, how people argue, how people fight, how people express conflict and those things look very different than the things we see in domestic violence relationships.

So again it's not these two cases that came in and we did this and did this, but there are many people who have looked at comparisons between some of the studies that have been done on general populations and how couples argue or experience conflict and then what happens when it moves into the situation of what we call domestic violence and comparing studies and what findings are, so we know there are differences.

Q. Okay. So the study in terms of behavioral sciences seems to have more to do with postdiction as a method as compared to the scientific method, is that fair to say?

A. I don't think that's fair to say. I think the scientific method is used differently in the social sciences. The very classic rigorous model that is used in laboratories with physical things is not considered the scientific method that's used with social science

research.

Q. I understand that. We do not have behavioral observation studies with regard to a test group of both victims and offenders of domestic violence, and a control people of people who have not been either victims or offenders with regard to observing their behaviors in just everyday personal encounters.

Do you know of any studies with a control group with regard to signifying behaviors?

MS. STAVIG: Your Honor, I object. First of all it seems to be getting outside of the scope of the hearing, certainly of direct, and also it's a compound question.

THE COURT: Sustained.

Q. (By Ms. Reiff) So with regard to behavioral studies, there are none of these studies with these kinds of control groups; is that correct?

MS. STAVIG: Asked and answered, Your Honor.

MS. REIFF: Judge, it hasn't been answered. If there are studies out there that support the behavioral testimony then I want to know what they are and if not then I think that's proper cross-examination.

THE COURT: I am not sure what study we

are talking about now. Are you talking about comparing people who have not been offenders or victims with people who have been?

Q. (By Ms. Reiff) With regard to observation of behavior, you testified to a variety of behaviors on direct.

A. Uh-huh.

Q. You testified to behavior of a calm reaction on the part of an offender, the behavior of dissociative responses on the part of the victim, the behaviour of anxiety on the part of the victim, behavior regarding hyper-arousal to stimuli on the part of a victim.

All of these observations in behavior that you have testified can be indicated or -- or are indicators of the consequences of a domestic violence situation.

The question to you is what is that? Is that based on clinical experience? Is that based on studies with regard to these behaviors never having been abused? Or where does it come from if we can talk about behavior as the --

MS. STAVIG: Your Honor, we have been over this. Ms. McAllister has talked about the limited circumstances where there is a more scientific approach

that has been taken, it's not ethical.

She talked about a couple of studies that she knows about and we are asking the same question in a different method and different context of which behaviors --

MS. REIFF: Judge, I am asking: Are there studies out there with these control groups --

THE COURT: She testified the one study done in Minneapolis was criticized because they withheld treatment and people weren't watching and comparing non-victim, non-offender populations.

MS. REIFF: Okay. I can sum it up.

Q. (By Ms. Reiff) The only study that you have come across that utilized a control group is the one in Minneapolis that was so criticized because of the lack of intervention in the control group?

A. That is not the only study that used a control group, it was the only -- there were two.

Actually it is the only study that I know that uses a form of -- old fashioned scientific method of a control group where you withhold intervention.

When we are talking about the symptoms of trauma there are large numbers of studies about how people experience trauma and express symptoms, they look very different than the normal population.

That's actually how the DSM, Diagnostic and Statistical Manual of Mental Disorders -- it's based on comparisons between the statistics or patterns of behaviors to people who don't exhibit the behaviors in the general population.

That's why we use the DSM to identify trauma reaction for instance, or look at depression or other kinds of circumstances and those are based on studies that are compared against, not a control group, but the general population and how often those occur in a general population compared to how often they occur in a group of people that are presenting with trauma symptoms or a group of people that have been convicted of physical violence of some kind.

Those specific symptoms have been tested and that's how they are identified and they are compared to the general population. The occurrence of those things in a general population that has not been identified as specifically having this particular thing going, so there are -- there are those kind of studies.

Q. That's what I am asking about.

A. Those are strongly compared. We have those and that's actually how we identify, for instance, trauma symptoms. The sets of symptoms in the presentation look substantially different from people in

the normal population.

Q. How is the data of behavior displayed in the normal populations determined in these studies?

A. Well, there are a variety of different ways. Typically there have been -- as I understand it, there have been survey studies, random sample survey studies that are based on -- some of the studies are done like the behavioral health reviews that are done by the Health Department in the interest of disease control where people report the presence of any sort of symptoms or experiences over time or not.

Some of them are direct interviews, some are written surveys, some of them are behavioral observations of people, there are a number of different kinds of studies, there are literally thousands of studies in developing those sort of diagnosis.

There are a variety of ways they look at the general population, not just one, but -- but they only compare self-report symptoms, symptoms or behaviors that are reported by others, some by professionals, some family members have witnessed members of their family do X, Y, or Z.

We get different sources of information about similar things and that are present in the general population and all expanding. How they look at those

things with trauma, specifically that are -- between people who have experienced trauma and those that haven't.

They try to verify evidence of trauma and not just a self-report so that they are actually measuring what we are suppose to measure, so it varies depending on the thing that is being studied, what kind of thing it's compared to.

It's not the same thing as doing the exact same thing with the same cells, there are ways to measure against getting false results or not looking at comparisons to people.

(Interruption by the reporter.)

THE COURT: We will take the afternoon break. Be back in 20 minutes.

(A recess was taken from 3:26 until 3:42 and the following proceedings were had.)

THE COURT: Back on the record in 06CR2779, People v. Johnson. Ms. McAllister, I'll remind you that you are still under oath.

THE WITNESS: Yes, Your Honor.

THE COURT: Ms. Reiff.

Q. (By Ms. Reiff) Okay. I am confused where we stopped off in terms of your answer. I know as far as my questions, I'll start there.

We were talking about studies done in the domestic violence area with regard to both behavior and the presence of a cycle of behavior of both parties. Have there been any studies that you are aware of where some people who claim to be victims of trauma ended up not being victims of trauma at all?

A. There are.

MS. STAVIG: Objection, Your Honor, to relevance in this case and this hearing.

MS. REIFF: Judge, what I am trying to determine is the integrity of the studies. It seems like most of the studies are based on collective clinical experiences and interviews and directed questions at a victim population.

What I am asking, with regard to that same population, have there been studies that would indicate sometimes there are factors in a domestic violence cycle or even in the absence of domestic violence cycles that leads to false reports and if there are allegations present. That's well within the purview of the expert.

THE COURT: I'll clarify. She will testify about the nature and typical victim reactions and victim exposure to repetitive trauma in domestic violence situations, correct?

MS. REIFF: Yes, correct, Judge. And the

question is: Is she aware of any study where the behavior or indicators are present, but actual violence shown not to exist.

THE COURT: All right. I am not sure that was the question, but if that's what you are asking I'll allow that question.

THE WITNESS: So you are asking if people have reported domestic violence behaviors --

THE COURT: No.

MS. REIFF: I'll let the Court clarify.

THE COURT: The question is whether people who display all of these indicators are found actually not to be victims of trauma or domestic violence.

A. I have had the experience of actually treating several people who had what is called factitious disorder. There is a disorder where people display symptoms of any particular disorder, but don't actually have it, the idea is to get attention.

I have never experienced personally anyone with that disorder who was presenting with domestic violence information, and that disorder is identified as being extremely rare that people would present saying something happened to them around trauma or something that causes trauma symptoms and that they wouldn't have it.

Actually the research around domestic violence indicates that it's far under reported, not over reported, and I have never seen anything that indicates that it's any more commonly falsely reported than any other crime, but I have seen substantial research that it is under reported, that victims are much more likely not to report or say that they are experiencing domestic violence than that they are.

Q. (By Ms. Reiff) And the question was actually a little different than what I think the answer was addressing.

So you are not aware of any studies involving that as a factor, involving the presentation of the behavioral aspect on both the victim and offenders' part where there has turned out to be no domestic violence situation?

A. Not any specific to domestic violence. There are specific to trauma and factitious disorders, but not specific to domestic violence.

Q. The fabrication you talked about in terms of this rare disease as the study and standard on trauma reaction --

A. Something diagnosable under the DSM, and the DSM doesn't diagnose domestic violence specifically.

Q. Okay. You mentioned on direct that you

have testified more than 50 times collectively?

A. Yes.

Q. And most of those -- have you examined or had a chance to examine the alleged victims in the cases?

A. It's actually more common that I don't examine someone directly.

Q. Okay. Why is that in terms of your testimony?

A. My understanding is that I am most often asked to testify when there is information that I have about a set of behaviors or set of symptoms that the general public has misinformation about, but that I have information about, and that typically jurors can decide whether the information that I present to them about that set of information is helpful in their assessment of the facts of the case.

So I am, as I understand it, here to assist jurors with information that most people in our cultural don't have accurate information about.

Q. Okay. As far as your consulting practice, you have consulted, I assume, more than 50 times with regard to the District Attorney's office?

A. I need -- you mean on cases where I didn't testify?

Q. That's correct, where testimony did not

end up resulting.

A. I would have to go back and look. Actually it's possible over the years that that's true, but I would have to go back and look.

I haven't actually counted those. I do training for the victim advocates in the District Attorney's office periodically, possibly more than 50, but I am not absolutely certain.

Q. Okay. About how many times a month do you have contact with the District Attorney's office?

A. It fluctuates greatly. Some months I have no contact at all, some months I have a phone call with someone, and some months when I meet with someone and testify, maybe even a couple of times, so it's very -- it's really up and down. It goes from zero to several times.

Q. That was worded poorly on my part. How many cases a year, would be more quantifiable, do you work for this District Attorney or any others in Colorado?

A. Probably in a year somewhere between five and twenty-five. I mean it really varies.

Q. Okay. How many cases have you consulted with the Defense in terms of criminal cases?

A. Much more rarely. I get called probably

about, you know, several times a year and typically when they interview me they don't want to use me.

Q. Are those in situations such as battered wives and so forth?

A. I have consulted with the Defense three times in the last year or so on domestic violence cases and been utilized. I haven't testified, but used as a case consultant.

Q. Have you ever testified for the defense in a criminal case?

A. Yes.

Q. How many times?

A. I think twice.

Q. Okay. What were the cases?

A. Both were fairly long ago. One was a domestic violence situation; one was in a -- it was a child protection situation.

Q. That was a criminal case?

A. It was actually a criminal case, but it was where -- it was where there were indicators that domestic violence was a part of that situation and the person who was identified as the domestic violence perpetrator was accused of the crime.

And so I helped consult on whether they had evidence to look for to see if the person was

actually the person who committed the crime against the child or not.

I consulted with Defense on that and testified about domestic violence in general, but I didn't interview the person.

Q. About how long ago with regards that to case?

A. One was probably close to ten years ago and then the other was four or five years.

Q. What was the other? Was that a criminal case as well?

A. That was the one I said initially that was straight domestic violence.

Q. Was the one incorporating the child?

A. Yes.

Q. How many -- well, you testified on both of those with regard to what you testified to. In those cases, neither of those were battered woman defenses in terms of establishing a defense in the case; is that correct?

A. One of them, but the other wasn't.

Q. That was the straight domestic violence one that you spoke about that was --

A. Yes, yes.

Q. How many times have you consulted with

Jefferson County District Attorney's office?

A. I started working with the Jefferson County District Attorney's office initially doing some training when I was at the Assault Survivors Assistance Program --

Q. Oh --

A. -- so that -- that -- because I was in Jefferson County. And actually I did some training -- I'm sorry, I misspoke. I did some training for a combination of all of the advocates in Jefferson County when I was at the Senior Resource Center, so that would have been '86 or '87.

Q. Okay.

A. And some of the advocates were from the JeffCo DA's office and periodically off and on since then.

Q. I should have addressed it earlier on. It's awkward for me, but have you ever consulted directly with the judge in her former capacity as a District Attorney in regards to any case that she may have been involved in?

A. No.

Q. Okay. With regard to offender behavior, you talked about it typically being calm post assault?

A. Most typically they present calmly post

assault.

Q. Okay. And how many offenders have you treated directly or after an assault that you observed yourself?

A. Very -- actually probably only a couple immediately post assault doing child protection, and actually most people don't, except for police officers and family members.

How many have I treated individually? Boy, probably -- this is an estimate because we are talking about going back many years and coming forward, probably around 200 or something in that arena.

Q. Okay. Was that -- and that was individual therapy?

A. Some individual, some couples, some would be family. So it was -- it would be a range of things depending on the things that I did.

Q. Okay. Do you have an estimate of how many individual domestic violence offenders you have had a chance to work with either in a clinical setting or in just an actual interviewing or data research?

MS. STAVIG: Your Honor, I believe that this is just the slightest variation of the question that was just answered and we are questioning way beyond the scope.

MS. REIFF: It's the foundation of her expertise. This is imparted on her clinical experiences. Other than clinical experiences she is a well-read master. If we are going to rely on clinical with regard to the basis of her expertise, I need to know where it is coming from.

I have been told that there are about 200 significantly in the past, any mix of family settings, couple settings, if she can only remember a rough percentage with regard to which were individual treatment situations, then I'll accept that, but the question is certainly -- certainly relevant with regard to her basis --

THE COURT: I'll allow her to answer that, but we are getting somewhat far afield.

THE WITNESS: I would, and again without really being able to look through cases, I would estimate probably about -- only about a third of those were individuals, where it was primarily individuals, because I was not an approved treatment provider.

And later in my career, although I served on the treatment provider board here in the First District and I also worked with domestic violence offender management boards, I was not an approved provider.

So it would have been prior to the time when I worked individually with offenders.

Q. Okay. And you can recall too that you had a chance to observe immediately post assault?

A. Yes.

Q. In regards to your generalizations on behavior, do those come primarily from your therapy and your interviewing of victims?

A. With offender behavior it comes primarily from my work with people who intervene and then treat offenders over time.

I learned very early on when I was working with victims that I needed to understand more about offenders and so I made a -- an effort to be trained by people who work with offenders and serving in situations where standards were set.

I continued that training and so most of my work is either based on the research or on training from people who have worked frequently with offenders or their observations.

Q. Okay. So your knowledge on the offender behavior comes from other people's observations that are collective; is that right?

A. Some of it does, yes, and research has come from other people's observations. Collective

research is certainly done by other people.

Q. You also testified that with regard to victims of domestic violence situations that it is -- I can't remember the exact words -- whether it was not uncommon or typical for a victim in these situations to become the aggressor at certain points?

A. Excuse me, repeat that.

Q. You talked about victims becoming the verbal aggressor?

A. Victims can sometimes. I believe what I was speaking to was not identifying them as the verbal aggressor, but identifying that there are times when victims will verbally attempt to have control or provoke in their words, which I don't support.

I think people choose violence on their own, I don't think it's provoked, but they will do something that they believe will cause a battering incident to take place either at a time when they assume it will be better for them, or will not harm somebody else, or sometimes when they are just ready to start resisting, and most battered women resist at some point, and sometimes that's verbal.

Q. Woman who are victims of domestic violence situations can be verbally aggressive?

A. Absolutely. Somebody can be verbally

aggressive at any given time.

Q. And you don't see a woman yelling at a man and assume it's a domestic violence situation with her as the victim?

A. No.

Q. The involvement of alcohol -- you talked about the involvement of alcohol on a victim's part to block the pain of abuse, to block the emotions; is that right?

A. Yes.

Q. And are there any statistics to support a higher usage among domestic violence as compared to the general population?

A. Most of the studies that I have seen indicate that people who are victimized by domestic violence, sexual assault, any of those known offender behaviors, are more likely to abuse or use substances than the typical population.

And the most common figure that I have scene is six times more likely than the general population to use substances.

Q. Okay. Is that noted in one of the works of literature?

A. I do believe that some of the studies by Tjaden and Thoennes, a number of different publications

resulting from it, and so I think that they have some that indicate that sequella of domestic violence involving increased use of drugs and alcohol, and there are a number of other studies that include that as well.

Q. It's a higher degree of usage essentially?

A. It's actually -- the finding is, when you compare the normal population to general population, what you are looking for is the percentage of a group that ends up using or abusing drugs and alcohol.

So it's a greater likelihood that they will and that's helped by the increase of -- like they are six times more likely to be a victim of domestic violence or interpersonal crimes, six times more likely than, you know, in the general population to be using and abusing drugs and alcohol.

Q. There are couples that have drinking as an issue on either one or both of their parts without it originating as domestic violence?

A. Substance abuse happens outside of domestic violence. We know it's very common to occur in domestic violence, but also outside domestic violence.

Q. Okay. And you testified on direct also, at the end of a relationship the dynamics increase exponentially?

A. If a victim is attempting to leave, not at

the end necessarily, but is attempting to leave, that increases it.

Q. Okay. Now if a victim has not told her spouse or boyfriend that she was leaving then --

A. I have actually seen -- I'm sorry, I spoke over you.

Q. In order for the statement to be relevant or shed light on a situation it would have to be a situation where an abuser was cognisant or knew the fact that they was about to be left on some level?

A. On some level, yes. And with offenders that are very controlling or afraid of lose or emotionally dependant on their partners, they will observe, watch behaviour very carefully.

And I have worked with a number of people who said: I never told him anything. I hid everything and the offender knew partly because of their extreme control of the victim and probably sometimes because victims are afraid or distressed and they are attempting to leave and they are giving it away, but an offender would have to know either by their own discovery or victims letting them know.

Q. I take it in the cases that you mentioned where the abuser figured out the victim was going to leave, that it had been information received by other

sources?

A. Post an offender doing something or in many cases assaulting them and reporting that they did that because the victim was attempting to leave.

Q. And that's how the information came to light?

A. Uh-huh.

Q. With regard to your work on the domestic violence board, I have a couple of miscellaneous questions.

You were in integral part of the committee that prepared the standards for domestic violence offenders that are adjudicated?

A. In several different ways. I was on a committee many, many years ago when the initial standards were being developed, that included people that work with victims and offenders, people from the criminal justice system and the community that got to develop initially voluntary standards.

I served on that committee and then later I served on the Domestic Violence Offender Management Board in the First Judicial District. These were treatment boards -- each separate judicial district appointed a board to oversee the work at the district level and work with the domestic violence management

board created by the legislature to create standards.

Q. What was the significance of 36 weeks of required classes that came out of the board? Is that standard or does that 36 weeks relate in substance to any studies that -- or was that based on any study?

A. Actually the studies that we have now and Gondolf, the primary research that I have collected, that the longer the treatment, the more likely that the offender will not reoffend, whether it's male or female, or the level of violence, the longer the treatment the better.

The initial 36 weeks came from really, honestly, negotiations among different groups of people that were involved in the domestic violence intervention community, some of which were offenders, some victim advocates, some were treatment providers, some were research and some criminal justice --

THE COURT: Sustained. Can you spell Gondolf.

THE WITNESS: G-o-n-d-o-l-f.

THE COURT: Thank you.

MS. REIFF: With that I don't think I have any further questions. Thank you.

MS. STAVIG: I just have very brief clarification.

REDIRECT EXAMINATION

BY MS. STAVIG:

Q. You indicated that a low level of violence could actually start the battering part of the cycle and that that could actually be verbal abuse or threats. Is that true in this sort of pattern of domestic violence?

A. Actually almost always starts as a very low level in all battering relationships. What people don't understand is that if you meet somebody and they punch you in the nose, tomorrow you will probably not stay, it's over time the relationship develops, the dependence between the partners develops.

There are minor violence incidents that don't seem -- very minor or controlling or verbally abusive behavior that slowly accelerates over time and the offender slowly blames the victim for more and more directly.

And so even in the most serious domestic violence situations the violence starts on a low level and escalates over time which is why the situations are so dangerous because they don't decrease in violence or dangerousness, typically they increase over time.

Start at a low level and get more dangerous as time passes.

Q. Without -- say that even a minor

controlling incident or verbally abusive incident could then trigger the hearts and roses or candy and roses response from the defendant, would that be a part of the pattern as well?

A. It is something very minor that triggers that typically in these relationships, and it feels to people at the very beginning of the relationship, very much like having a fight and making up with somebody which is another reason why victims don't often identify that they are at risk and try to get away early on.

They go through multiple cycles where there is a blaming of them, the tension gets greater. The violence is slightly worse, not terrible right away, and the offender continues to blame and they continue to feel if they change, the offender won't get upset and behave that way.

It's very common that they start on a low level, the cycle begins on a much lower level and over time it increases. The tension building stage may be barely noticeable if somebody is kind of crabby, but the difference between that and a normal relationship where somebody is kind of crabby is that the cycle insues and over time there are more and more controlling behaviors instituted.

The victim more and more tries to placate

the offender, feels responsible, the offender increases the level of control and violence over time.

MS. STAVIG: I have no further questions.

MS. REIFF: I have one question actually.

RECROSS-EXAMINATION

BY MS. REIFF:

Q. We have talked about verbal abuse as a phase as compared to physical abuse. Physical abuse in the domestic violence content is abuse or physical conduct that is done with a purpose of control that basically --

A. It's a part of that pattern of control so I won't say that the person says I am trying to control you and hit someone, but it's a part of the ongoing pattern of control.

Q. It's the mechanism of control?

A. One of the mechanisms.

Q. Verbal abuse, how do you define verbal abused as we are using it in this hearing? Is it just: You look ugly today? Or is it --

MS. STAVIG: I object to the compound question. If she can just answer --

THE COURT: Start over.

THE WITNESS: Typically if I am looking at verbal abuse it wouldn't be just bad communication or

rude comments, it would be things that are targeted at either blaming a victim for the offender's behavior or belittling or humiliating a victim or angry remarks that are threatening in nature.

There are a number of different things, when you look at the research about psychological torture Dittman did in the 1950s, that indicates that certain kinds of comments can be used in a targeted pattern to control someone's behavior and break down their ability to resist and it's those kinds of things.

Anybody can make a rude comment or say something stupid to their partner, but it's the pattern of attacking the person and character of the person, often telling them they are stupid, they don't know how to do things, things that diminish their capacity to stand up for themselves whether that's with a child or adult, you can see it in either case.

Q. One follow up on verbal abuse. Would a verbal assault constitute an assault with regard to the three phases of the cycles that you are talking about?

A. It could be. It may be an earlier stage, part of the circle that there is a verbal blow up or that there is a threatening comment made, that's the initial blow up.

Typically it doesn't remain that way

throughout an entire relationship, it typically moves into something physical, but an individual explosion would likely be verbal, a low level would be verbal.

MS. REIFF: I have nothing further.

THE COURT: You can step down.

MS. STAVIG: May the witness be excused, Your Honor?

THE COURT: Yes.

(The witness left the stand at 4:21 and the following proceedings were had.)

THE COURT: Any argument concerning Ms. McAllister's ability to testify?

WHEREUPON the requested excerpt of the proceedings concluded for the day.

C E R T I F I C A T E

I, Ruth A. Anderson, Court Reporter, State of Colorado, in my capacity as Official Reporter of Division 8, do hereby certify that I was present and recorded the above proceedings in stenotype and reduced the same to typewritten form, that if the labels affixed to the foregoing 117 pages are not tampered with, that the foregoing 117 pages constitute a true and excerpted record of the proceedings as requested by ordering counsel done on May 30, 2007, before the Honorable Margie Enquist, Jefferson County District Court, Division 8, State of Colorado.

Dated this 7th Day of June, 2007.

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Ruth A. Anderson
Official Court Reporter