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Kansas Coalition Against Sexual and Domestic Violence

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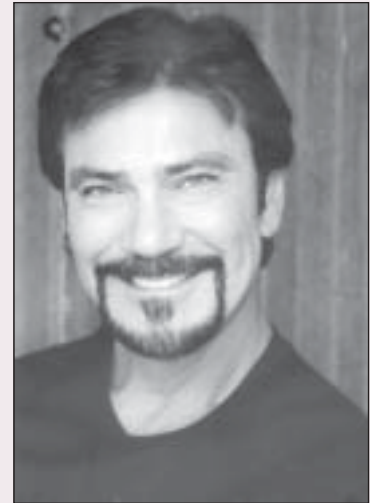
ENDING SEXUAL AND DOMESTIC VIOLENCE

On February 12, 2004, KCSDV will be hosting an awareness reception at the Jayhawk Towers in Topeka, Kansas, from 6:00 to 8:00 p.m. The First Annual "Safe Homes, Safe Streets: Ending Sexual & Domestic Violence" will feature actor Victor Rivers. Mr. Rivers has spent many years working to end sexual and domestic violence and has spoken to groups across the country on this issue. He is currently a spokesperson for the National Network to End Domestic Violence.

As a national spokesperson, Mr. Rivers emphasizes the point that domestic violence cannot be treated simply as a woman's issue; rather, he insists, it should be everyone's issue. Victor tells his story from his heart - with power, poignancy and humor. His own story of survival and success highlights the importance of intervention by others.

In addition to the reception that evening, Mr. Rivers and program representatives from across the state will be spending the day speaking with legislators and visiting with state officials on issues affecting victims of sexual and domestic violence.

If you are interested in joining us for this event, please contact Rebekah at 785-232-9784 for more information or visit our website at www.kcsdv.org.



Conference on Battered Immigrants and Refugees

This March, KCSDV, in sponsorship with the Missouri Coalition Against Domestic Violence and Kidsafe, will be supporting the Women's MOSAIC Network Conference on Battered Immigrants and Refugees in Kansas City, MO. This conference will feature two exciting and dynamic speakers, Sonia Parras-Konrad and Sujata Warriar. Ms. Parras-Konrad, director of the MUNA legal Clinic at the Iowa Coalition Against Domestic Violence, will conduct a day long training on visa options for battered immigrants. She will be discussing VAWA self petitions, U-visas and T-visas. Ms. Parras-Konrad has been a part of a unique program instituted by the Iowa Coalition, in which her office processes immigration cases for survivors across the state. Ms. Warriar, director of Health Care Bureau, State of New York, Office for the Prevention of Domestic Violence, is known nationwide for her trainings on cultural competency. She is the President of the Board of Directors of Manavi a South Asian Women's Organization in New Jersey. She will be conducting a day long training on cultural competency which will define culture and cultural competency and explore the dynamics of difference and how these dynamics effect the way we interact with one another.

- Full conference fee: \$30 (includes both days of the conference and lunch)
- Registration deadline: March 5, 2004
- Times: March 25 & 26; 8:00 a.m.- 5:00 p.m.

For more information or registration, email Sarah Morrison - sarahm@kcsdv.org or call Sarah or Angelica, 785-232-9784.

Newsletter

WINTER
2004

Kansas Rape Shield Law

Kansas, like 48 other states and the federal government, has a rape shield law. Lately, there has been much press around the validity of rape shield laws, their usefulness, and whether or not they do what they were intended to do. The following article provides information about the Kansas statute and attempts to answer some of the questions and misperceptions people often have about rape shield laws in general.

Passed in 1976, the Kansas rape shield law is codified at K.S.A. 21-3525. It is really an evidentiary law, setting out specific evidence that may be excluded from certain trials. The Kansas law applies to the following crimes: Rape, Indecent liberties with a child, Aggravated indecent liberties with a child, Criminal sodomy, Aggravated criminal sodomy, Aggravated indecent solicitation of a child, Sexual exploitation of a child, Aggravated sexual battery, Incest, Aggravated incest, Indecent solicitation of a child, Aggravated assault with intent to commit any of the crimes above, Sexual battery, Attempt or conspiracy to commit any of the crimes above.

Basically, the statute prohibits admission of any evidence of the complaining witness' (victim's) previous sexual conduct with any person including the defendant. It also prohibits any mention of this conduct in the presence of the jury.

There are exceptions to this rule, however, and defendants may still seek to have evidence considered. In order to do so, the defendant would have to submit a written motion at least 7 days before trial (unless the court waives this time requirement), requesting that the court admit evidence concerning the previous sexual conduct of the victim. The motion would describe the nature of the evidence, its relevancy to the case, and would include an offer of proof. The court would then hold a private hearing to decide if the evidence is relevant and not otherwise inadmissible. If so, the evidence can be introduced, with restrictions outlined by the judge.

Additionally, the prosecutor can introduce evidence concerning the victim's previous sexual conduct or the victim may testify about her previous sexual conduct. When evidence is introduced by the prosecutor or victim, the defendant may cross-examine the witness who gave the testimony and may offer relevant rebuttal evidence.

It is important to note that the rape shield law applies only to the victim's previous sexual conduct. There may be other evidence that could be introduced concerning the victim, including her reputation for truthfulness or lack thereof, her credibility, her character, her spontaneous statements, her mental health, and the continuing course of conduct between the parties, to name a few.

Besides the other types of evidence, mentioned above, the judge might determine that certain previous sexual conduct is admissible because it is highly relevant and would be prejudicial to the defendant to exclude it. For example, the judge may determine that the prior sexual act with the defendant or someone else was so identical to the defendant's version of how the current rape occurred that it becomes relevant. And, finally, there are some jurisdictions where previous sexual conduct evidence has been admitted at the preliminary hearing. At least one case is on appeal that may decide whether this is appropriate.

In summary, rape shield laws may in fact act as a sieve rather than a shield. Originally passed to change society's thinking about women and rape, the verdict is still out as to whether they have accomplished that purpose.

Historical Background

Rape shield laws were passed in almost every state beginning in the 1970's, with Michigan passing the first one in 1974. Before these laws were passed, the prior sexual conduct of the victim was often fair game at trial. Additionally, some states required evidence of resistance to the rape, some required corroboration of the victim's testimony, and some courts instructed juries to "examine the testimony of the complainant with caution." Further, rape was and still is one of the most under-reported crimes.

It was this treatment of rape victims and the desire to have higher rates of reporting and prosecution that drove legislatures all over the nation to pass rape shield statutes. Society was attempting to change its thinking about chastity and rape. A woman who was raped and who was also sexually active should no longer be seen as promiscuous, asking for it, consenting to it, or otherwise contributing to her own victimization.

The Kansas Supreme Court described the rape shield law this way: "[It] is aimed at eliminating a common defense strategy of trying the complaining witness rather than the defendant. The result of the strategy was harassment and further humiliation of the victim as well as discouraging victims of rape from reporting the crimes to law enforcement authorities." *State v. Williams*, 224 Kan. 468, 470, 580 P.2d 1341 (1978).

Questions & Answers:

What can a judge do if the defense violates the court's order concerning this evidence?

The judge can impose sanctions, including declaring a mistrial based on defense misconduct; finding the attorney in contempt and imposing a fine; and, telling the jurors to ignore the particular evidence during deliberations. In spite of the court's ability to impose sanctions, the problem remains: Once the cat is out of the bag, it is nearly impossible to put it back in; and, once the insinuation about the victim is made, it is nearly impossible to take it out of the minds of the jurors.

Do rape shield laws really protect victims?

In some cases, yes. However, each case is decided individually. As noted above, the exceptions may swallow the rule, making it very difficult for the next victim to believe her privacy will be protected. Each time a rape victim becomes the target of the trial, it potentially causes many, many victims to decide they will never come forward.

Does the Kansas rape shield law keep the victim's name from being disclosed?

No. The rape shield statute is an evidentiary law, only addressing the admissibility of evidence of the victim's previous sexual conduct. It says nothing about the privacy of the victim's name or address. However, the prosecutor's office may have a policy of only referring to the victim by initials or there may be some statutory privacy protections for certain individuals. Additionally, when a case is appealed, Kansas Supreme Court rules specifically require that sexual assault victims be referred to by initials only. (Supreme Court Rule 7.043.)

Does the rape shield law prohibit the media from printing or otherwise announcing the victim's name?

No. Keeping the victim's name out of the newspaper and other news reports is voluntary on the part of the media. Each media outlet determines its own policy.

Does the rape shield law require that rape trials be closed to the public or the media?

No. Public trials are guaranteed by the Constitution. Occasionally, a judge will impose a "gag order" on the parties to keep the jury pool from becoming tainted by news reports. And, a court may disallow cameras in the court room or prohibit photographs being taken of the victim, other witnesses, or jurors. In making these decisions, the court has to weigh the right to freedom of the press and public trials with the rights of the victim and the defendant.

Is the Kansas rape shield law the same as the rape shield laws in other states?

Not necessarily. Each state's law is different. While there may be some common characteristics between states' laws, one has to look at the statute and case law in each state to see how it applies to a given set of facts.

Revealing the identity of victims of sexual assault is normally unthinkable for journalists and mainstream media. Yet to the publishers of the supermarket tabloid *The Globe* the unthinkable is but a small hurdle to cross in the interest of selling papers. In 1991, *The Globe* revealed the name of William Kennedy Smith's alleged rape victim. In 2003, *The Globe* did it again.

Last November, KCSDV learned that *The Globe* intended to feature a picture and the name of the victim in the Kobe Bryant rape case. Not only did *The Globe* publish her picture and her name, but the picture was of the young girl at her high school prom lifting her prom dress above her knee. Under the picture the headline read, "Did She Really Say No?".

The issue was due to hit the stands November 11th and domestic violence and sexual assault programs state-wide, along with KCSDV, mobilized to ask local and statewide outlets that distribute *The Globe* to pull it off their shelves.

KCSDV would like to thank Wal-Greens and Dillon's grocery stores state-wide for making the courageous decision to pull all November 11th *Globe* issues from their shelves.

The Kobe Bryant Case

Kobe Bryant's sexual assault trial is still in the pre-trial phase, but Bryant and the woman whom he allegedly assaulted are already being tried in the court of public opinion. Although not many facts are known about the case, the public is debating its merits and many are speculating about Bryant's guilt or innocence. And while most news media have not named the victim of the alleged rape, there have been interviews with her friends, acquaintances and even ex-boyfriends offering differing points of view about the alleged victim and her mental state. The woman's name and other personal information have even been listed on the Internet and broadcast on the radio.

While most advocates for victims of violence against women are not commenting on the specifics of the case, many have come out in support of the privacy rights of the victim of the alleged assault. "It is simply wrong for any broadcaster or journalist to release the name of a victim of an alleged rape or sexual assault without the consent of the woman," said Family Violence Prevention Fund President Esta Soler. "Decisions about releasing the identity of victims must be made by victims themselves."

The Case

Bryant, who is 24 and an All Star guard who plays for the Los Angeles Lakers, has been charged with one count of sexual assault, a "class 3" felony. If convicted, Bryant could be sentenced to four years to life in prison, or 20 years to life of probation. The woman who has accused Bryant of raping her is 19 years old. She is an employee of the hotel where Bryant stayed in Colorado.

The alleged assault took place on the morning of July 1 in Bryant's hotel room. The woman went to the police shortly after leaving the room and was taken to the hospital. On July 3, a warrant was issued for Bryant's arrest. He was released on July 4 after posting bail.

On July 18, Mark D. Hurlbert, the district attorney for Eagle County, Colorado, charged Bryant with one count of sexual assault. At a news conference announcing the charges, Hurlbert said, "I can prove this case beyond a reasonable doubt."

Bryant, who is married, vehemently denies the charges. He claims that he had consensual sex with the woman and is only guilty of adultery. The day the charges were announced against him, Bryant held a news conference with his wife, Vanessa, and his attorneys to assert his innocence. "I'm innocent. I didn't force her to do anything against her will," he said. "I sit here in front of you guys, furious at myself. Disgusted at myself for making a mistake of adultery."

Naming the Victim

The name of the victim of the alleged assault has been kept out of court documents to protect her identity, and mainstream media outlets have not used her name in their stories. But the woman's name has been leaked through Internet media and on radio on the nationally syndicated Tom Leykis Show, which is carried on some 60 stations around the country.

Despite facing tough criticism from media critics and women's advocates, Tom Leykis says he has no plans to stop using the woman's name on his program. He said on air, "I don't believe you can have a fair trial where you know the name of one person and not the other," according to the Associated Press. Calling Bryant the "real victim," Leykis told Reuters, "We're told that rape is violence, not sex, and if that's true there's no reason she should feel shame or embarrassment."

This is not the first time Leykis has been the subject of controversy. According to the program's web site, Leykis is "either a breath of fresh air or a foul defender of the male libido. An oracle of psychosocial truth or a sphincter of sexism." His radio show is geared to young men and focuses mainly on sex. One feature of the program, "Flash Fridays" encourages women to expose themselves.

In 2000, Media Watch launched a boycott against one of the program's major sponsors, Earthlink, after Leykis urged male listeners to "hit on" female victims of incest and sexual abuse, because they are "sexually easy" and less likely to say no. He said on air then, "If you think that a woman's more likely to put out or more likely to be good in bed because she has a history of abuse, is it wrong to try to find that out and then to go for the gold?" (See **Bryant** next page.)

KCSDV Begins Domestic Violence Prevention Project

KCSDV's first direct effort to emphasize prevention of domestic violence is underway. The Center for Disease Control and Prevention (CDC) has made funding available to KCSDV and 13 other state level Domestic Violence programs to develop leadership and prevention skills to work on eliminating domestic violence before it begins. DELTA (Domestic Violence Prevention Enhancements and Leadership Through Alliances) is an exciting project that includes close collaboration between CDC, the 14 designated state coalitions and specified local communities who have active Coordinated Community Response teams to develop effective strategies to keep domestic violence from happening in the first place.

Five KCSDV member programs have been selected to receive \$181, 259 for the first year of the project. The programs that will be the fiscal agents for the projects and their Coordinated Community Response groups are:

- The Crisis Center, Inc., Junction City/Geary County Domestic Violence Task Force
- Liberal Area Rape Crisis and Domestic Violence Services, Liberal Community Response Committee
- SOS, Inc., Lyon County Community Task Force on Domestic Violence
- Crisis Resource Center of Southeast Kansas, Inc., Crawford County DV Task Force and Bourbon County DV Task Force
- Catholic Charities Harbor House, Wichita/Sedgwick County Domestic Violence Coalition.

Staff members have been hired in the five communities and are busy becoming experts in the field of domestic violence prevention and will facilitate the process of their local community group learning and implementing prevention initiatives. They will work closely with KCSDV staff, Marilyn Ault, Domestic Violence Prevention Coordinator, and Stacey Mann, Advocacy Services Coordinator.

Bryant

In response to Leykis broadcasting the name of Bryant's accuser, the web site, TheSmokingGun.com, reported that Leykis had once been arrested on domestic violence charges and participated in a batterer's treatment program. The web site produced papers outlining Leykis' arrest in 1993 for assaulting his then-wife Susan. The couple has since divorced. Leykis was formally charged with felony assault and battery, and threatening to commit a crime, which is a misdemeanor. The charges were dismissed in 1995 after Leykis completed the treatment program.

Protecting A Victim's Privacy

Leykis is not the first member of the media to broadcast the names of victims in high profile cases of alleged rape or sexual assault. In 1991, NBC News and the New York Times published the name of the woman who accused William Kennedy Smith of raping her. Some media, including Leykis, also named the woman who accused sportscaster Marv Albert of sexually assaulting her.

But the incident in the Bryant case is causing some members of the news media to debate the validity of newsroom policies that prohibit the release of the names of victims of sexual assaults.

Many advocates for victims of violence against women, however, have spoken out in support of policies that help protect victims' privacy. Naming a victim who is not ready to go public with her story can have devastating consequences, they say. It increases media scrutiny of the victim, which can exacerbate her feelings of trauma and have a negative impact on her mental health. Being forced to go public with an assault is "like being raped again," said Dr. Patricia Saunders, Director of the Graham Windham Manhattan Medical Center, to Reuters. Dr. Saunders said naming a victim without her permission is "an intrusion. It's an utter violation of her right to privacy. It's a sadistic thing to do."

This article was reprinted with permission from the Family Violence Prevention Fund. To find out more about the Family Violence Prevention Fund and its work to end violence against women and children go to www.endabuse.org.

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Partner Organizations Collaborate to Better Serve Women with Disabilities

As a society, we don't like to think women with disabilities are battered by their partners and/or are sexually assaulted. Unfortunately, research shows women with disabilities are more likely to be assaulted, raped, and abused than are non-disabled women. The rate of abuse, in fact, may be twice as high as that for able-bodied women.

We also know that a woman with disabilities who is abused or assaulted faces all of the barriers to leaving and healing that a non-disabled woman faces. She may then face additional barriers that can make the violence even more difficult for her:

- She may lose her primary caretaker (because this person may be her abuser or the person that assaulted her);
- She may be at a greater risk of losing custody of her children (because women with disabilities may be viewed as having inadequate parenting skills);
- She may have her credibility questioned, which may result in denial of services (because women with disabilities are not always believed)
- She may lose her right to make personal decisions (because a woman with a disability may be viewed as unable to make decisions apart from her abusive partner, relative or caretaker);
- She may experience an increased risk of being institutionalized (because the primary caretaker may be the abuser or the rapist and no other caretaker is available);
- She may face a greater vulnerability to threats by the abuser (because she may be more isolated due to these barriers).

As a result of these and other barriers, many disabled women will not report abuse. The victim/survivor may even decide to stay with her abuser or rapist rather than face the risks of leaving or reporting.

KCSDV is well into the first year of a collaborative disabilities and violence against women project with the Kansas Association of Centers for Independent Living (KACIL), the Kansas Department of Health and Environment, and other agencies. This project's goals are to improve services and to provide better information to persons with disabilities who are abused and assaulted. The partner organizations will provide training and technical assistance to sexual assault and domestic violence programs and to independent living centers across the state. The project will initially target six sites having both independent living centers and domestic and sexual violence programs and will provide intensive training and assistance to advocates in these communities.

Already working on recognizing what needs to change, sexual and domestic violence programs and independent living centers are talking about and addressing their needs and frustrations. KCSDV member programs report frustration with the barriers encountered in assisting women with disabilities. Disability advocates report similar frustrations as they help service recipients who are abused.

Working together and from both sides of the issue, advocates from the disabilities community and from the domestic violence and sexual assault community will begin to dismantle these hurdles. Together, the changes they are making today will address all of the barriers to safety and security for disabled women who are battered and assaulted.

Dr. Alan Berkowitz to Present at Conference

February brings an exciting opportunity to learn from a nationally recognized expert in the area of prevention of violence toward women. Dr. Alan Berkowitz, an independent consultant who helps colleges, universities, public health agencies and communities design programs that address health and social justice issues will be a presenter at the Pittsburg State University Sexual Assault Prevention & Response Conference, February 27 & 28 in Pittsburg, Ks. Berkowitz helped develop a model rape prevention program for men and was co-director of Hobart and William Smith Colleges' highly regarded Men and Masculinity Program. He is well known for his expertise in the areas of substance abuse, sexual assault, gender, and diversity. He will be presenting "Creating an Effective Media Campaign", "Best Practices in Prevention", "Building Leadership and Commitment" and "Future Directions in Prevention and Response".

The \$65 conference fee includes pre-conference, conference, and luncheon on Saturday. Registration deadline is February 19. For more information or registration, contact Julie Allison, 620-235-4529, Lynda Killingsworth, 620-235-4175 or www.sartmvp.org.

resources

calendar

KCSDV SPONSORED TRAININGS

- **Sexual Assault Advocacy Training**
- Advocates & Allies
February 23-27, 2004 - Hutchinson
- **Sexual Assault Prevention & Response Conference** (see page 6)
Presented by: Alan Berkowitz
- Advocates, Criminal Justice, and Social Service Workers
February 27 & 28, 2004 - Pittsburg
- **Women's MOSAIC Network Conference on Battered Immigrants and Refugees** (see page 1)
Co-Presented by:
Sonia Parras Konrad and Sujata Warriar
- Advocates, Attorneys, and Social Service Workers
March 25-26 - Kansas City, MO

For further information and on-line registration for KCSDV trainings, visit: www.kcsdv.org/train.html

This newsletter and KCSDV brochures are available online at: www.kcsdv.org/public.html

kcsdv staff resources

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Rebekah Santana	Staff Support Assistant
Elaine Sherrick	Development & Finance Coord.
Viola Straley	Accounting Assistant
Sarah Thomas	OARS Advocacy Coordinator

Kansas Domestic & Sexual Violence Helpline Numbers

Kansas Statewide Hotline

1-888-END ABUSE

Atchison / Hiawatha	913-367-0363 or 800-367-7075
Coffeyville	800-794-9148
Dodge City	620-225-6510
El Dorado	316-321-7104 or 800-870-6967
Emporia	620-342-1870 or 800-825-1295
Garden City	620-275-5911
Great Bend	620-792-1885
Hays / Goodland	785-625-3055 or 800-794-4624
Hutchinson / McPherson	620-663-2522 or 800-701-3630
Iola	620-365-7566
Kansas City Friends of Yates, Joyce Williams	913-321-0951
MOCSA	816-531-0233
Metro-wide	816-Hotline
Lawrence Rape Victim/Survivor Services	785-841-2345
Women's Transitional Care Services	785-843-3333 or 800-770-3030
Leavenworth	913-682-9131 or 800-644-1441
Liberal	620-624-8818
Manhattan / Junction City	785-539-2785 or 800-727-2785
Mayetta	888-966-2932
Newton	316-283-0350 or 800-487-0510
Overland Park	913-262-2868 Metro-wide 816-Hotline
	Miami County 888-432-4300
Pittsburg	800-794-9148
Reserve	785-742-0053
Salina	800-874-1499
Topeka	daytime 785-354-7927 or evening & wknds 785-234-3330 or 888-822-2983
Ulysses	620-356-2608
Wichita	Harbor House 316-263-6000 Step Stone 316-265-1611
	Wichita Area Sexual Assault Center 316-263-3002
	YWCA Women's Crisis Center 316-267-SAFE
Winfield	620-221-HELP or 800-794-7672

This newsletter is published quarterly, hard copy and online, JAN, APRIL, JULY, and OCT. Deadlines for calendar and article submissions are DEC 1, MAR 1, JUNE 1, and SEPT 1. Submissions will be reviewed for content and space availability.

Please send submissions to KCSDV, 220 SW 33rd, Topeka, KS, 66611, FAX: 785-232-9784, or coalition@kcsdv.org, attn: Publications Specialist.

YES! I would like to be on the KCSDV mailing list.

Name _____
Address _____
City, State, Zip _____
E-Mail _____

YES! I would like to be a member of KCSDV.

I want to become a member of the Kansas Coalition Against Sexual and Domestic Violence (KCSDV) in support of the statewide effort to end violence against the women, men, and children of Kansas. I am enclosing a check made out to KCSDV.

____ Benefactor: \$100.00 ____ Patron: \$50.00 ____ Individual membership: \$10.00
____ Supportive organizations (not a domestic violence or sexual assault program): \$50.00
____ I wish to make an additional contribution of _____ to KCSDV.
____ I wish to make a pledge of \$_____ to KCSDV. The first installment of my pledge is enclosed. Please bill me (monthly, quarterly, semi-annually, or annually) for the balance.



UNITED AGAINST VIOLENCE

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