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ESSAY

THE ISOLATION ABYSS: A CASE AGAINST MANDATORY PROSECUTION

Meg Obenauf*

ABSTRACT

In this fictional narrative Essay, Meg Obenauf addresses the procedure known as mandatory prosecution for domestic violence, a method she learned about while working at the prosecutor's office in San Diego. San Diego is one of the cities that debuted the "no-drop" policy for domestic violence, and it has won much critical acclaim for increasing conviction rates for batterers. Obenauf thinks the policy is somewhat flawed, and has tried to address what she perceives to be its weak spots in the narrative. It is Obenauf's intention in writing this narrative to use it to begin conversations about the issues relating to dating violence and prosecution.

Peoria, IL 3/16/98

This morning, while reading the newspaper, a shocking headline in the local section caught my eye, resurrecting a surge of memories. It described yet another pending trial for domestic violence. What struck me poignantly was the age of the victim; she was 18, the same age as Jenny when she died. I knew at that moment that I had an obligation to reach out to others with Jenny's story and hopefully inspire them not to stand aloof but to intervene in a similarly explosive situation.

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This story is an intensely personal one. It recreates the most shocking, earth-shattering, conscious-numbing experience I have ever known. Most of this subversive spiral of events occurred right under my nose, without attracting my attention. It was only immediately prior to the bloody end that I found the clarity of insight, but my awareness came much too late. While the writing of this narrative is extremely painful for me, I have undertaken this project as a means of therapeutic catharsis and self-reflection. I do not know if I have the strength to be a crusader, but I do know that I can record my experience and share it with others.

First, I would like to declare, publicly and for my own recognition, that I am not a bad mother. In fact, I think I am a pretty great mother. I raised a caring, generous, intelligent, outgoing, beautiful girl and nurtured and loved her for eighteen eventful, delightful years. My daughter was not the victim of a poor upbringing or a weak value system, but of an insecure, controlling, abusive eighteen-year-old boy, whose attitude and demeanor were sanctioned and encouraged by our misogynistic society. It is only with the startling accuracy of hindsight that I am able to dissect and analyze the "warning signals." I am confident now that I would be able to spot and act on the problem months earlier were I to encounter it again. However, I will never again be able to address this issue from the same perspective, as Jenny was my only child. It is for this reason that I transcribe her story—with the desperate hope of sharing some of my hard-earned wisdom, which proved so elusive.

Acknowledging the risk of sugar-coating my perception of Jenny, I still feel comfortable stating unabashedly that Jenny was a wonderful child. In our mid- to upper- middle class suburban world, Jenny served as a glowing example of adolescence. Perhaps this is why, when the troubles began, my husband and I were so slow to recognize them. Jenny was an honor roll student, captain of the cheerleading squad, popular with her classmates, and college-bound. She expressed her creative potential through writing, her work on the school's literary art magazine, and dance. We survived her first three years of high school with barely a glitch. There were, I recall, a few missed curfews and some college parties with older co-workers from her summer lifeguarding job, but all things considered, her first three years of high school flew by smoothly.

I was relieved that Jenny had successfully made it through those formative years, when every mother worries incessantly that her child will meet the “wrong” kind of friends who could pressure her into drugs, alcohol abuse, or any number of questionable activities, limited only by the constraints of a mother’s overactive imagination. Jenny’s father and I had heard story upon story about poor social skills resulting from being an only child, and we tried to do everything possible to ensure a positive developmental peer group experience for our daughter. In her early years we tried, when our funds permitted, to allow Jenny to invite a friend to all our family outings. This tactic, combined with carpooling to cheerleading practice and gymnastics, allowed me to meet most of Jenny’s friends without seeming invasive. I found her friends bright and personable. Armed with the knowledge that my daughter was “fitting in” to the often traumatic world of high school, I felt confident that her future seemed as effervescent as her personality.

Jenny and I were close, in the sense that we got along well and spent quite a bit of time together, both because she had no siblings and because my job as a teacher gave me substantial amounts of time off during the summer and holiday breaks. However, there were limits to our companionship; Jenny did not view me as a confidante. While I sometimes felt pangs of jealousy when I heard a friend of mine talk about being “best friends” with her teenage daughter, I felt strongly that my role was to be there if Jenny needed anything, yet retain my position as an authority figure. Jenny had many close girlfriends with whom I was sure she tittered about boys. I saw this as healthy and certainly not my department. In retrospect, I wonder if I should have asked more questions, inquired into more details, or pried a bit more, but I desperately wanted Jenny to grow up to be an independent thinker.

When Jenny began going on her first “car dates” during her sophomore year of high school, her father and I accepted this. We set appropriate curfews and always met the boys before the dates began. We saw no cause for concern, because Jenny chose dates who were very nice and polite. Jenny never seemed inappropriately smitten and was always in control of the situation. That is, until Mike entered our lives, in April of Jenny’s junior year of high school.

Although Jenny’s father and I had never met Mike, we certainly knew of him. He and his family were somewhat of an insti-

tution in our town. Both Mike's parents worked at the high school, his father in administration and his mother as a social worker. But their mere existence is not what made that family so infamous—it was their virtual omnipresence at all things related to the school and its students. Mike's mother was Jenny's cheer-leading coach her freshman year of high school, and his father coached varsity baseball and freshman basketball. During the summer, the two of them managed the local swimming hole, which boasted a lifeguard staff of the high school cheerleaders and athletes.

When Mike's star athlete older brother graduated from high school in the same year that Mike graduated middle school, exceedingly high expectations for Mike's future were raised in the minds of the fans, the coaches, and the family. All expected Mike to assume the role his brother established for him—the “second coming.” I'm sure Mike felt a great deal of pressure to attain those ridiculously high standards of athletic achievement. Recently, as I consider boys and their role models, I am positive that those aggressive, demanding coaches, in combination with the locker room atmosphere, nourished the seeds of misogyny planted in Mike's head. The subpar role models Mike found in the locker room were exceeded in their inappropriate mentoring by Mike's own father, whose infidelity was common knowledge around the town. I know now that Mike faced extreme obstacles—pressure to succeed, parents that insisted on keeping up a facade of propriety while their marriage was crumbling, and growing up in a virtual fishbowl. It is not my intention to excuse or trivialize Mike's actions, only to provide as comprehensive an illustration as I can, with my somewhat limited knowledge.

It was the springtime of her junior year, and one of those times when everyone seemed paired up and coupled off. The Prom was quickly approaching, and Jenny, who was not dating anyone at the time, had decided not to go. She went as a sophomore with her older boyfriend, and she did not want to go to such a noteworthy event with a mere friend. But when Jenny and her friends were chosen to comprise the Prom Court, she felt an obligation to attend, and I'm sure she thought it would be fun as well. Mike had been expressing interest in Jenny for years, and that semester they had finally gotten to know each other through a class. So two weeks before the event, Jenny asked Mike, a sophomore who had no plans to attend the junior/senior

prom. That invitation sparked a relationship that endured for almost two years, thus beginning the tragedy of Jenny and Mike.

Much of my insight into Jenny and Mike's relationship, as I mentioned earlier, arrived far too late. This was partly because of my utter lack of knowledge concerning dating violence and partly because Jenny kept a lot of information from me. It has only been since Jenny's death that I have educated myself by reading extensively about the subject of domestic violence, talking with a feminist therapist, and, perhaps the most heart-wrenching part, reading Jenny's diary. Although she wrote sporadically, her writings usually occurred during the bad periods, so my reading helped me to grasp the complexities and nuances, as well as the sheer horror, of Jenny and Mike's very volatile relationship.

As I mentioned earlier, Jenny had a solid group of very close girlfriends. In the past when she had a boyfriend, she generally went out with him one weekend night and with her friends the other. This was not the situation with Mike. After the Prom, when they were officially a couple, Mike insisted on seeing Jenny both weekend nights and Sunday afternoons when she finished teaching swimming lessons. Now, I know that to the reader this may seem like an easily recognizable warning sign for a new high school couple to have this level of intimacy. However, Mike did not immediately insist on this exclusivity—he was too smart. He knew it would scare Jenny away. Rather, his isolation of Jenny took place slowly, meticulously, and right under the collective nose of all Jenny's friends and loved ones.

One of the first weekends of their relationship, Mike and Jenny had gone out on Friday night, and Jenny planned to attend a Cubs game with her friend's family on Saturday night. When Saturday evening rolled around, I was surprised to find Jenny at home, because I knew how excited she had been for the trip into the city with her friend. When asked about it, she merely commented that Mike had thought they had plans and that she was going to stay in with him and watch a movie.

This is how Mike disbanded Jenny's social support network. He began by acting confused or hurt when Jenny had other plans, and, as her isolation increased, he progressed to denigration, anger, and eventually physical violence. This story typifies every Saturday night for the first months of their relationship: Mike's ploys manipulating Jenny into adjusting her plans until eventually she stopped making plans on her own. Jenny's friends grew

irritated with her frequent cancellations and at some point stopped inviting her altogether.

Her father and I enjoyed the company of Jenny and Mike, although they spent much more time at his parents' house than ours. We assumed that she still saw her friends enough at all the basketball and football games and at school, so we saw no reason for concern. As Mike's control and domination over our daughter increased, I did consider that perhaps he wasn't the nice boy that we originally thought. However, being the mother of a seventeen-year-old, I knew that to mention my growing dislike for my daughter's boyfriend would likely only increase her desire to stay with him.

One of the reasons dating violence is so challenging is that teenagers' experiences are not validated in our society. They live so much of their lives hiding from adults, trying to prove their independence, and leaning on each other for support and wisdom. There are so many things facing kids that even an adult would have difficulty handling, and yet they experience them in isolation. Jenny's situation illustrates this bind. Her friends were unable to look past their own hurt at being "snubbed" by Jenny to recognize the beginnings of a powerfully abusive relationship, and her adolescent world was so hidden and separate that even the adults in her life did not sense the twisted nature of her relationship.

It is very important to grasp, yet difficult to understand how subtly a batterer operates, so perhaps I can provide a more academic explanation and illustrate it with examples from Jenny's abbreviated life. A significant amount of academic work exists comparing domestic violence to the imprisonment and torture of political prisoners.¹ Whereas one is imprisoned in an easily visualized fortress, the other is held captive in her own home.² Like any captor, a batterer's goal is to assert psychological control over his victim.³ The process of psychological battering often begins with the isolation of the victim. The goal is to weaken her connections to others so that the batterer can fill the gap with himself.⁴ As her isolation increases, the victim depends more and more on the batterer. The more frightened she is, the more likely she is to cling to the relationship, particularly in light of her

1. See, e.g., JUDITH LEWIS HERMAN, *TRAUMA AND RECOVERY* 76-82 (1992).

2. *Id.* at 81.

3. *Id.*

4. *Id.*

lack of social support (an effect of the isolation).⁵ Eventually, in the absence of any other human connection, she will attempt to find the humanity in her captor (batterer).⁶

In Jenny's situation, this process occurred as Mike gradually began imposing heavier time demands. For example, one night Jenny had plans to go to the movies with a friend, and she invited Mike to come along. Mike implored how he had wanted to see her that night and suggested he cook dinner for her before she went to the movie, as his parents were out for the night. Jenny, impressed with Mike's thoughtfulness, went to Mike's house for dinner. When Jenny's friend called there to find out when would be a good time to pick Jenny up for the movie, Mike led the friend to believe, without actually lying, that he and Jenny wanted to spend the evening alone, leaving Jenny's friend annoyed and frustrated. When Jenny confronted Mike with this information, after hearing the story from her hurt friend, Mike successfully framed it as a misunderstanding between the three parties.

The above is one example of the seemingly innocent way in which Mike's isolation of Jenny began. He was careful never to provide any tangible evidence of his controlling behavior, and anything that seemed questionable was easily written off as a misunderstanding or a miscommunication. After all, although Jenny was a bright girl, she was only seventeen, and she really did not know much about relationships. I'm sure to some extent, Jenny felt even when Mike wasn't being the greatest boyfriend, he was better than no boyfriend. In time, it became easier for Jenny to make excuses to her more understanding friends than face Mike's dual weapons of guilt and anger. Jenny's friends eventually assumed that all her free time would be spent with Mike, so they stopped inviting her altogether. In the absence of her vital support network of friends, Jenny became ever more dependent on Mike, in a quickening spiral of detachment.

To solidify Jenny's disconnection, Mike found it necessary to increase his abusive behavior—he had to ensure that Jenny was not merely physically separated from her loved ones, but also emotionally distant.⁷ He knew Jenny's whereabouts at any given

5. *Id.*

6. *Id.*

7. This is the general pattern used by batterers. See HERMAN, *supra* note 1, at 80. In addition to eliminating the victim's attachments to people, a batterer will also destroy the victim's internal images of connection to others, thus ridding her of her

time of the day. They shared a locker at school, he saw her between every class, and he had her class schedule memorized. Her days were very predictable—he knew after school she would attend cheerleading practice, drive home for dinner with her family, and do her homework. He usually called around 8 p.m., after he finished his own practice, to chat and catch up. Jenny's father and I used to laugh about what we considered "young love," when two people who saw each other all day long had to talk on the phone at night for hours as well. As I recollect having dinner at Jenny's grandmother's house one Wednesday evening, I realize that Jenny's antsiness that grew visible around 7:30, and her stomach illness that hit around 7:45 had nothing to do with the spice in her grandfather's spaghetti sauce. It had everything to do with her fear of the consequences of missing that 8 p.m. telephone call. Jenny's weekends usually entailed basketball games, often on both nights. This was a particularly easy way for Mike to keep track of Jenny, because she would be at every game, right under the basket with the other cheerleaders. After the games, Jenny would wait for Mike to shower; they would occasionally go out to eat with Mike's parents or the other ball players, but more often than not they would just return to Mike's house.

When cheerleading season ended in March of Jenny's senior year, Mike got her a job taking the statistics for the baseball team, of which his father was the coach. This ensured that my daughter would be present at all the games, both home and away, at the rate of a couple per week and usually a double-header on Saturday. It was easy for me to justify Mike's omnipresence in Jenny's life; she had to go to school, had always been a cheerleader, and it seemed natural for her to want to watch her boyfriend's baseball games. This arrangement allowed Mike total control over Jenny, because he knew where she was and how he could reach her at any given moment of the day.

I discovered after Jenny's death that Mike also required constant reaffirmations of her devotion to and affection for him.

objects of symbolic attachment. He will demand sacrifices that slowly, imperceptibly, destroy her ties to others. *Id.* The batterer desires enslavement of the victim, and he attempts to accomplish this by "exercising despotic control over every aspect of the victim's life." *Id.* at 75. He requires more than compliance, because he has a psychological need to justify his behavior—he needs victim affirmation, and he will demand professions of respect, gratitude, and love. *Id.* His ultimate goal is the creation of a willing victim. *Id.* Unlike the sudden torture that is inflicted on political prisoners, victims of domestic violence are taken prisoner gradually, by courtship. *Id.* at 76-83.

Early on in their relationship, he began showering her with cards expressing his love and attachment. He expected the same in return, and apparently Jenny spent many hours in her free time (after school and practice, when she was not on the phone with him) crafting elaborate letters and cards telling Mike about the depth of her adoration for him. Thus, Jenny used all her energy either in the physical presence of, talking on the phone to, or thinking about Mike. Her relationship with Mike was totalizing, and it left little room for anything else in her life.

It is ironic now, looking back, that when we finally noticed something was amiss with Jenny, we had no idea that it was a symptom of a much larger evil—her relationship with Mike. Jenny had begun dieting September of her senior year, and when, by Thanksgiving, she had lost 10 or 11 pounds, we told her she looked great, and that she should try to focus on maintaining her weight now, since she was never really overweight to begin with. Jenny was always very disciplined, so when she decided to cut out snacks and drop some weight, she succeeded. However, by February, she had lost about 25 pounds, and people were beginning to comment at school and within our extended family on how skinny she had gotten. Ever the concerned parents, Jenny's father and I swooped in, ready for an intervention. However, what we would later identify as Jenny's anorexia did not represent her true problem, but merely a symptom of her abusive relationship and an attempt to regain control over her life.

I think Jenny's father and I hesitated to intervene too aggressively because we believed the pop psychology that Jenny's status as a teenager brought with it a catalogue of traits which included resistance to adult authority. We underestimated her ability to react to criticism as an adult, and we felt that to suggest anything too strongly would only encourage that behavior. Trying to pretend that everything was normal, we hoped fervently that she would regain the weight without having to resort to outside counseling or even more punitive measures.

We thought a surprise party for Jenny's eighteenth birthday would be a great way to foster social interaction and counteract her increasingly obvious withdrawal from her peer group. With the help of her good friend, who made the guest list and the invitations, we planned a party at a popular local pizza place. Jenny thought she was going to dinner with Mike, so it was a big surprise when they arrived at the restaurant to find many of her

friends; her father, aunt, and me; Mike's parents; and her favorite English teacher.

Because I recall that event as a great success, I was startled to view the evening from Jenny's point of view as I explored her diary. One particularly poignant entry helped me realize the extent of Jenny's utter exhaustion from lack of food. She barely enjoyed her birthday, partly because she felt she couldn't eat the birthday cake and could only nibble on the pizza. But she could not enjoy herself mainly because Mike no longer permitted her to speak to other boys. Their presence at her party under the watchful eyes of Mike proved unnerving. She spent the entire evening playing the role of the chatty hostess without pausing too long at any one person or looking any of the boys in the eyes. She accomplished this feat by talking to the boys' girlfriends, thus allowing the boys into the conversation without speaking to them directly.

After the party, Mike grew very upset when he noticed that one of the boys, who had given Jenny a card with money inside, a common birthday party gift among those high school students, had given her five dollars more than many of the other guests. Mike questioned Jenny intensely about her relationship with this friend and why he would give her more money, not even considering for a second that the boy probably had no idea how much money the other guests would give.

Jenny slowly evaporated into a shadow of her former self, physically due to her continually plummeting weight and emotionally as well. Her friends later told me how she walked through the high school hallways with her eyes on the ground, whereas before she actively searched out her friends to say hello or stop and chat. Jenny's withdrawal was her only tool of surviving. She thought that the less contact she had with the outside world, the less explaining she would have to do to Mike and the less resentful he would become.

Jenny was wrong. She didn't realize that her isolation only fed Mike's need for total control over her, the most important person in his life. The continual anxiety injected into Jenny's existence by Mike's hovering, watchful control caused Jenny to dissolve from the inside out. Her physical transformation constituted the cumulative effect of the total deterioration she felt in-

side. I understand now that Jenny likely suffered from a version of chronic trauma syndrome.⁸

By Spring Break, the last week of March, when our family went to Florida to visit the grandparents, Jenny had lost 30 pounds. It had been such a gradual wasting away, masked by oversized clothing, that it took the horror of Jenny's grandmother's reaction to send the message that Jenny needed outside help. Jenny's grandmother's shock at her granddaughter's diminutive frame, the opportunity for us to actually spend a good amount of time with Jenny, and of course the sight of her skeletal body in a swimsuit, sparked the realization that we needed to confront our daughter. When we returned home, Jenny's father and I instituted a series of weekly weigh-ins, which took place in the kitchen. It pained us to resort to such a humiliating mode of discipline, but we did not know what else to do. Jenny had promised not to lose any more weight, and we wanted to hold her to this. I believed that she really did want to stop losing weight; she introduced a bedtime snack into her diet and participated in the kitchen weigh-ins without complaint. However, I understand now that her compliance had less to do with her agreement with our opinion and more to do with her utter ambivalence about all facets of her existence. If Jenny lost any more pounds, she would have to begin group therapy. In retrospect, I wish we hadn't used therapy as a punitive measure, because it may have really helped to determine the true problem. But it seemed like the best "stick" we could use, in light of Jenny's total opposition to it.

By springtime of Jenny's senior year, Mike's domination of her was nearly complete. Jenny still spoke to her girlfriends at school, but not at length about anything personal. Her sole social contact was Mike, and she spent all her time with him. Jenny's father and I obsessed over her sudden weight loss, so any boyfriend troubles she experienced surpassed us, as we saw them as unrelated issues. Jenny did not lose any more pounds, so we stopped the weigh-ins. They were very emotionally draining for her father and me, and we convinced ourselves that she had finally hit a plateau and might start gaining weight. We viewed

8. See HERMAN, *supra* note 1, at 86. People suffering from chronic trauma syndrome, who have been subjected to prolonged, repeated trauma, develop "an insidious, progressive form of post-traumatic stress disorder that invades and erodes the personality." *Id.* The victim may "feel herself to be changed irrevocably, or she may lose the sense that she has any self at all." *Id.* Survivors can be continually hypervigilant, anxious, and agitated, and they no longer have any baseline state of physical comfort. *Id.*

gaining back the weight as a proxy for rediscovering her person-ality. However, since the root of the problem was not a food issue, her relative control over her body size did nothing to counteract her total lack of control over her relationship or, for that matter, her person.

We did not realize that by maintaining her current meager weight, Jenny ensured that we stayed ignorant of the inner work-ings of her relationship with Mike. She knew that if she met our demands not to lose weight, we would be satisfied with our parenting and would not probe any deeper. Reading her diary entries for May and June opened my eyes to the extreme pain she was experiencing. It's almost as if she grew desensitized to the violence and abuse, and her numbness led her to expect it and cope with it to the best of her ability.

All the events of that time period take on new meaning when seen through the lens of Jenny's diary. Celebratory events in particular, like her birthday party described above, caused Jenny great distress, because people expected her to talk and so-cialize, acts which she now dreaded, because she knew she would later suffer Mike's punishment for them. Her graduation was one of these traumatic experiences. Mike was not graduating, but instead of being a good sport and allowing her to attend the big graduation party with her friends, he escorted her to the party. During their 15-minute stay at this, the *fin di siècle* of her high school career, when those kids wondered if they'd ever see each other again, Mike demanded Jenny's full attention. When a family friend spoke to her about college plans, Jenny grew so nervous that he drifted away. Mike then whisked Jenny to the car to discuss their relationship. Mike felt that Jenny had be-haved inappropriately when she talked for too long to that boy, as well as her friend's boyfriend, and he berated her the entire way back to his house.

It is distressing to examine the way their relationship deteri-orated—the beginning, with all its peace and loving gestures (at least on the surface), led to some periods of fighting, where Jenny divulged they would chase each other around his parents' house screaming and throwing things. Eventually, by the spring of Jenny's senior year, with her existing as merely a shell of a person, the fights did not even qualify as real arguments. By that time Mike controlled Jenny so thoroughly she could no longer conjure up the onus to fight back. Mike yelled and insulted, and Jenny, who had no self-esteem left, believed him. I think that by

the end, Jenny no longer possessed any sense of self apart from the couplehood of she and Mike. He had forced her to retreat so far inside herself that the outside world did not recognize her. She couldn't even remember the Jenny that may have existed pre-Mike, much less create a plan to resurrect that self-assured girl.

Reading about dating violence helped me to comprehend Jenny's reaction as her form of coping. I read how domestic violence is conceptualized in three stages: tension building, battering incident and honeymoon period.⁹ I think that this model accurately depicts Mike and Jenny's relationship. I do not know when Mike hit Jenny for the first time, and she never wrote about it in her diary, but it may very well have been late in the spring of her senior year, when I noticed the flowers arriving periodically to our house. Jenny's plan to only allow us glimpses into her relationship when they were in this "honeymoon period" helped to discourage our inquiries into those moments when she seemed tearful or upset.¹⁰

9. The current information available about domestic violence indicates that most scholars conceptualize it in stages. See, e.g., LENORE E. WALKER, *THE BATTERED WOMAN SYNDROME* 95 (1984). Stage one, the "tension building" phase, entails a gradual escalation of tension and increased friction. *Id.* The batterer expresses dissatisfaction and hostility, but not in an extreme or maximally explosive form. *Id.* The woman attempts to placate and calm him down. She tries not to respond to his hostile actions and uses general anger reduction techniques, which often succeed for a brief period, reinforcing her unrealistic belief that she can control him. *Id.* Finally, exhausted from constant stress, the victim withdraws from the batterer, fearing that she will inadvertently trigger an explosion. He then behaves more oppressively toward her as he observes her withdrawal, resulting in unbearable tension. *Id.* at 95-96.

The second stage consists of the acute battering incident. *Id.* at 96. Sometimes the victim will precipitate the incident on purpose so as to control the location and timing. This also allows her to prepare to minimize her injuries and pain. *Id.* Stage two is concluded when the batterer chooses to stop, bringing a sharp physiological reduction in tension. *Id.*

Finally in the third stage, the "honeymoon period," the batterer seems apologetic, loving, and very concerned about his victim. *Id.* He promises to change and begs for forgiveness. It is because of this stage that battered women stay with their abusers. *Id.*

10. I have included in the appendix to the story a copy of the Power and Control Wheel. Developed by the Domestic Abuse Prevention Project in Duluth, Minnesota, it is a helpful model for understanding the overall pattern of abusive and violent behaviors in intimate relationships. Other less easily identified abusive behaviors that firmly establish a pattern of coercion and control frequently accompany the violent incident. HARVARD LAW SCHOOL BATTERED WOMEN'S ADVOCACY PROJECT, *TRAINING AND RESOURCE MANUAL* 5 (10th ed. 1996).

Jenny left for college at the state school three hours south of our home in early August. While her departure left me with an empty nest, I also felt somewhat relieved to see her move so far away from Mike. I realized that Mike demanded too much of Jenny's time, and I felt that once she saw what a big college had to offer, she would drop him and gain back some measure of independence. Jenny planned to room with one of her best friends from high school, whose family I was friendly with, and I took comfort in the knowledge that the two would traverse this rite of passage together. I admit that I also liked the idea that I had a spy planted in my daughter's dorm room in case the stress of college exacerbated her anorexia. Jenny's father and I dropped her off that day in August of 1991, believing that by distancing her from Mike we were affirmatively helping our daughter and ending her pain.

Adjustment to college proved very difficult for Jenny. As always, from outside appearances, she seemed to be doing just fine. She participated in rush, joined a sorority, and got straight A's in her first semester. But talking with her on the phone twice a week revealed that she was not at all happy. When I finally had the opportunity to speak to Jenny's friends on her floor, I realized that she spent every night sitting outside in the hallway on the phone with Mike, usually in tears. Mike, began to date other people, but he still monitored Jenny's every move via telephone and by utilizing his older brother, who also attended Jenny's college, as his agent. Mike's brother and a couple of his friends befriended many of Jenny's new acquaintances and frequented some of their favorite spots. The boys provided full reports to Mike. Their continued presence precluded Jenny from reaching out to meet new people, as she viewed the boys as an extension of Mike. This caused the hypervigilant anxiety that often swallowed her. Jenny's father and I, realizing that maybe we assumed too quickly that a new environment would facilitate her recovery, offered to let Jenny return home and attend community college at the semester's end, if she truly felt that miserable. To her credit she chose to stick it out.

We saw Jenny three times in the fall semester—high school Homecoming in October, Thanksgiving in November, and the holiday break in December. Homecoming seemed a bit painful for her, because Mike was attending the dance with another girl, and he acted cold and aloof at the football game. I thought that this was the best possible scenario, because it forced Jenny to

spend time with her girlfriends, who also returned home from school for the game. I hoped she'd recognize that she really could move on in her life, since she and Mike were dating other people. However, by Thanksgiving, she looked thinner than ever—I saw later in her diary that her total weight loss amounted to 41 pounds, and the family worried. Jenny saw Mike several times during that break, but she also went on a date with the boyfriend from her sophomore year, who attended her college and had taken her on a few dates at school. The family felt grave concern about Jenny's emaciated frame, but no one knew how to approach her about it—we were at a total loss. Since her first college exam period loomed, we hesitated at throwing her into a tizzy during such a stressful time. We decided to wait and perhaps broach the subject with her when she returned home for Christmas.

Jenny's demeanor during her post-exam visit showed much potential. She seemed assured about her tests, and perhaps that helped raise her self-esteem to some degree. Her father and I felt very pleased to see that she was going on dates with her former boyfriend, the one that she dated at school. However, she still saw Mike, which made us unhappy. Then suddenly one night, I remember it very clearly, Jenny woke me at 3 o'clock in the morning to tell me that she was considering breaking it off completely with Mike. Apparently, the other boy had told her that he felt uncomfortable knowing Jenny still spent time with Mike, particularly when they all lived in the same hometown, and that she would have to break up with Mike if she wanted to date him. Jenny immediately responded that she could not and would not break up with Mike. But somehow, in the ensuing two hours, sitting alone and miserable in her room, Jenny finally realized what all her friends, her father, and I had been trying to tell her for months—simply that it was in her best interest to break up with Mike. I thought at the time that it probably was unhealthy for Jenny to break up with one boy only to date another, but at that point anything that severed her emotional connection to Mike sounded good to me. I encouraged her, gave her a hug, and said if she needed anything to let me know. The following day, she called Mike and informed him that she did not want to date him any longer. When Jenny relayed the story to me later, she commented on the immense relief she felt when he began yelling at her, berating her, and telling her she would never find anyone who treated her as well as he did. She knew that it was

no longer her problem. She repeated to herself, like a mantra, that that was the last time she ever would have to listen to him rant. I do not know what caused her surge of empowerment, but I thanked God for it. I did my part to talk her out of calling him when she felt the urge and planned some fun, distracting activities for us. When Jenny returned to school in January, we felt that we had weathered the storm, and her recovery was eminent.

If I had the domestic violence education I now possess, I would have known that a woman faces the most danger when she leaves her abusive partner. They fear reprisal from the batterer, and often his family and friends will threaten, intimidate, harm, and harass the woman for seeking help. The victim's assertion of independence causes the batterer to realize that he has lost his object of domination and control. Fearing this new powerlessness, he grows frenzied and violent, pursuing any means possible to win her back. Often the logic follows that if he can't have her, no one can. More battered women are murdered when attempting to flee than at any other time.

While Jenny and Mike's entire relationship brought extreme pain to Jenny, for her family and friends, the next phase of Jenny and Mike brought the most chaos and disturbance. Only then did the horrifying details of Mike's abuse come to light. I do not know when Mike's physical battery began, because he never left any evidence of violence on Jenny's person. However, that tactic changed when distance separated Jenny from our watchful gaze. Because Mike's brother also lived on the campus, Mike's parents had no reservations about the inappropriateness of Mike traveling to visit his girlfriend for the weekend when he was still in high school. Fortunately for Jenny, Mike's intense athletic regime severely curtailed his visiting potential. Mike visited once in the fall, between football and basketball season, with little fallout (of which we were aware). We hoped dearly that if he visited the campus in the spring he would not contact Jenny, but this was not the case.

Our battle with the Illinois legal system began that day of Mike's visit, Saturday, February 22, 1992. Jenny had spent the afternoon studying at the library with the two girls that lived across the hall. When she arrived back at her dorm room, she discovered a bouquet of flowers perched on a ledge outside her door. Intrigued, she checked the card, only to find to her dismay that they were from Mike. While this disappointed Jenny, it did not trigger alarm until she realized that the card contained

Mike's handwriting, meaning perhaps he had delivered the flowers in person. Sure enough, Mike telephoned minutes after Jenny walked in the door to announce that he was in town for the weekend and would like to take Jenny to dinner. Trying to keep her composure, Jenny explained that they were no longer dating, that she was not interested in maintaining a friendship with Mike, and that she would prefer it if he did not contact her. Recognizing her newfound independence, Mike proceeded with caution. He began telling her how she was everything to him and showered her with compliments and flattery. Mike begged Jenny to meet him at least one more time, saying he realized that he had a problem, and, as she was the only one who knew exactly how his abuse had progressed, she was the only one who could help him recover. Only she could explain to him exactly which of his behaviors caused her alarm and needed adaptation.

I often wonder how a boy so young grew so adept at human manipulation. Mike knew Jenny's weak spots, and he preyed on them deftly. Overtaken by the desire to heal, she thought she would help Mike, his family, and any future girlfriends by assisting him in changing his behavior. Perhaps she still believed that if you love someone enough, you can change them. Perhaps Mike's reaching out to her sparked her maternal instincts. What he said really made sense to Jenny—a therapist could provide information about dating violence and analyze the problem from Mike's perspective, but only Jenny could construct a timeline of their relationship and point out what went wrong. She agreed to meet him at his brother's apartment.

When Jenny arrived at Mike's brother's off-campus apartment, Mike's affectionate yet respectful welcoming hug immediately squelched her feelings of nervous anticipation. Relieved, Jenny followed Mike into the kitchen, where they sat down at the table and, over a couple beers, chatted about school, their hometown, and baseball season. Mike's brother Matt, also a baseball player, had traveled to a rival college for a double header that weekend. Matt's absence surprised Jenny, because she had assumed that Mike's call and flowers constituted an impulse during a visit to his brother, not the sole purpose of his visit. But Mike's rational behavior bolstered his claim that he just needed a weekend away from his fishbowl life in their hometown to think and straighten some things out. The conversation inevitably turned to their relationship, and Mike began to press Jenny about what exactly had gone awry. When Jenny at-

tempted to explain how Mike simply demanded far too much of her time and energy, Mike began to protest. He felt that if Jenny did not want to see so much of him, she easily could have spent more time with her friends. Mike refused to comprehend Jenny's explanation, which she phrased in the language of power, control, and manipulation (she had begun educating herself about the dynamics of abusive relationships as well), and he felt she was accusatory and demeaning. Jenny, eager at her first chance to air her grievances and find her voice, failed to notice the growing resentment in Mike's demeanor. Her honesty struck Mike with the overpowering force of a threat to his very being, and Mike lashed out.

Jenny could not recall much of the ensuing twenty minutes that night in Matt's apartment. The combination of shock, fear, and horror numbed her outrage and extinguished her memory of the beatings. However, the trauma and agony of her experience survived in the photographs taken by the police, upon their arrival at the scene. This constituted my first exposure to Jenny's pain—those Polaroids, brazen and uncompromising in their detail. To the observer (or the juror), they captured only a moment, albeit an extremely physically painful one; to Jenny, and to me, they spoke volumes about a pattern and practice of dating violence.

We found out later that one of Matt's neighbors, Vanessa, had also called the police, mere moments after Jenny's desperate call. The college apartment building in which Matt lived consisted of meager walls, and the noise disturbed and alarmed Vanessa and her roommate. I thank God for that concerned girl, because I'm sure the additional call helped catalyze the police. I hope the deplorable outcome of Jenny's story does not lessen her desire to continue to help others. The police arrived to find Jenny cowering in a corner and Mike standing in the kitchen, a baseball bat at his side. Jenny's college town boasts a reputation as being quite progressive with its domestic violence prosecutions. It practices mandatory arrest, where the police must arrest one of the parties if they arrive at a scene of domestic violence perpetration. Because the officers found it quite easy to determine the aggressor in this situation, one of them handcuffed Mike and led him away while the other called the ambulance for Jenny and talked to her about what had happened. Jenny told him the entire story of that night as the ambulance whisked her away to the emergency room.

Around 2 a.m., we received the call that Jenny was in the hospital at school with a concussion, a broken rib, and multiple cuts and bruises. She retained consciousness, however, and the doctors remarked that her recovery was eminent. As her mother, I wanted to drive the three hours to her campus immediately, but Jenny's father insisted that I behave rationally and at least wait until morning, because she did not face any immediate danger. The nurse informed us that Jenny would be able to call us first thing in the morning, and until then, she could not give us any details of what we assumed was Jenny's accident. Not until our conversation with Jenny the next day did we realize that her "accident" occurred at the hands of Mike, the ex-boyfriend—the one from whom we thought she'd escaped. What we didn't realize, even then, was that Jenny would never find refuge from Mike's determined anger and resentful wrath.

By 10 o'clock the next morning, we had arrived at the hospital to find Jenny sitting up in bed and covered with bandages, but functional. The sight of my daughter in this condition tore my heart out, and I felt filled with unbearable rage toward that boy. Jenny's exhaustion prevented her from talking much about the incident, but one of the officers who had arrived at the scene approached her father and me and informed us of some relevant facts. Apparently, Mike had stayed in the local jail overnight until Matt arrived home the next morning and bailed him out. Not surprisingly, Mike had not wanted his parents to know about his arrest.

Pascal County has a policy of mandatory prosecution for domestic violence, which means that after the arrest, if the prosecutor believes there is enough evidence to pursue the case, he or she will do so, regardless of the wishes of the victim. Different jurisdictions have "soft" and "hard" no drop policies. A soft no drop policy requires the victim to conquer a procedural hurdle before the prosecutor will drop the charge. For example, in Brooklyn, New York, before a victim may drop a charge, she must discuss this wish and her reasons for it with a counselor.¹¹ However, Pascal County followed a very "progressive" hard no drop policy, where the prosecutor has total discretion as to the status of the case, and he or she determines if the charges will proceed solely on the strength of the available evidence. I knew

11. See Cheryl Hanna, *No Right to Choose: Mandated Victim Participation in Domestic Violence Prosecutions*, 109 HARV. L. REV. 1849, 1878 (1996).

that Jenny was in no condition to give statements or discuss her case at that point, but I felt vehemently that that boy should get what he deserved—punishment via the criminal justice system.

Jenny checked out from the hospital the next morning, and we drove her home with us. She said she would rather spend time at home than in her cramped dorm room, where she knew her roommate would feel obligated to wait on her like an invalid. On Jenny's third day home, we received a call from a victim witness advocate from the prosecutor's office. The assistant district attorney from the Domestic Violence Unit had decided to proceed with charges against Mike, which included assault and battery. Because Mike only threatened Jenny with the bat, but did not actually hit her with it, the assistant district attorney decided not to pursue the charge of assault and battery with a dangerous weapon, which would constitute a felony. The other charges against Mike included disorderly conduct, disturbing the peace, willful and malicious destruction of property, and interference with a telephone line (a misdemeanor charge prosecutors routinely tack on when a batterer tears the phone from the wall to prevent his victim from calling the police or interrupt her mid-call). Along with the photos and the police reports, the assistant district attorney planned to use Jenny's statements to the officer at the scene; her comments to the emergency room nurse who treated her; and Vanessa and her roommate's testimony that there was a general commotion, yelling, and crying in Matt's apartment to prove his case. Jenny consented to speak to the advocate and retold her story, along with a little more background regarding the history of violence and control in her relationship with Mike.

The victim witness advocate seemed understanding and helpful—she applied the label “dating violence” to Jenny and Mike's relationship, and she recommended a couple good books to read if Jenny or the family desired more knowledge on the subject. The victim witness advocate provided contact information and told Jenny she should feel free to call her if she remembered any more details, needed facts about the criminal process, or just wanted to talk. She made it clear before beginning her conversation with Jenny that the victim witness advocates functioned as an arm of the prosecutor's office, and any information Jenny provided to her could be used in the criminal trial, where the advocate herself would be called as a witness.

Toward the end of the week, Jenny's physical mobility had improved, and she felt emotionally ready to return to her familiar school routine. We hypothesized that by the end of the weekend, Jenny's face, with a little makeup, would not provoke the barrage of interrogations her lacerations and bruises would have caused earlier that week. Although leaving meant losing our protective custody, I think Jenny wanted to escape our small town, where Mike still attended high school. So far, we had not told anyone of the incident, and of course, neither had Mike, so things remained relatively calm. This would soon change drastically.

Jenny began meeting with a therapist at school, who recommended a support group that met once a week. The friendships Jenny fostered in that group of battered women truly served as a foundation for Jenny's reinvention of herself. Not only did she find shared experiences, she also met women who had progressed so far that they became role models for what Jenny knew she would one day become—a survivor, not a victim. She wanted desperately to rediscover the pre-Mike Jenny, who she knew still lurked deep beneath her surface, and the women in her group helped her realize that this dream was not only possible, but probable. They advised Jenny to take an introductory women's studies class, which captured Jenny's interest and aided her in developing an entirely new framework for analyzing both her relationship with Mike and her future.

Jenny stayed at school that first summer; she worked as a research assistant in her department and supplemented her income by waiting tables at a local coffeehouse. We missed having her at home for the summer, but we also understood that she did not want to run the risk of encountering Mike in our small town with the trial imminent. Matt had graduated and moved back home, and Mike kept his distance from both Jenny and the campus. But, the rumors still flew around town, and a couple of my women friends approached me about them. I explained the facts as I understood them and did not embellish or degrade Mike—Jenny's father and I certainly did not need the town turning on us. Meanwhile, Jenny received approximately one phone call each month from the victim-witness advocate updating her on the status of the investigation and offering to answer any questions Jenny might have. By the end of July, we found out that the trial was set for August 15.

Something about actually having a set trial date sparked Jenny's consternation at the finality of the legal proceedings. Nearly five months had elapsed since the incident, and Jenny just wanted to forget about it. She was not avoiding or repressing the abuse and violence; rather, she felt that she had addressed it head-on and had already moved beyond punishing Mike and into the more salient realm of her own recovery and future. With her individual therapy, her support group, her new group of friends entirely distinct from Mike and our hometown, and her feminist academic work, she felt surges of empowerment and independence that she hadn't known in years, if ever. She no longer projected the passive, meek Jenny serving as an appendage to her athlete boyfriend. She had evolved into an empowered woman, with ambitions and goals entirely her own. In light of her budding transformation, Jenny felt intense pride at her newfound ability to tune in to her true feelings and desires. She found herself reaching out to others and rediscovering the vital person she thought she had lost. She knew the criminal trial would dredge up all those feelings again—the self-doubt, the insecurity, the fear. Also, despite the altered setting and the additional people, Jenny knew sitting in the same room with Mike would recall painful memories of that night, and the many identical nights previous to that one.

Besides feeling reviled at the trauma she knew she would endure at the hands of the legal system, Jenny also began to question if criminal prosecution really was what she wanted. She didn't need the vindication of seeing Mike punished and behind bars—she just wanted him to stop being abusive and treat his future girlfriends with respect. Yes, what he did was a crime, but Jenny thought it was unlikely that throwing him in jail, ruining his future in baseball, and giving him a criminal record would in any way lessen his resentment toward women. In fact, it seemed more likely that his anger at being forced to endure the criminal system would leave him feeling maligned and wronged. Knowing Mike, Jenny could easily see him turning the whole thing around and depicting himself as the victim. The more she considered it, the more hesitant Jenny grew about continuing with the prosecution.

At first I had difficulty understanding Jenny's reluctance, and I usually responded to her concerns by encouraging her that prosecuting was the right thing for her to do. I wish I had listened better and been able to look past my own vengeful need to

see that boy put in his place by the legal system. I should have recognized that Jenny entertaining thoughts of self-preservation constituted an amazing improvement. Although part of her reluctance followed from her rationale that prosecution would not help Mike, her desire to stop the proceedings stemmed more from her suspicion that the emotional trauma of the trial could potentially devastate her. I knew that her psychological functioning improved daily, but I did not realize the tenuous nature of her footing and the extent to which she feared slipping back into the morass of passivity and depression.

The infrequent contact and demanding demeanor of the people working on Jenny's case at the district attorney's office bolstered her doubts about prosecuting Mike. I realize that both the prosecutor and the victim witness advocate are completely overworked; their office is underfunded, and they simply do not have enough hours in the day to accomplish what needs to be done. However, despite the prosecutor's special training and knowledge of the issues surrounding domestic violence, we felt dissatisfied with his work. I think this failing reflected not necessarily this particular prosecutor, but more the fundamental disconnect between his job as a lawyer, which forces him to focus on hard facts, evidence, and procedure, and the needs of Jenny, the victim in the case. Prosecutors, like all attorneys, receive their legal training in law schools which encourage "unidimensional responses to social problems," and they are taught to submerge subjectivity and emotion to the higher-valued traits of reason and objectivity.¹² Most lawyers seem very uncomfortable, at least in my limited experience, addressing their clients' feelings. Jenny's trauma was fresh and real, and stamping it with a penal code number seemed horribly reductive and cold. The victim witness advocate's role aligned more with that of a social worker. But, despite her efforts to discuss the violence with Jenny, she did work for the prosecutor and relayed all information directly to him for dissection and compartmentalization. In addition, I'm sure the prosecutor began doubting how credible he would seem to the jury, as this was the first reported incident of violence, and Mike possessed such a squeaky clean criminal record and reputation. Jenny felt depersonalized by the entire criminal process at a

12. See Linda G. Mills, *Intuition and Insight: A New Job Description for the Battered Woman's Prosecutor and Other More Modest Proposals*, 7 UCLA WOMEN'S L.J. 183, 193 (1997).

point in her life when she had been trying desperately to regain her sense of personhood.

During my subsequent foray into feminist psychological literature, I found some academic support to help substantiate my general disfavor of this mandatory criminal process into which we had found ourselves submerged. Judith Herman writes:

In the matter of criminal reporting, as in all other matters, the choice must rest with the survivor. A decision to report ideally opens the door to social restitution. In reality, however, this decision engages the survivor with a legal system that may be indifferent or hostile to her. Even at best, the survivor has to expect a marked disparity between her own timetable of recovery and the timetable of the justice system. Her efforts to reestablish a sense of safety will most likely be undermined by the intrusions of legal proceedings; just as her life is stabilizing, a court date is likely to revive intrusive symptoms. The decision to seek redress from the justice system, therefore, cannot be made lightly. The survivor must make an informed choice with full knowledge of risks as well as benefits; otherwise she will simply be traumatized.¹³

This excerpt assumes the victim may choose whether or not to commence prosecution proceedings. Jenny had no such choice. When I discovered that analysis in my readings, I realized that if these negative effects can occur when the victim chooses to prosecute, they must only be exacerbated by a system that forces the victim to proceed with the prosecution. It's sort of cruel, really; in this jurisdiction, we operate with a system that actually punishes women for calling 911 when their lovers behave abusively. This constituted Jenny's first experience with the phone call, but I can imagine that in a marriage suffering from domestic violence, a woman eventually will stop calling the police for help if she knows the call could potentially lead to her reliving the entire macabre experience over in a courtroom.

I understand that many women would appreciate the criminal prosecution of their batterers for many different reasons. They might experience the sense of empowerment and closure and realize the satisfaction of having a serious issue treated with the responsiveness and gravity it merits. However, I truly think the decision to prosecute must be made by the woman who is the victim. When Jenny decided she absolutely did not want to endure this experience and dredge up all those feelings again, she

13. HERMAN, *supra* note 1, at 165.

saw the district attorney's office turn on her, insisting that it would prosecute, with or without her assistance.

Jenny had regressed measurably in the weeks preceding the trial. Even over the telephone she acted silent and withdrawn. When I tried to speak to her about the case or her plans for trial, she avoided my questions and answered in short, one-word replies. I knew she tried to persuade the victim witness advocate and the assistant district attorney to drop the charges, but to no avail. She even condescended to writing a letter to the prosecutor claiming she made up the story she had relayed to the police officers and the hospital nurse. I realize now that the letter represented Jenny's desperate attempt to avoid at any cost what she knew would constitute an extremely painful experience.

Mike (actually Mike's parents) had retained a fancy defense lawyer whose first order of business seemed to be engaging in a heated smear campaign against my wonderful daughter. I learned later, via my perusal of Jenny's diary, that Mike's lawyer had inundated Chad McKenna, the assistant district attorney in charge of Jenny's case, with a barrage of documents. Mike's version of the story differed completely from Jenny's, of course, and his allegations transcended the mere disturbing or unpleasant—they were outright lies. Perhaps Mike aimed at coercing Jenny to drop the charges or testify on his behalf, but I think his motives were a bit more sadistic—he just wanted to hurt her. He felt that if his reputation suffered, so should hers. When Chad received documents from defense counsel, he would show them to Jenny, and the lies and exaggerations contained in those affidavits disturbed her profoundly. She began to worry if people would believe the ugly statements Mike made about her, a dilemma that transcended her concern about her credibility before the jury; she agonized over the effect of those statements beyond the courtroom and in our community. Mike could no longer contact Jenny physically (as I mentioned earlier, the boy is smart, and he knew that contacting Jenny would ruin his case), so he chose to batter her from afar, through a societally-sanctioned and approved mechanism—our legal system.

Our family had been awaiting the approaching trial date with a combination of nervous anticipation and dread. As the date drew closer, that trial consumed our entire family. Fortunately, the trial occurred in Jenny's college town, not our hometown—I don't think we could have survived the stares and pointed questioning of our neighbors. As much as I dreaded the

community upheaval that potentially could ensue in our little town, I felt much more anxiety about my daughter. She had made real progress in her reinvention of herself, and I feared the regression that now transpired. I don't think Mike's prosecution was solely to blame for her slip back into the post-Mike Jenny, but I do think it served as the catalyst for a series of reactions and emotions. The trial provoked Jenny's incessant thinking about Mike, their relationship, and that February night. Perhaps her therapy was not as successful as we believed, and she had really been surviving day-to-day by repressing and forgetting, rather than processing and overcoming. Or maybe this intense pre-trial regime arrived too soon for Jenny. I even dissected as much I could remember about Jenny's early childhood experiences in my quest for an explanation.

Whatever the reason, Jenny's obsession with the trial and Mike caused her to slowly retreat back into herself. She began calling in sick to work, missing research deadlines, and canceling plans to go to the gym with her friend. Isolating herself only provided Jenny more opportunity to deconstruct her relationship with Mike again and again. But obviously, Jenny could not think rationally, and she eventually began questioning the veracity of her version of the story, as well as her very sanity. Although Jenny still planned to testify against Mike, I feared that at the last minute she would change her mind and her story. And so, on the day of the trial, our family entered that courtroom not with the heightened anticipation of a victim seeking vindication, but with the exhausted demeanor that ensues with the methodical, dogged infliction of pain into one's psyche.

The assistant district attorney, Chad, met us at the courthouse that morning, and I remember wondering if the perspiration already evident around his hairline reflected the sweltering August heat or some form of pre-trial angst. Like most of the assistant district attorneys, Chad was relatively new to the practice of law. I experienced a sense of suspended disbelief that this 27-year-old man held my daughter's mental health in the palm of his hand. Jenny's futile attempt to drop the charges had caused quite a strain in her relationship with the prosecutor. I knew he worried she would not answer questions truthfully, and I also assumed that he had prepared to impeach her testimony and treat her as a hostile witness if she altered her story. The Pascal County District Attorney's office had received much notoriety and many accolades for debuting this "victimless" procedure,

which pointed out discrepancies in the victim's story to the jury. It had won recognition as a national model.

Chad introduced himself in a harried tone and immediately whispered directions to us regarding the courtroom procedure. The judge originally scheduled to hear the case had fallen ill, and Chad expressed some concern about the replacement judge. Unlike some of the most progressive jurisdictions, Pascal County did not utilize a specific courtroom exclusively for domestic violence cases. The misdemeanor Municipal Court judges heard the cases. However, a group of domestic violence advocates had convinced the judiciary to participate in a series of trainings regarding issues relating to domestic violence; some of the judges seemed quite informed and sympathetic to victims. Unfortunately, ours was not one of them. At 73, Judge Vanderpole considered himself an expert on every issue likely to arise in his courtroom, so he had found it unnecessary to attend the domestic violence trainings. Chad explained that we should maintain a positive attitude, as this certainly did not signal the death of our case—the judge would rule on the evidentiary issues and objections, but the most important decision belonged to the jury.

I noticed how I hovered over Jenny, but I couldn't repress my maternal need to protect her from the ensuing nightmare. Chad remarked how calm she seemed, but I saw the white-knuckled grasp she maintained on her purse strap and the insistent tapping of her left foot. Jenny's health had deteriorated in the previous few weeks, and she appeared thinner, paler, and more reclusive with each passing day; I think she even had stopped attending her support group. She made a valiant effort to project her new confident self, and yet she knew that this only would hurt her in front of the jury, who would require a despondent, victimized, waif before it would even consider convicting. Chad and Jenny had practiced their direct examination at a coaching session the previous evening, when Chad explained to Jenny the questions he anticipated from defense counsel. Despite all her preparation for this moment, I sensed the apprehension that began overtaking Jenny. Finally, the other witnesses for the prosecution arrived—the nurse, the victim witness advocate, and Vanessa and her roommate. It was five minutes to 9 o'clock on August 15, 1992, and it was time to enter the courtroom.

I had expected to feel awe upon seeing the judicial robes and the bronze state seal prominently displayed behind the bench and hearing the official call of the bailiff. However, I re-

call the courtroom as appearing miniscule, windowless, and very old. It was also nearly empty, which certainly did not recall to mind the wall-to-wall observers of Atticus Finch's day; in fact, I had a difficult time imagining jurors staying awake throughout the proceedings. Jenny's father and I, along with the witnesses, sat in one of the three rows reserved for observers, while Jenny and Chad entered the arena and took a seat at the prosecution's table.

A minute later, the moment we had dreaded arrived as the courtroom doors swung open and in walked Mike, his parents, and his brother, Matt. Although Mike looked slightly less confident than usual, his parents projected the same down-homey yet reserved charm that had won the approval of so many in our town. They took their seats in the benches, while Mike approached the defense table with Richard Whitehale, his reputable, well-connected, and very expensive attorney. I noticed that neither Jenny nor Mike ventured a glance in the other's direction—Mike at the explicit direction of his attorney, and Jenny because of her self-preservation instincts.

The jury selection had occurred the previous afternoon, and, although our family did not witness the proceedings, Chad seemed pleased with the composition. He had explained a bit of his decision-making process to Jenny the previous evening, and it seemed to me an awfully complex system of hypothetical guesswork. I understood his desire to place more women than men on the jury—that seemed obvious. More difficult to grasp were some of his other conventions, such as a reluctance to place formerly battered women on the jury who had successfully left their abusive relationships and professional women.¹⁴ Whatever obtuse principles both sides had used in determining who would best serve their client's interests, the manifestations of these notions filed into the courtroom, looking just like regular folks. In fact, they all looked so ordinary that I briefly envisioned everyone in my line at the grocery store or the pharmacy suddenly being granted leave to determine the fate of my daughter's abuser. I guess that's what the jury system is all about, but once I experienced the seemingly arbitrary nature of it all, I wondered if we wouldn't be better off with some authoritarian despot com-

14. Apparently, Chad believed that formerly battered women would not have sympathy for the victim because they left their abusive relationship on their own. Similarly, professional women might feel that if they were ever in that situation, they would leave on their own.

manding laws and punishments from a throne. Everything seemed to depend on the experience of the prosecutor versus that of the defense attorney, the particular judge assigned to the case, and the subjective beliefs of twelve individuals who could be my next-door neighbors. At any rate, the opening statements began, and Jenny's father and I settled in for what would be a long, hurtful ordeal.

Chad's opening statement resonated with us as a solid summary of the events of that February evening. He established a chronology of the abuse in the relationship, utilizing a theme of power and control. I found his delivery credible, and I think the jurors seemed accepting of his personality and his argument. At least, that's what I thought until that rat Richard Whitehale stood up and delivered that bevy of falsity and exaggerations he deemed his opening statement. Around 55 years of age, Whitehale oozed paternity with his father knows best, voice of experience demeanor. We expected him to focus on Mike's athletic and academic talent, as well as his squeaky clean record and reputation in the community. We had not anticipated the character slander Whitehale would inflict upon our poor daughter. According to Whitehale's version of that night in April, Jenny had been falling-down drunk, a state in which she frequently found herself in, and had tripped and stumbled, inflicting the injury on her face. Though Mike admitted to causing the broken rib, he alleged it had occurred accidentally when he tried to catch her from falling down the spiral staircase. Whitehale questioned the veracity of Jenny's statements to the officers and hospital staff, but his most disturbing comments dissected Jenny's psychological health. Aside from the alcoholism he suggested, he referenced a variety of psychological problems, which ranged from Jenny's adolescent need to revenge her broken heart by toppling this popular boy from his pedestal, to more severe illnesses, such as anorexia, depression, and borderline personality disorder. The first recess could not arrive too soon.

After the opening statements, Chad could barely placate us. I'll admit it—I completely lost the dignified, maligned victim demeanor I had practiced in the mirror throughout the previous week. Shocked and horrified that that man could voice such falsehoods and create such misconceptions in the minds of the jurors, I remember wondering how he could look at himself in the mirror each morning. Jenny was beside herself—her skin blanched, her shoulders heaving under the force of her tears. The

recess lasted only 15 minutes; we had to try to compose ourselves and pacify Jenny before we re-entered the courtroom and focused on the upcoming case for the prosecution.

The remainder of that day melds together in my mind. Time, along with the simultaneous experience of so many extreme emotions, transforms the memories of that day into a series of vague impressions broken intermittently by sudden bursts of clarity. I find continual amazement at my inability to recall the order of the defense witnesses, and yet the ritual motion with which the tenth juror tugged on his silver beard forever imprinted itself on my mind. Chad's subsequent explanations helped to reconstruct some of the events of the trial. Although we had felt some apprehension about the judge, he did allow Chad's witnesses to testify about what Jenny told them on the night of the abuse. Normally, people cannot make comments like this, because the court considers it hearsay. But because the judge ruled favorably on Chad's motions in limine, the witnesses could testify under several evidentiary rules; this included the medical records and "excited utterance" exceptions. I remember Chad objecting constantly during Whitehale's cross-examination of Jenny. She appeared so upset on the stand that I kept wondering how this would affect all her healthy progress. I suspected it could go either way—Jenny might feel stronger for her public confrontation of Mike, or she might collapse under the strain. I wondered what factor weighed strongest in determining her reaction—was it merely the verdict? Or did her response result from a variety of factors, including her attribution of fault, her therapy, and her support network?

In an attempt to restrain myself from appearing too nervous in front of the jury, I allowed myself one look at the jurors every seven minutes. Whitehale's cross-examination of Jenny amounted to the longest hour of my life, including those hours I spent in labor with her. I prayed that the jury would interpret her obvious agitation for what it was—the trauma of revealing the information to a roomful of strangers for their dissection and judgment—not a sudden recalcitrance to pursue a vengeful untruth. Basically, Whitehale attempted to delude Jenny into admitting psychiatric difficulties and previous alcohol use. He was careful to not badger her outright, because he needed the jury on his side. Whitehale's manner displayed enough aggression to throw Jenny off guard. I prayed that his attempt to create a pic-

ture of Jenny as a vengeful, psychologically imbalanced alcoholic appeared as transparent to the jury as it did to me.

Mike, with a whole lifetime of coaching behind him, responded well to his many preparation sessions with Whitehale. He appeared calm, collected, and rational—the very image Whitehale wanted to project to the jury. His testimony mirrored what Whitehale alluded to in his opening—Mike was merely a concerned caretaker looking after Jenny, who had shown up drunk and unruly to his brother's apartment after he had sent her flowers and a nice card that afternoon. It wasn't merely the fabrication about the source of Jenny's injuries that hurt me most—Chad had suggested that might occur. Rather, it was the way Mike sat there on that witness stand, analytical and aloof, and methodically tore apart Jenny. Any incident Mike could remember about Jenny's sudden weight loss in high school and the ensuing alienation by her friends he reiterated to the courtroom to bolster Whitehale's allegations of her unsound mental state. Mike recalled moments—and believe me, quite a few arose in their two-year history—when Jenny seemed sad or confused, and, with a good bit of embellishment, discussed them with Whitehale on the stand. Whitehale had coached Mike into adopting a tone that seemed very nice, almost as if he felt sorry for Jenny. It sounded like he really hoped she emerged from this little mood of hers and would be able to continue on and develop a healthy life.

It took every ounce of self-control I had built over the years to remain in that seat, stoic, and listen to the crushing defamation of Jenny. I wonder now how Jenny managed to hold up as well as she did that afternoon. Despite my own mental preparations for that trial, I had to excuse myself during closing arguments. I stepped into the hallway to prevent myself from passing out from the utter lack of oxygen traveling to my brain.

That's where I stood when I watched the jurors filing out of the courtroom from the door at the end of the hallway. I recall hearing one of them mention stopping to use the pay phone to arrange for her son's ride from soccer practice. The simplicity of that request hit me like a foot to my stomach. I remember feeling stunned at the realization that that woman's life was continuing as usual, except maybe instead of work she had reported to jury duty that morning, while my whole world had turned upside-down. This stranger would determine my attitude toward the criminal justice system and the fate of my daughter's abuser

when she walked out of that courthouse, and she was going to do it between work and soccer practice.

With jury deliberations continued until the next day, our family left the courthouse by 5 p.m. The matter had left our hands, but instead of relief I felt a profound and overwhelming sensation of helplessness. With her testimony, Jenny completed her contribution to the trial, and it left her quiet and withdrawn. The constant berating at the hands of that awful defense lawyer caused her to doubt herself, her story, and the entire sense of well-being she had worked so hard to foster. Jenny rebuffed my reassurances, so we drove home in silence. Even Jenny's father felt too exhausted to discuss the day's events. We suffered through a fitful night of wakefulness and arose the next morning to repeat the process.

The jury returned a verdict around 11 a.m. the next day, August 16. As the jurors filed into the courtroom, my nerves were at their breaking point. I remember trying in vain to interpret the jurors' body language and visual movements, ruminating about each sideways glance. The bailiff collected the small piece of paper from the head juror and handed it to Judge Vanderpole. I wondered how such a miniscule paper could be folded so many times and take so long to straighten. After what seemed like hours, the judge finally glanced up and uttered those fateful words upon which my daughter had staked so much of her self-worth, "Guilty as charged."

Relief swept over me, not so much because I needed to see Mike punished, but more because that verdict held within it the jury's validation of my daughter and their benediction that she did not fit any of those horrible labels that attorney had tried to apply to her. Jenny remained stock-still, sitting next to Chad at the prosecution table. This was not the vibrant display of victim relief and family bonding you see in murder convictions on television. Rather, the courtroom assumed an aura of stone-silence, interrupted only by a whimper from Mike's mother. Jenny did not turn or speak to us; she sat at the table, shoulders sagging.

I felt no satisfaction at the obvious distress Mike's family was experiencing, worrying about the fate of their son and their family reputation. In fact, I don't think I felt much of anything other than a staggering exhausted numbness. At the sentencing that afternoon, Judge Vanderpole gave Mike probation, since his record was clean, and ordered attendance at a batterer's treatment program as one of the terms of his probation. I knew there

was virtually no chance Mike would receive a stronger sentence, but I still felt apprehension at the brevity and leniency of the punishment meted out by Judge Vanderpole. I'm sure at some level I felt pleased about the conviction, but it all seems meaningless in light of the ensuing events. Jenny's father suggested we go out to eat, since none of us had had much of an appetite all day, but all we really wanted to do was retreat to our own home, out of the gaze of questioning bailiffs, jurors, and attorneys.

So that was it. Victory for the prosecution; the prevail of truth, reason, and justice; domestic violence victim fights back and scores triumphant legal victory, remedying her situation, righting the batterer's egregious wrong, and revitalizing our dwindling faith in the criminal justice system. End of story, right? Well, not in Jenny's case. . .

It was just about two weeks later when my whole world collapsed. I remember that first week of school, with the stifling midwestern August heat engulfing my third graders, catalyzing their frenzy. As I tried in vain to convince them to sit in their desks, I once again counted the years until my retirement. It must have been around 1 p.m. when I glanced up from the turmoil to discover Ed Martin, the school principal, standing in the doorway, waiting to catch my eye. When he told me he would watch my class while I took a phone call in the office, I recall how his sympathetic gaze caused my stomach to drop to my knees.

Walking down that school hallway, I knew with the abrupt clarity of maternal instinct that the next moments would alter my life irrevocably. Hands trembling, I lifted the receiver in Martin's office to greet Officer McLeod, from the University Police Department at Jenny's school. I can recollect now how his harsh, cold words bore into the core of my being, sending waves of nausea throughout my body. I remember seeing a bright flash of light before the darkness engulfed me as I tumbled to the floor. Minutes later, as the office staff hovered around me with ice and smelling salts, I struggled in vain to remember the specifics of the officer's statement. All I could ascertain was that Jenny was no longer with us, that she had been declared dead on arrival at the Pascal County emergency room, and that her father and I had to get down there ASAP.

Often I doubt that I will live long enough to feel the horror of that day fade or diminish; its hold over me frequently feels complete and irreparable. Reduced to a series of mechanical moves, such severe trauma transformed me into an automaton, a

state I maintained for years. I know that I spoke with Jenny's father, and I know that someone (my sister? my husband's secretary?) arranged for us to catch a flight to the local airport in Pascal County; I know there was a series of forms to sign, arrangements to make, and condolences to accept, but I still can't place it in any kind of temporal order in my mind, and I have given up trying.

What I do remember is the burning sensation that began seeping through my entire body. I lived with that acidic upset feeling day in and day out—it became a part of me, like Jenny was for so many years. She still represents the most important part of my life, but her presence now is reduced to memories alone.

It took some time for us to learn all the details. But we knew immediately all the information salient to us—Jenny was killed in her dorm room in the middle of the afternoon by strangulation, and the police department's sole suspect was Mike. Although the police continually updated us on the status of the investigation, I quickly lost interest in the intricacies of the arrest, evidence collection, and ensuing prosecution. Once I learned that Mike had been spotted by Jenny's floormates entering her room an hour before the estimated time of the murder and all the other evidence corroborated his indictment, I cared little about the criminal process. The totalizing loss left me feeling sick and empty. Encompassed by destitution, I felt angry and even hateful toward Mike. But in place of the rage I anticipated lodged a deep and profound sadness that will remain with me forever.

I always have read on those stress detection surveys in magazines that the loss of a child constitutes the most profound stressor a human being can experience. I wondered in those months immediately following Jenny's murder if every parent who has lost a child suffered such an insurmountable, endless morass of pain. I believed that my trauma might have exceeded the norm, exacerbated as it was by my feeling that I could have stopped it had I paid attention to the signals. I blamed myself for failing to intervene further, for suffocating her with my presence, for ignoring her pain, and every combination thereof. But, as Jenny's father frequently reminded me, Jenny, our daughter, was well on her way to escape and recovery, ferreting out a place for herself at college and in her own mind and body, did not cause the problem. No, it was that boy who just couldn't let go.

Despite all my reading, I haven't quite been able to grasp what could cause a seemingly normal, socially well-adjusted boy like Mike to behave so psychotically. A number of factors must have combined to produce that monster, including his unstable family, the perfectionist tendencies that led to his low self-esteem, pressure to succeed, and an array of poor role models.¹⁵ What I do know is that regardless of its causation, Mike's controlling, abusive behavior *worked* for him. Through his repetitive emotional and physical violence, Mike ensured that Jenny would do anything to please him to avoid further violence.

According to one study, sixty percent of teens have experienced some form of abuse in a dating relationship (including verbal emotional abuse).¹⁶ This demonstrates that Mike likely did not stand out noticeably from his many peers who also behaved abusively. I think the pervasiveness of the problem is related to the gender-specific roles young adults are socialized to assume. Combining that with the reality of life as a teenager, with all its secrets and isolation from the adult world, Mike's behavior could proceed undetected even by those close to him. They either truly did not perceive a problem, or they chose to not perceive a problem.

I also place some blame for both Jenny's emotional deterioration and her murder on the criminal justice system. I suppose now is not the time for groundless speculation, but I can't help but feel that if it hadn't been for that trial, Jenny's chances for escape would have been higher. When Jenny was forced to testify about Mike's violence, I believe her exposure to further violence increased exponentially. I think about Mike sitting in that courtroom with his parents, hearing Jenny recall all the intimate details of his abuse, followed by the jury sending a clear message that they believed Jenny's story. It does not require an enormous mental leap to see how this could catalyze Mike's anger. This must be a major problem in misdemeanor cases like this—the prosecution forces victims to endure a horrible experience for “their own good,” and since many incidents of domestic violence qualify as misdemeanors, the longest sentence the judge can issue is a year. Unless the victim has an incredible support system, is

15. See Denise Gamache, *Domination and Control: The Social Context of Dating Violence*, in *DATING VIOLENCE: YOUNG WOMEN IN DANGER* 69, 72 (Barrie Levy ed., 1991) (discussing the social causes of dating violence).

16. *TEEN DATING VIOLENCE RESOURCE MANUAL*, NATIONAL COALITION AGAINST DOMESTIC VIOLENCE 36 (1997).

financially secure, and is prepared to abandon her life and move far away, that batterer merely stew in jail for a year (or less, with probation), while his anger eats away at him, simmers, and grows.

In my opinion, in addition to basic safety concerns, the adverse impact on the victim's psychological health also merits reconsideration of forced prosecutions for domestic violence. Jenny had progressed so far with her counseling and her group, and as the trial approached, I witnessed that manifestation of hope deteriorate. When confronted with a victim whose entire life has been overtaken by a controlling abuser, a woman who has lost all sense of autonomy and independence, replacing her batterer's rigid, unchallenged authority and control with the demanding fist of the state does not seem right. If one seeks to end domestic violence, the traumatization of survivors does not seem like a logical first step. I'm sure that some victims find affirming closure in watching their batterer face criminal punishment, but for many survivors, such a minor sentence is peanuts. It doesn't even come close to outweighing the trauma provoked by the criminal justice process.

I feel compelled to share Jenny's story, despite the pain it causes me, partly for catharsis, but mostly in a hope that telling her story will help another victim. I do not anticipate the aftermath from this tale to overhaul the criminal justice system or eradicate dating violence. But maybe some reader will recognize some of the signals and find strength in the realization that she is not alone, she is not the first person to face this devastation, and that there are people who can help her. Maybe it will encourage someone who sees the warning signs in a close friend's relationship to intervene instead of withdrawing from the friendship in confusion.

Jenny's diary entries from her senior year of high school depict with heartwrenching accuracy Mike's process of stripping away her personality and filling every moment and space with himself. Nearly every entry during that time involved Jenny wondering what had happened to her self and despairing that that confident Jenny was lost forever. All she wanted was peace of mind.

As I page through her diary to June, 1992, I revel in her amazing progress, which provided abundant, albeit fleeting joy to her father and me. Jenny read voraciously everything from canonical literature to the current bestsellers, and she integrated

her readings into her daily journal entries. Whenever she encountered a quote that spoke to her or demanded preservation, she would mark the page in the book with a colored paper clip. Later, she would synthesize the quotes into her writings. Many of Jenny's journal entries I have read only once, as they are very painful for me. However, the pages from June, 1992 are worn from my incessant viewing. Those entries describe Jenny on her way to recovery, collecting encouragement and inspiration from reading and talking with her peers. My favorite entry, June 6, 1992, consists solely of a quote from a contemporary author. It reads, "Now, tomorrow, when you wake up, go to the mirror and say this: I break all rules that impede my happiness. You got that? Stop planning for the future, and live right now."¹⁷ I remember Jenny in all of her many manifestations throughout her growing, changing life. But when I remember Jenny during that horrible time, this is the Jenny I recall—the one that found hope. And this is the message I want to share.

17. BEBE MOORE CAMPBELL, *BROTHERS AND SISTERS* 398 (1995).

APPENDIX



DOMESTIC ABUSE INTERVENTION PROJECT
202 East Superior Street
Duluth, Minnesota 55802