

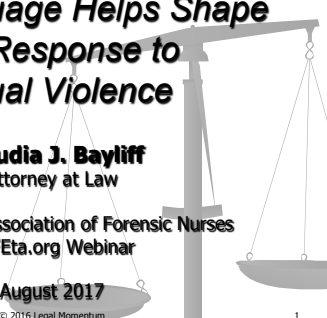
**How Language Helps Shape  
Our Response to  
Sexual Violence**

**Claudia J. Bayliff**  
Attorney at Law

International Association of Forensic Nurses  
SAFETA.org Webinar

August 2017

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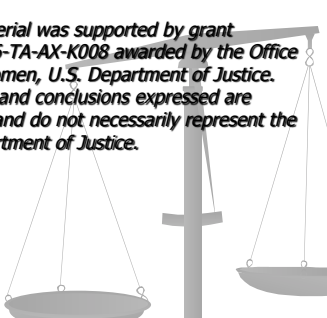
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*Preparation of this material was supported by grant number Grant No. 2016-TA-AX-K008 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, and conclusions expressed are those of the author(s) and do not necessarily represent the views of the U.S. Department of Justice.*

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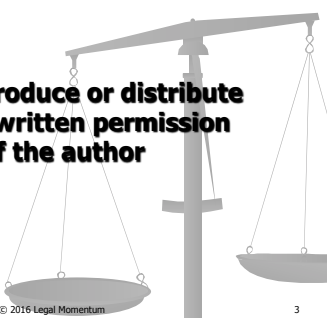
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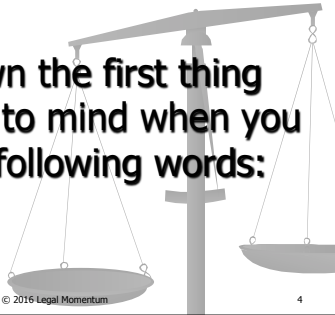
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**Word Association**

Write down the first thing that comes to mind when you hear the following words:



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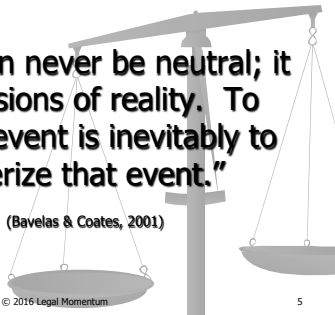
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**Choice of Language**

"Language can never be neutral; it creates versions of reality. To describe an event is inevitably to characterize that event."

(Bavelas & Coates, 2001)



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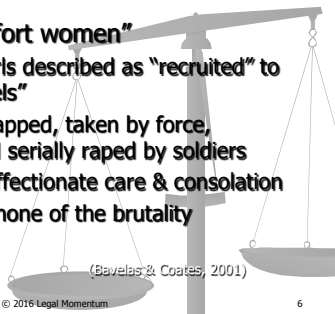
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**Choice of Language**

- The term "comfort women"
  - Women and girls described as "recruited" to "work in brothels"
  - In reality, kidnapped, taken by force, imprisoned and serially raped by soldiers
  - Term implies affectionate care & consolation
  - Term conveys none of the brutality

(Bavelas & Coates, 2001)



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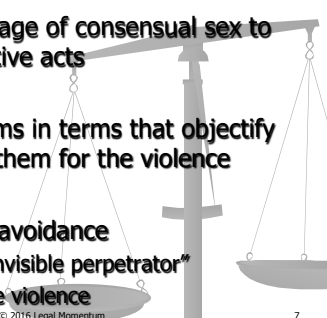
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### Topics Covered

- Using the language of consensual sex to describe assaultive acts
- Describing victims in terms that objectify them or blame them for the violence
- Using linguistic avoidance
  - To create an "invisible perpetrator"
  - To minimize the violence



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### Topics Covered

- Other difficult questions
- How we are going to change how we talk about sexual violence



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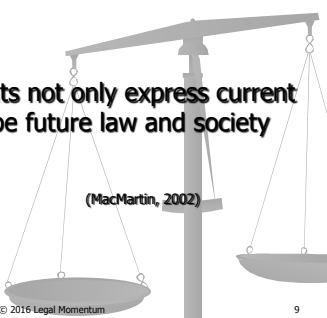
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### Importance of Legal Language

"Written judgments not only express current law, but also shape future law and society itself."  
(MacMartin, 2002)



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**Language of Sexual Assault & Domestic Violence**

- Language often used to assess actions, ascribe blame and minimize perpetrator's responsibility:
  - Use of language of consensual sex to describe assaultive acts
  - Describing victims in terms that objectify them or blame them for the violence
  - Use of linguistic avoidance: the "invisible perpetrator"

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**Using the Language of Consensual Sex to Describe Assaultive Acts**

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**Using the Language of Consensual Sex**

- Describing acts in terms usually used for pleasurable and affectionate acts:
  - Minimizes and hides the intrinsic violence of an assault
  - Makes it harder to visualize the acts as unwanted violations
  - Allows society to rationalize, justify and excuse sexual aggression

(Bavelas & Coates, 2001)  
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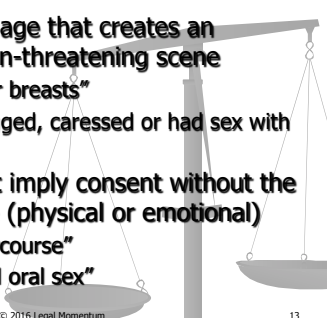
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### Language of Consensual Sex

- Eroticized language that creates an intimate and non-threatening scene
  - "He fondled her breasts"
  - "He kissed, hugged, caressed or had sex with her"
- Statements that imply consent without the context of force (physical or emotional)
  - "They had intercourse"
  - "She performed oral sex"



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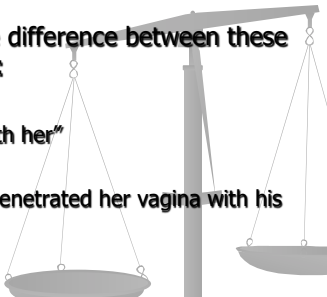
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### Language of Consensual Sex

- Think about the difference between these two statements:
  - "He had sex with her"
  - "He forcefully penetrated her vagina with his penis"



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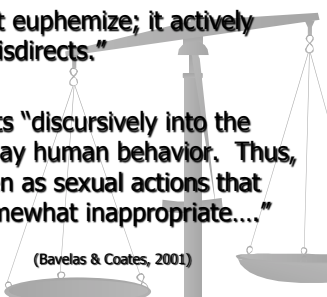
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### Language of Consensual Sex

- It "does not just euphemize; it actively misleads and misdirects."
- It brings the acts "discursively into the range of everyday human behavior. Thus, they can be seen as sexual actions that were simply somewhat inappropriate...."

(Bavelas & Coates, 2001)



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## Lack of Appropriate Language

"There are cultural narratives or vocabulary for consensual heterosexual sex and for stranger rape but none for the more typical cases in which the assailant is known by the victim."

(MacMartin, 2002)

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## Lack of Appropriate Language

"Analytic attention to the deployment of discourses of stranger rape and consensual sex highlights a possible lack of alternative discourses to describe many victims' experience of sexual assault."

(MacMartin, 2002)

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## Language of Consensual Sex

- Study of Canadian judicial opinions showed:
  - Judges frequently characterized sexual assaults as erotic, romantic or affectionate acts
  - Assaultive acts reformulated as "they had French kissed," "intercourse" & "fondling"

(Coates & Wade, 2004)

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## Language of Consensual Sex

- Study of Canadian judicial opinions showed:
  - Accounts failed to reflect unilateral nature of sexualized violence or the victim's experience of those acts
  - Language implied the victim was at least partly to blame

(Coates & Wade, 2004)

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## Language of Consensual Sex

- Canadian study also found:
  - There was no statistically significant difference between the way the judges described acts in cases where the defendant was acquitted or convicted.
  - "Acts that had been legally established as assaults and acts that had been deemed consensual and noncriminal were equally likely to be described in sexual terms."

(Bavelas & Coates, 2001)

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## Victim-Blaming Language

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### Victim-Blaming Language

“Residents of the neighborhood where the abandoned trailer stands—known as the Quarters—said the victim had been visiting various friends there for months. They said she dressed older than her age, wearing makeup and fashions more appropriate to a woman in her 20s. She would hang out with teenage boys at the playground, some said.”

(McKinley, 2011)

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### Victim-Blaming Language

- Blames and pathologizes the victims by portraying them as catalysts who excited the sexual desire of an otherwise good person
- Reformulates victims into perpetrators (responsible for acts committed against them) and perpetrators into victims (not responsible for their own actions)

(Coates & Wade, 2004)

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### Jastorff Pleads Not Guilty Exercise

- Read the article
- Identify examples where the author uses the language of consensual sex to describe assaultive acts

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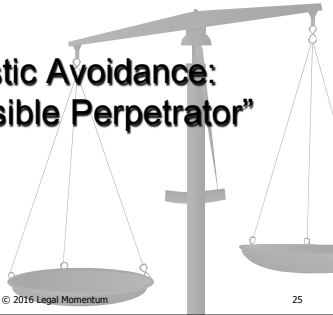
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**Linguistic Avoidance:  
The “Invisible Perpetrator”**



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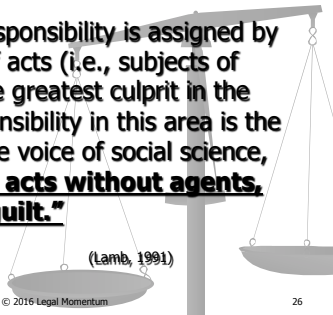
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**The “Invisible Perpetrator”**

“Linguistically, responsibility is assigned by naming agents of acts (i.e., subjects of verbs). Thus, the greatest culprit in the diffusion of responsibility in this area is the ubiquitous passive voice of social science, **which presents acts without agents, harm without guilt.**”

(Lamb, 1991)



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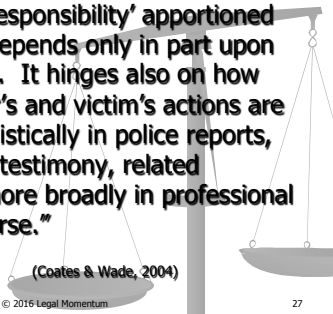
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**The “Invisible Perpetrator”**

“The ‘degree of responsibility’ apportioned to any offender depends only in part upon his or her actions. It hinges also on how both the offender’s and victim’s actions are represented linguistically in police reports, legal arguments, testimony, related judgments and more broadly in professional and public discourse.”

(Coates & Wade, 2004)



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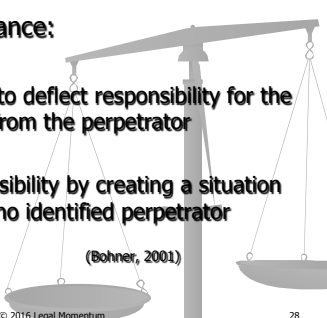
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### The "Invisible Perpetrator"

- Linguistic avoidance:
  - Uses language to deflect responsibility for the violence away from the perpetrator
  - Diffuses responsibility by creating a situation where there is no identified perpetrator

(Bohner, 2001)



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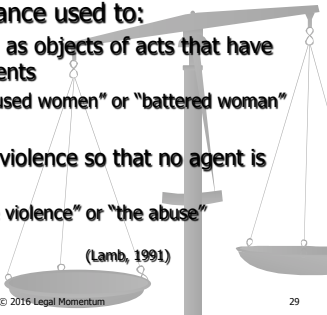
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### The "Invisible Perpetrator"

- Linguistic avoidance used to:
  - Present women as objects of acts that have no specified agents
    - Examples: "abused women" or "battered woman"
  - Nominalize the violence so that no agent is necessary
    - Examples: "the violence" or "the abuse"

(Lamb, 1991)



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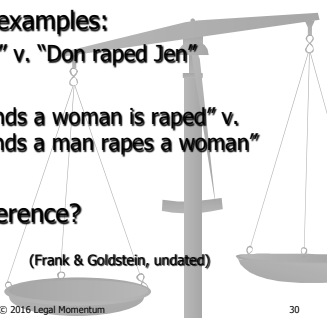
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### The "Invisible Perpetrator"

- Consider these examples:
  - "Jen was raped" v. "Don raped Jen"
  - "Every 46 seconds a woman is raped" v. "Every 46 seconds a man rapes a woman"
- What is the difference?

(Frank & Goldstein, undated)



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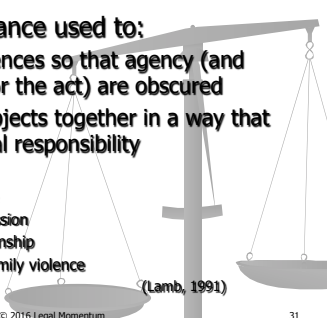
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### The "Invisible Perpetrator"

- Linguistic avoidance used to:
  - Construct sentences so that agency (and responsibility for the act) are obscured
  - Identify the subjects together in a way that suggests mutual responsibility
    - Examples:
      - Spouse abuse
      - Marital aggression
      - Violent relationship
      - Parental or family violence

(Lamb, 1991)



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### The Evolution of "The Invisible Perpetrator"

- Andrew beat Jessica.

(Jackson Katz, 2013)



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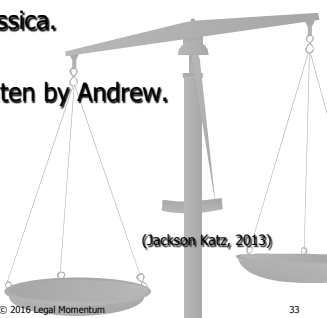
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### The Evolution of "The Invisible Perpetrator"

- Andrew beat Jessica.
- Jessica was beaten by Andrew.

(Jackson Katz, 2013)



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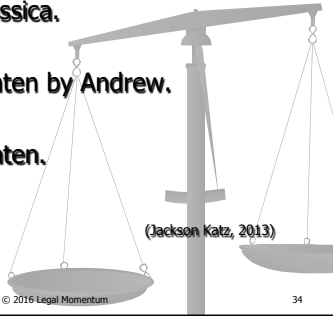
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**The Evolution of  
"The Invisible Perpetrator"**

- Andrew beat Jessica.
- Jessica was beaten by Andrew.
- Jessica was beaten.



(Jackson Katz, 2013)

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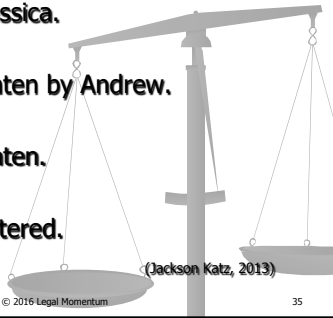
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**The Evolution of  
"The Invisible Perpetrator"**

- Andrew beat Jessica.
- Jessica was beaten by Andrew.
- Jessica was beaten.
- Jessica was battered.



(Jackson Katz, 2013)

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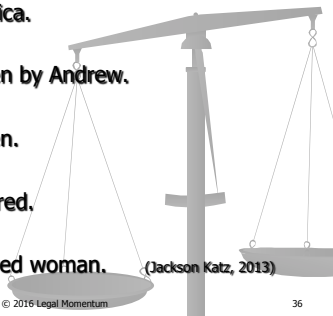
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**The Evolution of  
"The Invisible Perpetrator"**

- Andrew beat Jessica.
- Jessica was beaten by Andrew.
- Jessica was beaten.
- Jessica was battered.
- Jessica is a battered woman.



(Jackson Katz, 2013)

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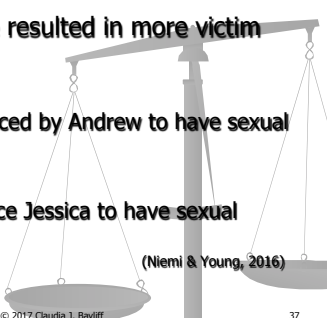
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### Impact on Victim Blaming

- Which sentence resulted in more victim blaming?
  - Was Jessica forced by Andrew to have sexual relations?
  - Did Andrew force Jessica to have sexual relations?

(Niemi & Young, 2016)



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### Unaccountable Language: To Minimize the Violence

- "Accuser"
- "Date rape"
- "Domestic dispute"



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### Unaccountable Language: To Minimize the Violence

- "Abusive relationship"
- Victims "confessed" they were sexually abused as children



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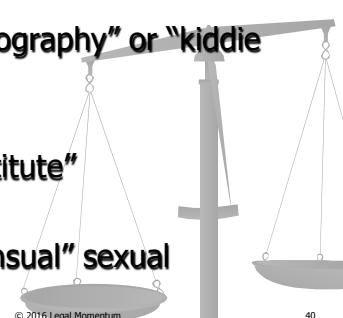
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### Unaccountable Language: To Minimize the Violence

- "Child pornography" or "kiddie porn"
- "Child prostitute"
- "Nonconsensual" sexual intercourse



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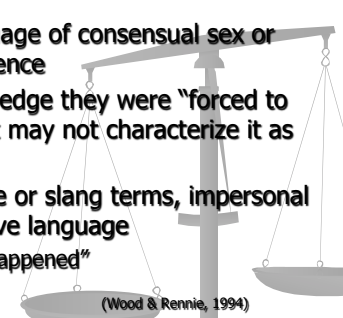
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### Victims' Use of Language

- May use language of consensual sex or mutual experience
- Often acknowledge they were "forced to have sex," but may not characterize it as rape
- May use vague or slang terms, impersonal verbs or passive language
  - "Something happened"



(Wood & Rennie, 1994)

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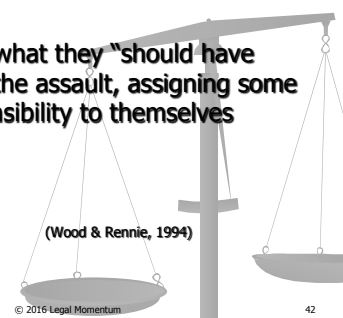
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### Victims' Use of Language

- May describe what they "should have done" to end the assault, assigning some level of responsibility to themselves
- Why?



(Wood & Rennie, 1994)

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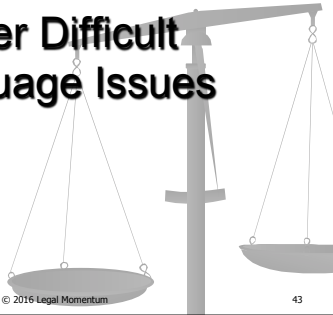
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## Other Difficult Language Issues



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## Important Considerations

- Terms American Indian, Native American, & Alaska Native widely used
  - Does not include indigenous Hawaiians
- Indian, Indian Country, & tribal member -- legal terms of art
- Much higher rates of interpersonal violence
  - Female & male victims
- Historical trauma



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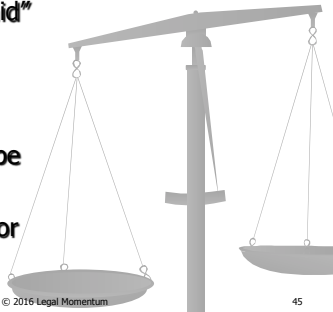
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## More Questions

- "He said/she said"
- Forcible rape
- "Legitimate" rape
- Victim v. survivor



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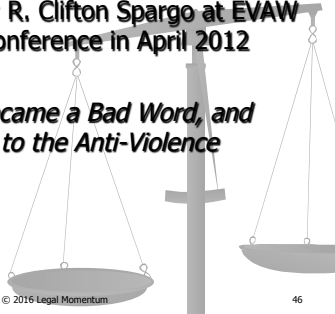
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### Reclaim "Victim"

- Presentation by R. Clifton Spargo at EAW International Conference in April 2012
- *How 'Victim' Became a Bad Word, and Why It Matters to the Anti-Violence Movement*



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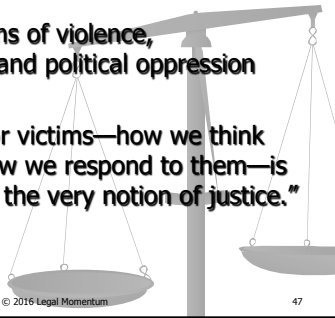
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### Spargo's Thesis

- Rights for victims of violence, discrimination, and political oppression
- "What we do for victims—how we think about them, how we respond to them—is fundamental to the very notion of justice."



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### Spargo's Thesis

- Backlash against the victims' rights movement
  - Blaming the victim
  - "Victim" used as a term of contempt or notoriety
  - Examples from pop culture



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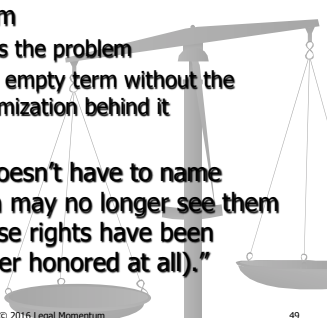
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### Spargo's Thesis

- Survivor v. victim
  - "Versus" creates the problem
  - "Survivor" is an empty term without the premise of victimization behind it
- "A public that doesn't have to name 'victims' as such may no longer see them as persons whose rights have been violated (or never honored at all)."



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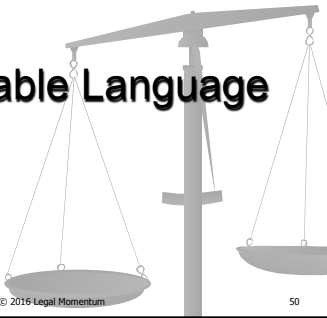
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### Accountable Language



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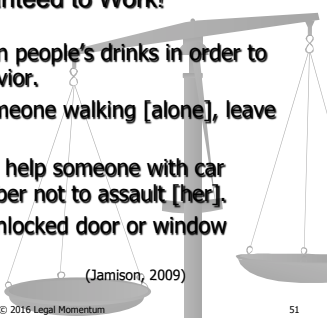
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### The Visible Perpetrator: "Sexual Assault Prevention Tips Guaranteed to Work!"

- "Don't put drugs in people's drinks in order to control their behavior.
- When you see someone walking [alone], leave [her] alone!
- If you pull over to help someone with car problems, remember not to assault [her].
- NEVER open an unlocked door or window uninvited."

(Jamison, 2009)



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**The Visible Perpetrator:  
"Sexual Assault Prevention Tips  
Guaranteed to Work!"**

- "If you are in an elevator and someone else gets in, DON'T ASSAULT [HER].
- Remember, people go to the laundry to do their laundry, do not attempt to molest someone who is alone in a laundry room.
- **USE THE BUDDY SYSTEM!** If you are not able to stop yourself from assaulting people, ask a friend to stay with you while you are in public."

(Jamison, 2009)

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**The Visible Perpetrator:  
"Sexual Assault Prevention Tips  
Guaranteed to Work!"**

- "Always be honest with people! Don't pretend to be a caring friend in order to gain the trust of someone you want to assault. Consider telling [her] you plan to assault [her]. If you don't communicate your intentions, the other person may take that as a sign that you do not plan to rape [her].
- Don't forget: you can't have sex with someone unless [she is] awake."

(Jamison, 2009)

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**The Visible Perpetrator:  
"Sexual Assault Prevention Tips  
Guaranteed to Work!"**

- "Carry a whistle! If you are worried that you might assault someone '[by] accident' you can hand it to the other person you are with so [she] can blow it if you do.
- And, **ALWAYS REMEMBER:** if you didn't ask permission and then respect the answer the first time, you are committing a crime—no matter how 'into it' others appear to be."

(Jamison, 2009)

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## What Are **We** Going To **Do** About It?




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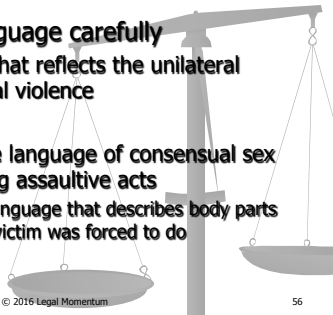
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## What Are **We** Going To **Do** About It?

- Choose our language carefully
  - Use language that reflects the unilateral nature of sexual violence
- Avoid using the language of consensual sex when describing assaultive acts
  - Instead, use language that describes body parts and what the victim was forced to do




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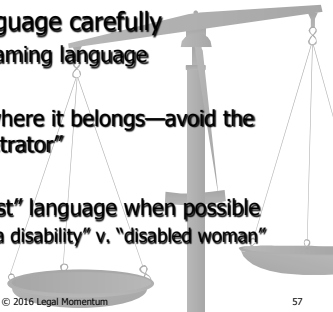
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## What Are **We** Going To **Do** About It?

- Choose our language carefully
  - Avoid victim blaming language
- Place agency where it belongs—avoid the “invisible perpetrator”
- Use “person first” language when possible
  - “Woman with a disability” v. “disabled woman”




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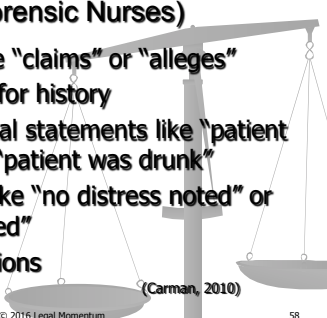
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**What Are We  
Going To Do About It?  
(for Forensic Nurses)**

- Avoid words like "claims" or "alleges"
- Use quotations for history
- Avoid judgmental statements like "patient passed out" or "patient was drunk"
- Avoid phrases like "no distress noted" or "no trauma noted"
- Avoid abbreviations

(Carman, 2010)

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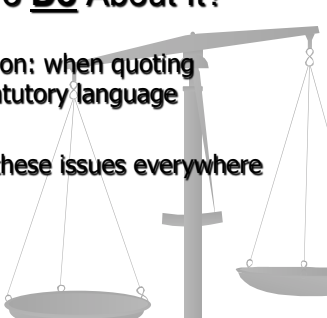
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**What Are We  
Going To Do About It?**

- Obvious exception: when quoting witnesses or statutory language
- Educate about these issues everywhere we go

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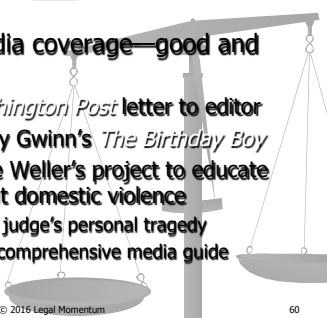
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**What Are We  
Going To Do About It?**

- Respond to media coverage—good and bad
  - Example: *Washington Post* letter to editor
  - Example: Casey Gwinn's *The Birthday Boy*
  - Example: Judge Weller's project to educate the media about domestic violence
    - Stemmed from judge's personal tragedy
    - Judge created comprehensive media guide

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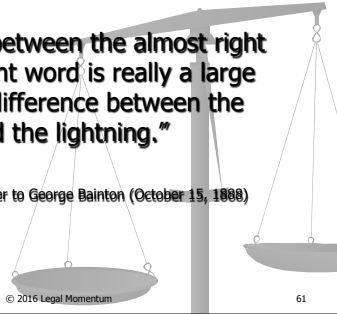
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## Remember

**"The difference between the almost right word and the right word is really a large matter—it's the difference between the lightning bug and the lightning."**

Mark Twain, in a letter to George Bainton (October 15, 1888)



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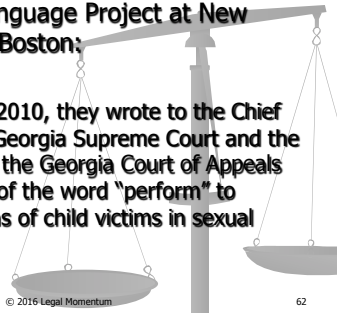
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## We Can Make a Difference

### ■ The Judicial Language Project at New England Law | Boston:

- In September 2010, they wrote to the Chief Justice of the Georgia Supreme Court and the Chief Judge of the Georgia Court of Appeals about the use of the word "perform" to describe actions of child victims in sexual assault cases



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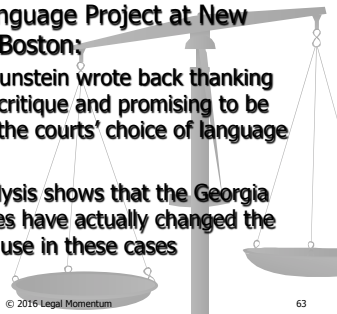
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## We Can Make a Difference

### ■ The Judicial Language Project at New England Law | Boston:

- Chief Justice Hunstein wrote back thanking them for their critique and promising to be mindful about the courts' choice of language
- April 2011 analysis shows that the Georgia appellate judges have actually changed the language they use in these cases



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**We Can Make a Difference**

- **Media collaboration: the Maine example**
  - Maine Coalition Against Sexual Assault (MECASA), Maine Coalition to End Domestic Violence (MCEDV) & Bangor Daily News
  - Mandatory training for editors & reporters
  - **Daily** op-ed during SAAM (April 2013)
  - *Proof* multimedia project (June 2013)
  - <http://mainefocus.bangordailynews.com/domestic-and-sexual-violence/shed-light-on-violence/>

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**Closing Thoughts**

**“Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed it is the only thing that ever has.”**

Margaret Mead

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**Thank you for what you do for all of us.**

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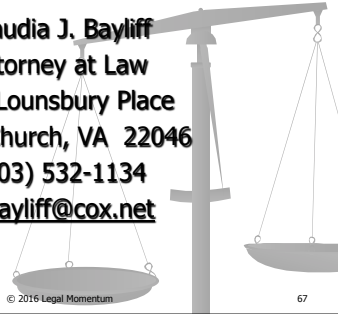
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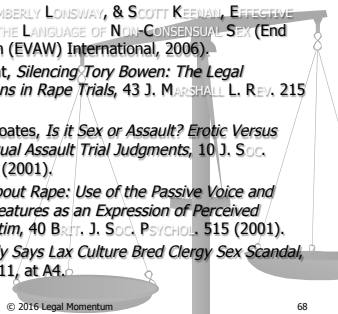
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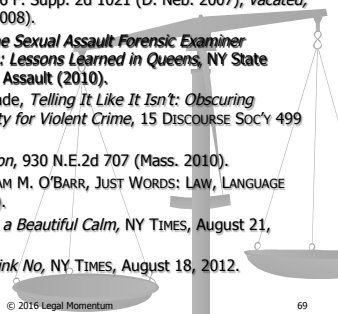
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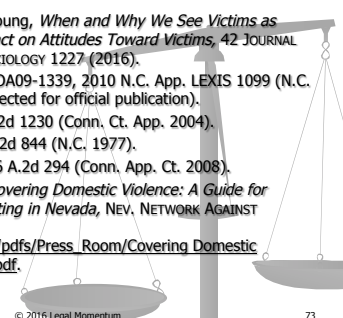
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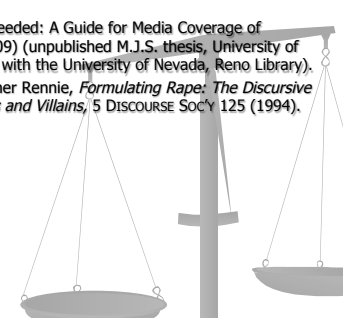
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