



**SANTA BARBARA RAPE CRISIS CENTER**  
**CENTRO CONTRA LA VIOLACION SEXUAL**

**VOLUNTEER NEWSLETTER**

VOLUME 9, ISSUE 9: SEPTEMBER 2004

---

**MESSAGES FROM THREE NEW SBRCC STAFF MEMBERS**

We are thrilled to announce that three wonderful individuals have joined the SBRCC team in the past few weeks:

Hello, my name is *Heather Heyerdahl*, and I am the new English Training Coordinator. I am so excited to be here, and I sincerely look forward to gradually getting to know each of you. Please bear with me as I learn your names, as I'm good at recognizing faces but my memory can sometimes fail me! Now for a little bit about myself... I'm originally from Wisconsin, graduated last year from St. Olaf College in Minnesota, and spent the past 11 months as an AmeriCorps Member in Chicago working with people who are infected with and impacted by HIV/AIDS. This is a big move for me, both in terms of geographical location and in terms of learning new skills and meeting new people, and I welcome any tips you have about being a "West-coaster." Thank you for the work that you do, and thank you for welcoming me onto your team.

Hello Advocates! My name is *Yesenia Curiel* and I am very happy to be transitioning to the Crisis Intervention Coordinator position after being involved with the Santa Barbara Rape Crisis Center since the fall of 2001. My experience at SBRCC began shortly after I moved to Santa Barbara from South Los Angeles in order to attend UCSB. I graduated in June 2003 and since then I have continued to work with adolescent and women's issues. My hobbies include creating bead jewelry, crocheting, body modification and spending as much time as I can with my family. I look forward to getting to know everyone to the best of my ability. I want to end with one of my life mottos, which is: "treat others as you want them to treat you."

Dear Volunteers- My name is *Myfanwy (ma-von-wee) DeVoe* and I am the new Development Director. First and foremost, my sincere thanks and admiration for the work you do here at SBRCC. I've been with SBRCC two months now, and I grow more impressed with the organization, its mission, and its staff and volunteers every day. The issue we work on is so important, and the work you do to help people heal is key. I started the Crisis Intervention Training last week and have been really enjoying it. It's giving me the opportunity to learn more and to explore my own belief system. In addition to the class, I've been reading Senior Deputy District Attorney Joyce Dudley's book: Justice Served. It too has been a great eye-opening and deeply moving way to learn more about sexual violence and the important role that support plays in helping survivors to move forward in the healthiest way possible. Outside of SBRCC, it's a busy time for those of us involved in Planned Parenthood volunteerism. We've been writing postcards to swing voters in battleground states and getting letters signed at the Farmers Market. I feel so lucky to be involved with such great causes. I am proud to go to work each day knowing that I'm doing really valuable work – that is a blessing. I look forward to working with you!

**LAWS MUST ALSO "SHIELD" AGAINST DEFENSE LIES BY WENDY I. MURPHY, J.D.**

Ever since Kobe Bryant's arrest in July, commentators and columnists have asked whether Bryant can get a fair trial in light of rape-shield laws that presumptively prevent evidence of a victim's sexual history from being used against her during trial. Critics claim the pendulum has swung too far and that rape-shield laws provide a kind of unfair "affirmative action" style of justice for women. But the truth is, rape shield laws do nothing more than remind judges, lawyers and society that a victim's sexual history does not necessarily tell us anything about what happened on the night in question. This does not mean sexual history is never fair game. It just isn't automatically relevant in any rape case, especially on the question of consent.

## **Wrongs Committed by Defense Attorney**

A more important issue involving rape-shield and Kobe Bryant is why Bryant's attorney simply blurted out a question about the victim having "sex with three men in three days," without first obtaining approval from the judge in chambers. A preliminary non-public hearing on the issue is mandatory under Colorado's rape-shield statute. This procedure allows judges to assess two things: whether the question is based on reliable/credible facts, and whether the question seeks information relevant to an issue legitimately in dispute. Bryant's lawyers claim the rape-shield law didn't apply because the statute itself only mentions "trials," not "preliminary hearings." Some claim this means the law only protects against embarrassment of the victim in front of the jury. But the Colorado Supreme Court has repeatedly and expressly held that the purpose of the law is to protect against "public" humiliation and embarrassment. Bryant's preliminary hearing was certainly a "public" event.

Rape-shield laws also help to prevent defense attorneys from playing the "gender card" by exploiting social prejudice against women, especially sexually active women. In addition to the shield statute, ethical rules forbid lawyers to ask questions for which there is no "good faith basis." These important laws notwithstanding, Bryant's lawyer failed to obtain permission from the judge and asked a question without a good faith basis implying that the victim had sex with three men in three days. We know that this was a bogus question because as soon as it was asked, the judge angrily shut down the hearing for a week, and when it resumed, we didn't hear another word about the victim having sex with three men in three days but only that there was a single sexual encounter two or three days before the rape.

## **Harm Already Done**

The problem is the harm is done. True or false, relevant or not, the defense wins a point because the bell has been rung. The victim's dignity is insulted and her well-being is compromised all because the defense wanted to make a point in the court of public opinion. And in a high profile case where many people want desperately to believe in the defendant's innocence, there is also profound harm to the integrity of the justice system; even outright false statements and absurd theories of relevancy about the victim's sex life stick like glue and distract us from judging fairly the shockingly brutal evidence of what Bryant did to the victim. Hardly a run-of-the-mill "date-rape" case as many originally thought, Bryant allegedly grabbed the victim by the neck, forced her over a chair and raped her vaginally from behind while she was crying, saying "no" and bleeding from vaginal tearing. Bryant then told the victim to get herself cleaned up and he warned her not to tell anyone because nobody would believe her over him.

## **No Downside to Defense**

Why do defense attorneys get away with ignoring rape-shield laws and ethical rules and doing gratuitous harm to innocent victims of sexual violence? The answer is that there's no real downside. Unlike when prosecutors violate defendants' rights and the judge punishes the misconduct by suppressing evidence or dismissing the charges, there are no sanctions when a defense attorney violates a victim's rights. Some argue this disparity is fair because the defendant's liberty is at stake while the victim is a "mere" witness for the prosecution. Thus, protecting a victim's privacy rights is akin to shielding the government's file from fair scrutiny.

## **Goals of Rape Shield Laws**

But let's remember that rape shield laws are not "special rules" for women that distort the truth by hiding important exculpatory evidence. Rape shield laws serve the gender-neutral goal of promoting freedom and autonomy by allowing people to have sex with whomever they choose-as often as they like-without having sexual freedom become a license for others to commit rape. If we truly believe in this idea-that no one deserves to be raped-then all sexual activity prior to the assault must be excluded from evidence as presumptively irrelevant information. Otherwise, we're not really free. In a just world, this autonomy principle alone would suffice to exclude prior sexual behavior from most rape trials. But in a culture that celebrates sexual entitlement more than mutual respect, relevancy doesn't work the way it should in rape cases. (Of course, it works just fine in robbery trials where victims are never asked about their prior spending and lending habits.)

Rape-shield laws were designed by well-intentioned people to force judges to think more responsibly about the presumptive irrelevancy of a victim's sexual history in rape cases. The laws were intended as a kind-of legislative "kick in the head" for judges so they would stop ruling that a victim's sexual history was automatically admissible in a rape case. But enacting laws for this purpose had the unintended effect of transforming a fundamental

principle of autonomy into a mere statutory entitlement. In time, we forgot about the underlying constitutional purpose behind rape-shield laws such that these days, most people think of the laws as having something to do with preventing stigma and shame but nothing to do with freedom.

### **Broad Exceptions to Rape Shield Laws**

Adding insult to injury, in many states, rape-shield statutes included such broad exceptions when enacted they actually made sexual history more relevant than would have been allowed under a relevancy analysis. For example, many states include an exception allowing for the automatic admissibility of prior sexual behavior between the victim and the defendant, as if the fact that a woman had regular sex with her husband has some automatic bearing on whether she had the right to say no on the night in question. This explains why, despite reform efforts thirty years ago that mostly eliminated the marital exception in rape law, rape in marriage is almost never reported or prosecuted. Even in states like Massachusetts where the legislature included no explicit exceptions, appellate courts watered down the value of rape-shield statutes by creating judicial exceptions based on claims that a defendant's constitutional rights always trump a victim's mere statutory right. In turn, it is common for defense counsel simply to concoct a pre-textual argument about how a victim's sexual past will show she had some unspecified "bias or motive to lie" about the crime or how sexual history will "explain" the victim's injuries. As long as the argument is draped in the Bill of Rights, the defendant wins.

### **No Advocate for the Victim in the Courtroom**

Judges typically give only passing attention to the bedrock constitutional principles behind rape-shield laws in part because women as a class have no voice in the criminal justice system. As a non-party to the criminal case, no one is present in court to advocate for the victim's personal rights. The prosecutor as attorney for the state has some voice but can never stand in the shoes of the victim or zealously advance her personal constitutional right to sexual privacy. Moreover, judges perceive no real downside to ruling against the victim on rape-shield issues because unlike the accused, the victim usually has no right of appeal. This systemic lack of voice for women's rights in rape law has not changed in 100 years. Some victim advocates argue that rape-shield laws actually hurt rape victims in the public policy arena. For instance, in response to calls for new reform initiatives, defense attorneys complain that women have enough "special rules" --then they point to rape-shield laws. No one ever mentions that the law, as a mere codification of basic "relevancy" principles, is hardly "special." Instead, defense attorneys complain that shield laws make rape cases impossibly unfair to men. (They forget that the rape-shield law worked nicely to exclude evidence of William Kennedy Smith's three previous sexual assaults).

### **Need for Sanctions**

It's time to ask why the criminal justice system tolerates defense shenanigans when it comes to rape-shield laws. No law should prevent the defense from using truly relevant and important evidence at trial. But defense tactics that gratuitously exploit cultural gender bias should not only be rejected but sanctioned because we all suffer when sexism and sexual violence is perpetuated in the name of "defense at any cost." Would we tolerate defense counsel arguing to a jury that a black witness should be discredited because of the color of their skin? Of course not. This is because in a civilized society, race prejudice should never be part of a litigation tactic. We should feel the same way about gender prejudice.

Bryant's victim admitted to police from the outset that she had consensual sex two days before the rape. Not surprisingly, given that semen can stay in the body for five days, DNA not matching Kobe Bryant was found in her underwear when she went to the hospital. This is hardly evidence she had sex with three men in three days. And whatever sex she had, there is absolutely no basis for the defense claim that the victim had a preexisting vaginal injury that Kobe only "re-opened" during the rape. It is certainly understandable that Bryant's lawyers want to "explain" the vaginal injuries. It is very difficult to win a rape case by arguing the sex act was consensual and not "forceful" when there is undisputed evidence the victim suffered vaginal tears and was bleeding during the assault. This is not to say all rough sex is non-consensual, but there is no constitutional right to lie or speculate about preexisting injuries, and in Bryant's case, it was speculation in the extreme. While there's no way to unring the bell, we can use this case to spark changes in the law to prevent defense counsel in the future from causing gratuitous violations of victims' sexual privacy rights.

## **Some Proposed Sanctions**

For starters, we need automatic contempt sanctions and professional licensing sanctions for any lawyer who violates the procedural and substantive requirements of rape-shield statutes or any laws that obligate lawyers to seek prior judicial approval before certain private matters are revealed to the public. Such lawyers should also be made vulnerable to civil rights lawsuits by the victims they harm. Likewise, it's time to guarantee victims in criminal cases the right to personal legal representation in criminal cases to protect their privacy rights. This representation must include the right to be heard at, and the right to appeal, all issues related to rape-shield and privacy rights. We also need a way to advise victims of their privacy rights. Like "Miranda" warnings, we need police to inform crime victims, especially rape victims, that defense counsel may try to uncover personal information about them and that they have the right not to speak with defense counsel or anyone else. Victims have a right to know that they can refuse to reveal private information to anyone, including the police and prosecution, unless and until a judge rules that disclosure is necessary. Few victims know they have privacy rights, let alone an understanding of how to enforce them. The law should recognize this problem and find a way to empower victims to protect themselves from harm by ensuring that they know at the outset of a criminal investigation they have the right to say "none of your business" in response to irrelevant personal questions.

As officers of the court, defense attorneys are aware they have no right to ignore valid laws that protect victims' privacy rights. But as we have seen vividly in the Kobe Bryant case, those who adhere to a "win at any cost" mentality are not interested in respecting the rights of others. It's time to give all defense attorneys a strong incentive to believe what most of us already know that the right to a fair trial does not include the right to do gratuitous harm to innocent crime victims.

*Wendy Murphy is an Adjunct Professor, Perspective~ in Sexual Violence, at New England School of L.J.Jw. Boston, and can be reached at 617-422-7410.*

## **VOLUNTEER OF THE QUARTER: CINDY CLARK**

We are honored to acknowledge Cindy Clark as our volunteer of the quarter. Cindy has dedicated her time and energy to furthering Santa Barbara Rape Crisis Center's mission for many years. Her formal rape crisis training in Georgia confirms a nation-wide movement. Soon after moving to the West Coast, Cindy began volunteering her graphic design talents to SBRCC. She creates the layout of our annual newsletter -- Outcry! -- in addition to lending support to other documents widely disseminated by SBRCC.

One of Cindy's first feminist memories was in a 10th grade history class. The instructor led a discussion on how society assigned surnames. This was a particularly appropriate topic given that "Ms." was just becoming another option for women. The class debated the ideas of why male surnames did not provide distinction of marital status whereas "Miss" or "Mrs." immediately classified women. The discussion about the social norm opened other lines of thought for Cindy, which follow a more feminist model.

When Cindy is not helping SBRCC with graphic design projects, she enjoys traveling and taking advantage of our California coastline (although, she stays clear of the chilly water!). Her 18-year-old Maine Coon cat named Mr. Pi also receives much of her attention. At 18 years of age, her fluffy feline dotes on any visitor, especially ones offering treats!

Cindy, like numerous others who provide support to Santa Barbara Rape Crisis Center, offers us invaluable talent. We are indebted to all of you for your unwavering commitment to help us serve the Santa Barbara community. We at SBRCC want to thank Cindy for all she brings to our efforts. She is a great asset to SBRCC and we are truly lucky to have her as part of our team.

**Thank you, Cindy!**

## REPORTED RAPES – STATISTICS UPDATE

### **Local**

- In **2003**, **113** rapes were reported to law enforcement in Santa Barbara County.
- In **2002**, **140** rapes were reported to law enforcement in Santa Barbara County.

### **State**

- The California Department of Justice reported that there were **9,918** forcible rapes reported to law enforcement in **2003**.
- The California Department of Justice reported that there were **10,176** forcible rapes reported to law enforcement in **2002**, marking an increase of 2.9% from 2001.

### **National**

- U.S. Department of Justice reports that there were **167,860** rapes/attempted rapes reported in **2002**

### **Reporting and Conviction Rates**

- The 2003 report "Rape in America: A Report to the Nation" found that only 16% of rapes are reported to the police. In a survey of survivors who did not report rape or attempted rape to the police, the following were found as to why no report was made: 43% thought nothing could be done, 27% felt it was a private matter, 12% were afraid of police response, and 12% felt it was not important enough.
- Only 2% of rapists are convicted and imprisoned (U.S. Senate Judiciary Committee: Conviction and Imprisonment Statistics, 1993).

## ANNOUNCEMENTS

### **JOIN US FOR THE NEXT ADVOCATE MEETING: SEPTEMBER 14<sup>TH</sup> FROM 6PM – 8PM**

As always, this mandatory in-service training will be a great opportunity to learn new information, meet other advocates, gain support, and process any client work. Hope you can join us on September 14<sup>th</sup>!

### **SEPTEMBER OFFICE CLOSURE**

SBRCC's office will be closed on Monday, September 6<sup>th</sup>, 2004 in observance of Labor Day. Of course, the 24-hour hotline will still be operational throughout the holiday.

### **JOIN SBRCC'S TEAM FOR THE 14TH ANNUAL HEART & SOLE AIDS WALK/RUN '04! SATURDAY, OCTOBER 2, 2004 AT LEADBETTER BEACH, SANTA BARBARA**

Be a part of SBRCC's team of volunteers and staff at the Annual Heart and Sole AIDS Walk/Run on Saturday, October 2, 2004. The walk is a benefit for Pacific Pride Foundation's (PPF) HIV/AIDS programs and services. SBRCC will walk to show our support for PPF and the members of our community affected by HIV/AIDS. Together, we will raise at least \$200 for PPF's crucial community services. The Walk route is 10-kilometers (6.2 miles) and leads walkers along the beach on Cabrillo Boulevard. The Walk ends with a beachside celebration with complimentary snacks, live music, free massages, and an awards ceremony. For more information about the Walk, see [www.aidswalksb.com](http://www.aidswalksb.com). To join the SBRCC team, contact Alena at 963-6832 ext. 29 or [alena@sbrc.net](mailto:alena@sbrc.net).

### **POSITIONS AVAILABLE AT SBRCC**

***Executive Assistant (Part-time position, 15 hours per week):*** Maintain files, provide correspondence, assist with submission of grant applications/reports and with fundraising record keeping, and assist with special executive projects. **If you or anyone you know may be interested in these positions, please submit a resume and three references as soon as possible.**

### **SBRCC NEEDS MORE ADVOCATES – HELP SPREAD THE WORD!**

- The next **English Crisis Intervention Training** is scheduled for **October 19<sup>th</sup> – December 9<sup>th</sup>**. Classes will meet on Tuesdays and Thursdays from 6 p.m. – 10 p.m. and one Saturday from 10 a.m. – 2 p.m. If you

know individuals who may be interested, please have them call Heather at 963-6832 or send an email to [heather@sbrcc.net](mailto:heather@sbrcc.net)

- The next **Spanish Crisis Intervention Training is scheduled for January 18, 2005 – March 8, 2005.** Classes will meet on Tuesdays and Thursdays from 6 p.m. – 10 p.m. and one Saturday from 10 a.m. – 2 p.m. If you know individuals who may be interested, please have them call Maria at 963-6832 or send an email to [maria@sbrcc.net](mailto:maria@sbrcc.net)

**WE ESPECIALLY NEED VOLUNTEERS WHO ARE SPANISH/ENGLISH BILINGUAL!**

### **LONG-TERM COUNSELING TRAINING**

If you have completed SBRCC's 60-hour Crisis Intervention Training, have been active as an advocate for six months, and are interested in becoming a Long-term Counselor, you can register for the next Long-term Counseling Training. As a Long-term Counselor, you will provide face-to-face, long-term individual, couples or family counseling to sexual assault survivors and/or their significant others. In addition, you can co-facilitate support groups for adult or teen sexual assault survivors. The next 20-hour Long-term Counseling Training, facilitated by SBRCC's Counseling Supervisor Marilyn Goldman, will begin in mid to late October upon completion of the current Crisis Intervention Training. An orientation meeting will occur in late September to provide an overview of the training and to determine specific training dates. **If you are interested, please call Alana at 963-6832, ext 23.**

### **SPEAKER'S BUREAU TRAINING**

Attention advocates! Do you want to raise awareness in the community about sexual violence? Would you like to become a catalyst for change in the attitudes that support rape culture, and help create a violence-free community? **Then join the SBRCC Speaker's Bureau! The next 12-hour training in Spanish will take place September 3, 10, 17, and 24, from 6pm-9pm. The next training in English will take place in October, dates to be announced.** After completing this course, you will be ready to present Rape Prevention Education workshops to middle and high schools, college classes, and various community groups. Please contact Alena Donovan at [alena@sbrcc.net](mailto:alena@sbrcc.net) or 963-6832, ext.29 for more information.

### **SHARE THE WORD ABOUT SELF-DEFENSE**

Do you know a woman who would benefit from awareness, assertiveness, and physical self-defense skills? If so, tell her about SBRCC's monthly self-defense workshops! The next workshop is scheduled for **Saturday, September 25, from 10am-2pm here at SBRCC.** Please tell your friends and family members a little about the class. You can explain that our model of self-defense is one created by women, for the needs of women, from the experiences of women. It is based on the *empowerment* of women as opposed to the *protection* of women. The empowerment model involves giving women information, skills, and support for making their own choices about how to live their lives -- actively participating in their own safety. Our aim is to provide women with *options*. We also believe that a woman's best weapon is herself - her wits, her voice, her body -and that relying on something or someone else would be a last resort. If you took the class, please tell your loved ones what you enjoyed about it, or explain why it's important to you that they take this empowering opportunity. Anyone interested in the class should call Alena Donovan at 963-6832 ext. 29 to pre-register. Classes cost \$30, but like all the services of SBRCC, they are offered on a sliding scale basis and we never turn anyone away for lack of funds. If you would like to distribute fliers for our self-defense classes in your school or workplace, pick them up at SBRCC or contact Alena to have them sent to you.

### **CELL PHONE COLLECTION**

We are collecting used cell phones. If you have any cell phones to donate, please call Ofelia at 963-6832 or just bring them to the office. Thank you!



**HAPPY BIRTHDAY TO:**



**Joe V. on September 24**