

# **Law Enforcement and Prosecution Virtual Roundtable:**

**Setting the Stage for Success: Jury Selection  
for Cases Involving Immigrant Victims of  
Domestic Violence, Sexual Assault, and  
Stalking**

**June 11, 2020**

# Panel Introduction



**Jane Anderson**  
Attorney Advisor  
AEquitas



**Mike LaRiviere**  
Investigator  
Salem, Massachusetts  
Police Department

# Panel Introduction



**Elliott Casey**  
Staff Attorney  
Virginia Commonwealth's  
Attorneys' Services Council

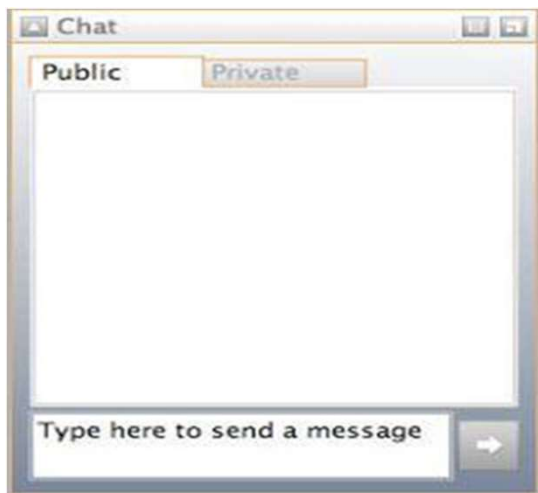


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Domestic Violence and Sexual Assault  
Resource Prosecutor  
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Share with us your  
city, state and the  
weather?



# Let's see who is on the roundtable?

**Please check the box that best describes you:**

- A. Law enforcement
- B. Prosecutor
- C. Systems-based victim advocate
- D. Other – Type in the chat

**POLL**

*[A] suitable inquiry is permissible in order to ascertain whether the juror has any bias, opinion, or prejudice that would affect or control the fair determination by him of the issues to be tried. That inquiry is conducted under the supervision of the court, and a great deal must, of necessity, be left to its sound discretion.*

Connors v. United States, 158 U.S. 408, 15 S. Ct. 951, 39 L. Ed. 1033 (1895)

# Caveat

- Jury selection differs vastly between jurisdictions, courtrooms, and judges
- NIWAP and subject-matter experts are available for case-specific assistance
- Consider how to adapt strategies within the confines of your courtroom



# Analyze Case

## Victim Selection

- Did the offender choose the victim because of a real or perceived vulnerability?

## Criminal Act

- Did the offender use the victim's immigration status to commit a criminal act?

## Escape Detection

- Was the victim prevented from reporting the crime to police because of their immigration status?

# Goals of Jury Selection

Educate

Uncover  
biases

Establish  
trust

Manage  
expectations

Demonstrate  
Leadership

Instill  
Empathy

# Educate

- Legal concepts related to domestic violence, stalking, or sexual violence
- Predatory nature of offenders
- Victim behaviors
- Immigration relief

# Manage Expectations

- Victim may not have immediately reported the crime
- Victim may be undocumented
- Victim may have engaged in criminal behavior
- Offender may not have used violence, but merely threats of violence or deportation

# Instill Empathy

- Humanize the victim
- Discuss vulnerabilities
- Use jurors to discuss their experiences with domestic violence, stalking, and sexual assault
- Explore what the “American dream” means

*It is not required... that the jurors be totally ignorant of the facts and issues involved.*

Irvin v. Dowd, 366 U.S. 717, 81 S. Ct. 1639, 6  
L. Ed. 2d 751 (1961)

# Uncover Biases

Will the juror be able to “get” ...

- Victim is not on trial
- Predatory nature of offenders
- Equal protection of the law for immigrant victims
- Intent of immigration relief for victims of crime

# Establish Trust

- Be accurate about the law
- Do not hide “bad facts”
- Be respectful to the judge, defense attorney, defendant, court staff, and jurors
- Establish yourself as the authority in the courtroom



# Leadership

- Inspire jurors
- Be authentic and genuine
- Do not be repetitive
- Use appropriate humor
- Demonstrate professionalism
- Be prepared

*Without an adequate voir dire the trial judge's responsibility to remove prospective jurors who will not be able impartially to follow the court's instructions and evaluate the evidence cannot be fulfilled.*

Rosales-Lopez v. United States, 451 U.S. 182,  
101 S. Ct. 1629, 68 L. Ed. 2d 22 (1981)

# Offender-Focused Theme

Preying on the  
most  
vulnerable

Power over  
the powerless

American  
dream became  
a nightmare

Picked the  
perfect victim

Betrayal of  
trust, family,  
and the law

Knew there  
was no where  
to turn

# Questions?

Please type any questions in the Chat Box and we will review and include as we continue with our panel discussion

Elliott: In more conservative jurisdictions, how can you advocate for the judge to ask more questions or include more in a questionnaire?



## Panel Discussion

Sharla: How might you use the venire members to educate each other about DV, SV, and Stalking?



## Panel Discussion

Jane: How can you introduce the U Visa during voir dire without being accused of “pre-trying” your case?



## Panel Discussion

Elliott: What can you do if you notice that the defense is striking all potential jurors with Hispanic last names?



## Panel Discussion



Sharla: How might you start talking to the jury about the fact that the victim will be using an interpreter?



## Panel Discussion

Jane: What are some strategies that you could use to introduce the idea that the victim may have been seen as less than cooperative at some point?



## Panel Discussion

# More Questions?

Please type any questions in the Chat Box and we will review and include as we continue with our panel discussion

# Technical Assistance

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# Thank You!

