

# NIWAP

## CONFERENCE

AMERICAN UNIVERSITY  
WASHINGTON  
COLLEGE OF LAW

Strengthening Community and Organizational Responses: Serving Immigrant Victims of Domestic Violence, Sexual Assault, and Stalking

# Identifying, Safety Planning, and Litigating Stalking in Family Law Cases

Workshop 2C  
August 2023

# NIWAP

National Immigrant Women's Advocacy Project  
American University Washington College of Law

# Thank You to OVW

This project was supported by Grant Nos. 15JOVW-21-GK-02208-MUMU; 15JOVW-22-GK-04002-MUMU and 2017-TA-AX-K074, awarded by the Office on Violence Against Women, U.S. Department of Justice.

The opinions, findings, conclusions, and recommendations expressed in this program are those of the authors and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

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# Session II Faculty



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**Judge Rosemary Collins**  
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# Learning Objectives

By the end of this workshop participants will be better able to:

- Conduct stalking risk assessments
- Identify and present evidence of stalking in family court cases
- Educate family court judges about the dangers of stalking behavior
- Win custody of children in stalking cases
- Obtain state court orders with findings documenting stalking behaviors and impacts

# SPARC

STALKING  
PREVENTION,  
AWARENESS,  
AND RESOURCE  
CENTER

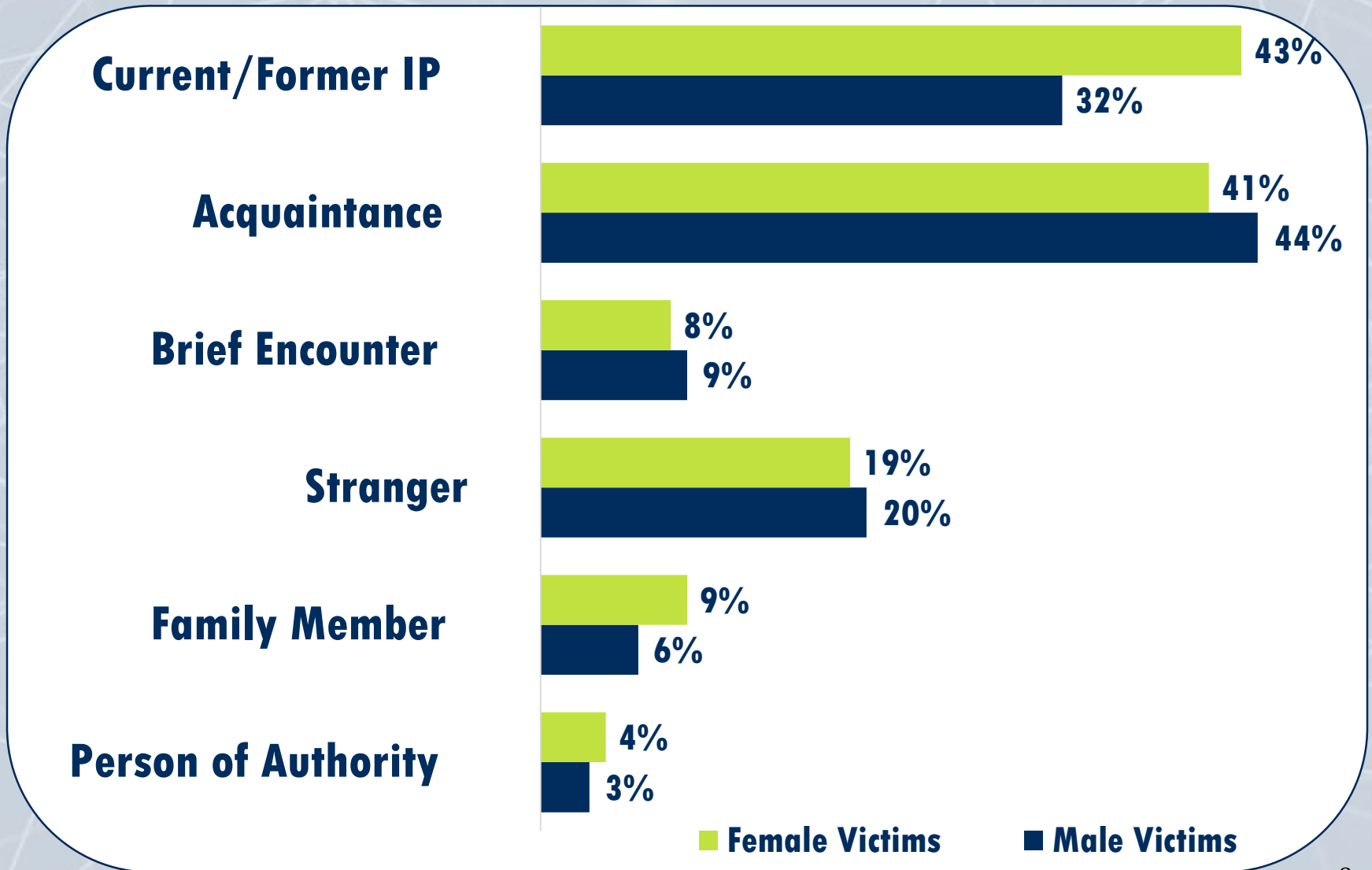
## **2C - Identifying, Safety Planning, and Litigating Stalking in Family Law Cases**

# **STALKING DEFINITION: BEHAVIORAL**

**Stalking is a pattern of behavior directed at a specific person that would cause a reasonable person to feel fear for the person's safety or the safety of others; or suffer substantial emotional distress.**



# Victim and Offender Relationships



# Understanding Stalking: Stalking Behaviors



# SLII Framework

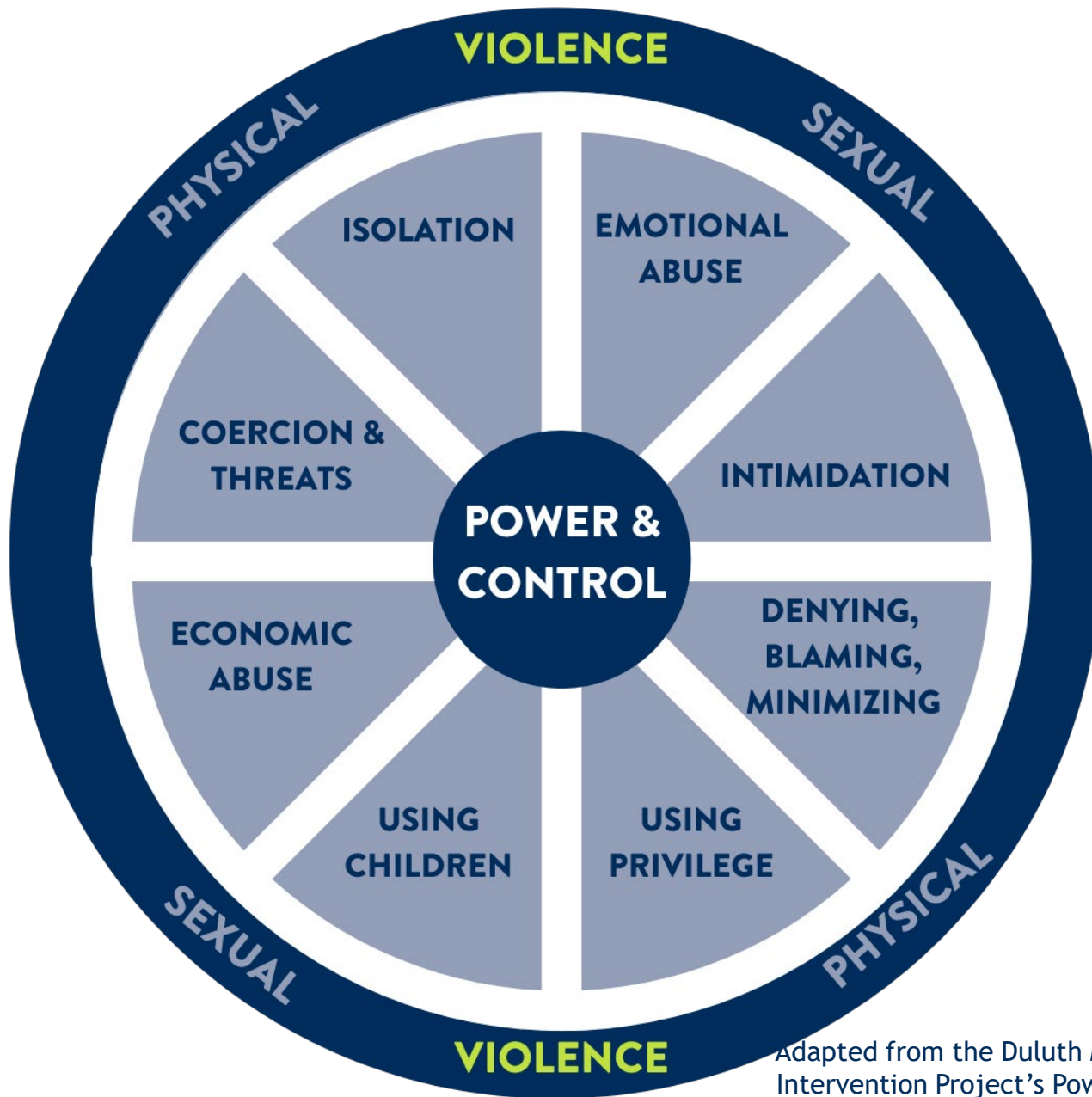


# Stalking and Intimate Partner Violence



**"Stalking is homicide  
in slow motion."**

*– Patrick Brady, Criminology Dept.  
University of West Georgia*



Adapted from the Duluth Model Domestic Abuse Intervention Project's Power and Control Wheel

# Intimate partner stalkers are more likely to:

**physically approach the victim**

**be interfering, insulting, and threatening**

**use weapons**

**escalate behaviors quickly**

**re-offend**





In **85%** of attempted  
& **76%** of completed  
**intimate partner femicides,**  
stalking occurred in the year  
prior to the attack.

# Stalking is a Lethality Risk

## Top 10 risk factors for intimate partner homicide

- 1) Direct access to guns
- 2) Threatened victim with a weapon
- 3) Non-fatal strangulation
- 4) Perpetrated rape/forced sex
- 5) Controlling behaviors
- 6) Threatened to harm the victim
- 7) Abused victim while pregnant
- 8) Perpetrated stalking**
- 9) Jealousy
- 10) Substance abuse

## Risk for male perpetrated & female IPH victimization

11-fold increase in risk of IPH

7-fold increase in risk

7-fold increase in risk

5-fold increase in risk

6-fold increase in risk

4-fold increase in risk

4-fold increase in risk

**3-fold increase in risk of IPH**

2-fold increase in risk

2-fold increase in risk

Spencer, C.M. & Stith, S.M. (2018). Risk Factors for Male Perpetration and Female Victimization of Intimate Partner Homicide: A Meta-Analysis. *Trauma, Violence, & Abuse* 21(3): 527-540.

# Screening for Stalking

Has the Offender...

**been tracking, following, or monitoring Victim in any way?**



**repeatedly invaded Victim's life/privacy by initiating unwanted contact with Victim?**

**significantly and directly interfered with Victim's life?**

>physically/sexually assaulted Victim during course of conduct?

>forcibly kept Victim from leaving, held against will, caused serious accident, assaulted others, or seriously attacked Victim?



**more than one time, intimidated or scared Victim through threats, property damage, threatening or actual harming of pets, or other means?**

# SHARP: Stalking Harassment and Risk Profile

[www.coercivecontrol.org](http://www.coercivecontrol.org)  
[www.stalkingrisk.com](http://www.stalkingrisk.com)



**Stalking and Harassment  
Assessment and Risk Profile  
(SHARP)**

CoerciveControl.org



**Narrative Report &  
Risk Profile (Handout)**



**Safety Planning  
Suggestions  
(Handout)**



# 14 Risk Factors in Stalking Cases



## BIG PICTURE

- Course of Conduct
- Escalation, Triggers
- Nature and context of threats
- Threat follow-through, capability



## STALKER HISTORY

- History of abuse to victim
- History of abuse to others
- Guns, weapons & training
- Criminal history, mental health, substance abuse

## STALKER MINDSET

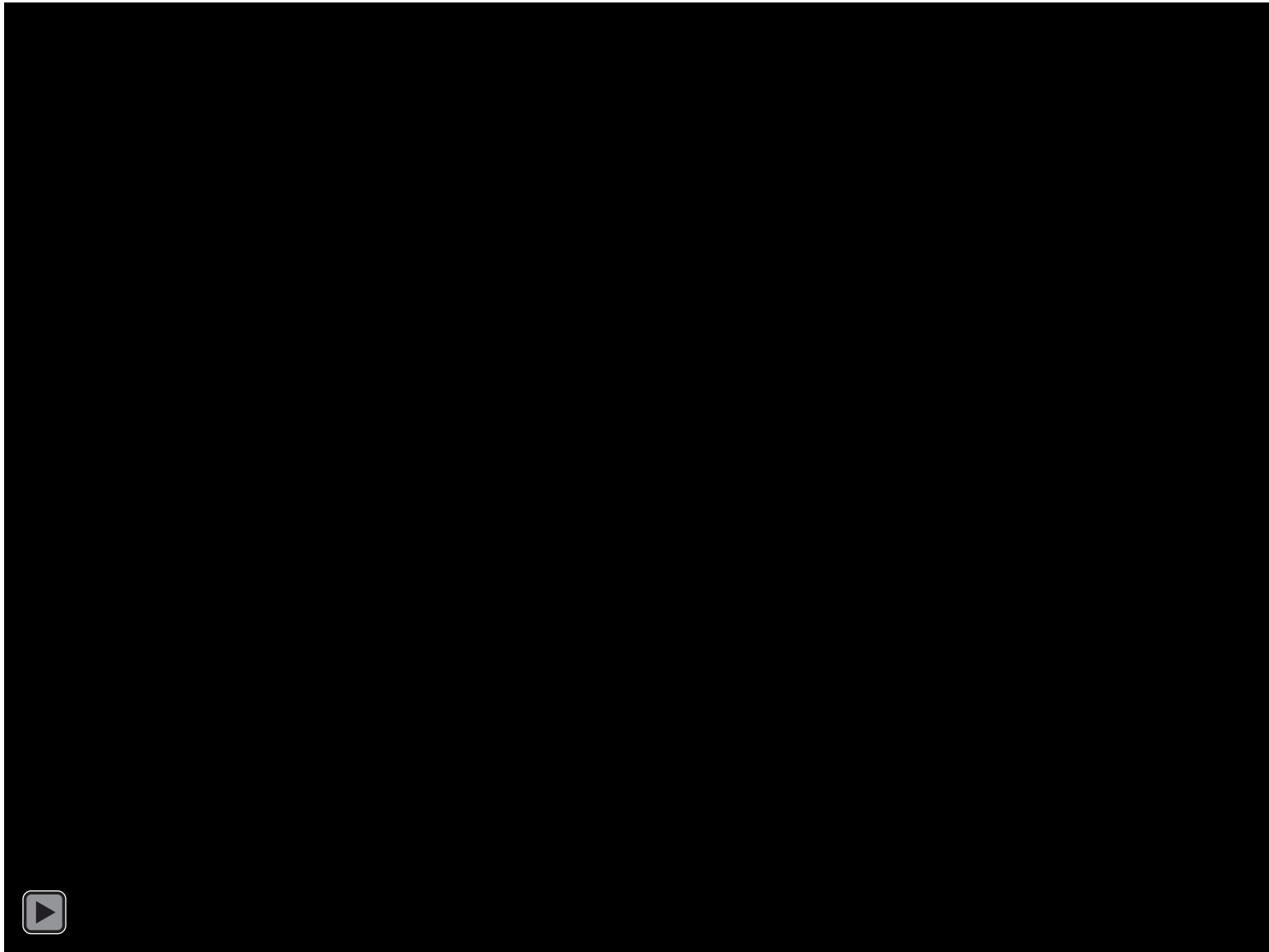


- Resistance & Persistence
- Stalker Motive
- Proxy Stalking

## VICTIM VULNERABILITY



- Fear, life impact
- Use of Technology
- Victim Vulnerability



# If Peggy Were An Immigrant

- How might this case be different if Peggy was an undocumented Canadian immigrant?

# Small Group Activity: Opening Statements

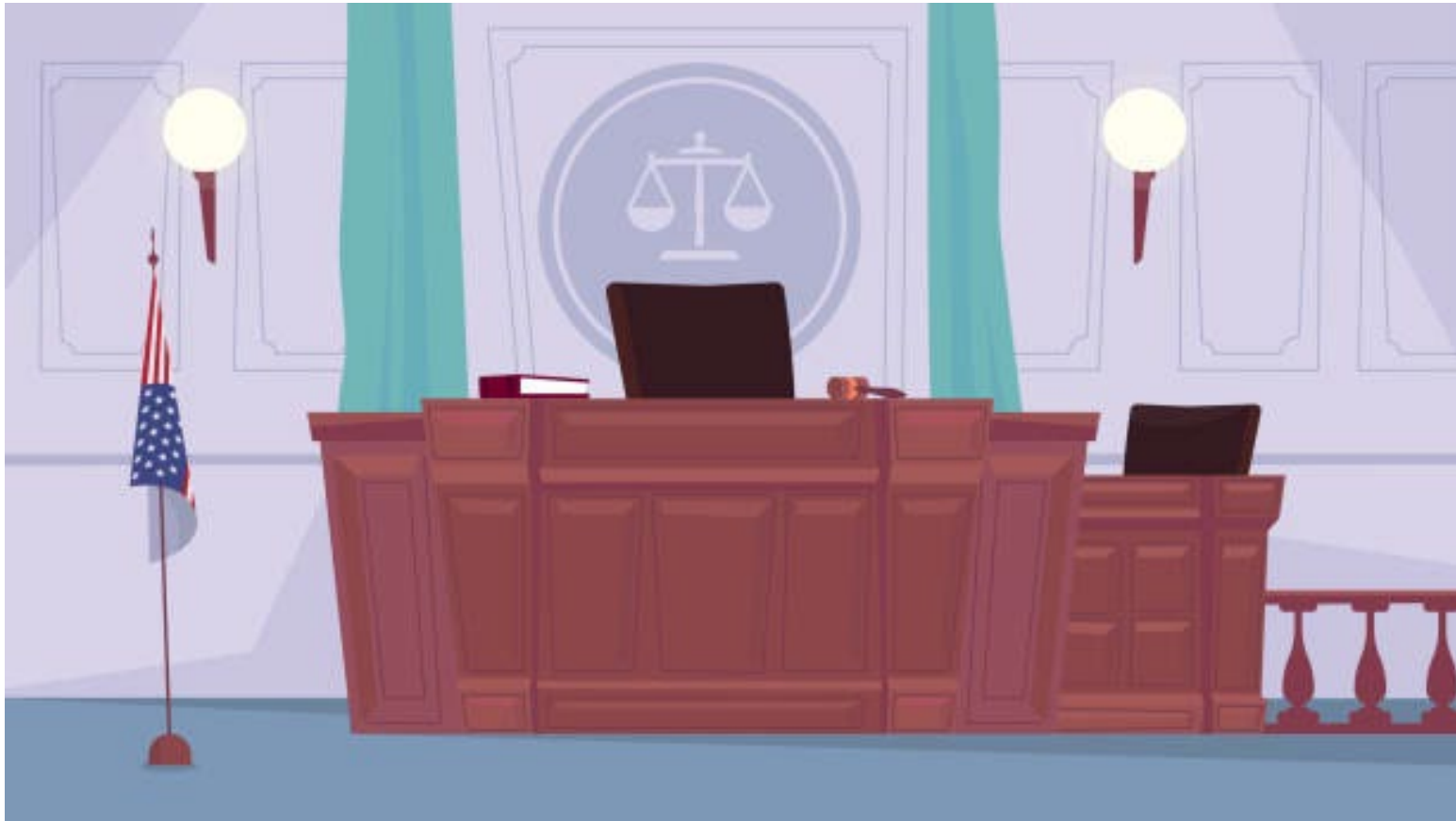
- Peggy v. Patrick Contested Custody Case
- Work in small groups at your tables.
- Prepare a 2-minute opening statement with each group focusing on a different risk factor:
  - Coercive conduct – big picture
  - Stalker mindset
  - Stalker history
  - Victim vulnerability
- They will also need to get the judge to receive for the record judge the Stalking Judicial Bench Card.

# Small Group Activity

- Additional Facts:
  - Peggy is an undocumented Canadian immigrant.
  - Patrick is a U.S. citizen.
  - Peggy and Patrick are married and have two children together:
    - One infant born in the United States
    - One older child born in Canada
  - Your group is representing Peggy in a contested custody case.
  - Prepare an opening argument designed to educate the judge about stalking using the stalking risk factors present in Peggy's case.



# Opening Statements, Ruling and Debrief



# Raise Your Hand Exercise

- Raise your hand if you have filed a motion in limine in state court?



- Making what type of request?

# Ask a Judge!

- What are the pros and cons of motions in limine?
- What would you suggest are the range of ways counsel for a victim of stalking in a custody case could educate judges about the lethality, patterns, and impact of stalking?

# Large Group Discussion

How have you seen stalkers in domestic violence cases use children?

# Stalking in Domestic Violence Cases When Parties Have Children

- Children can be a potent stalking weapon.
- Family lawyers need to raise and judges need to know:
  - Lethality of stalking
  - Stalkers may use older children to stalk the victim
  - Electronic means may be used
  - How to address stalking and not be perceived as trying to hinder the stalker's parental relationship

# Large Group Discussion

When stalking is present in a custody case, what kinds of provisions can you request the judge include in the custody order to promote victim/child safety?

# Potential Custody Remedies

- Legal and physical custody to the victim
- Seek orders that address the ways stalking is manifesting
- No gifts to be exchanged
- No telephone or a certain type of telephone
- Prohibit online communication (I just liked their post - I was not stalking)
- Restrict visitation all together:
  - Hold status hearings
  - Require counseling
- Supervised visitation
- Visitation only at visitation center with no contact with the victim



# Ask a Judge!

- What custody related remedies might be crafted for violation of a no stalking protection order?

# Questions



# Technical Assistance and Materials

- NIWAP Technical Assistance:
  - Call (202) 274-4457
  - E-mail [info@niwap.org](mailto:info@niwap.org)
  - Web Library:  
[www.niwaplibrary.wcl.american.edu](http://www.niwaplibrary.wcl.american.edu)
- Materials for this Workshop:
  - <https://niwaplibrary.wcl.american.edu/BostonFamilyStalking>
- Contact NIWAP to provide training for your jurisdiction